



Appeal Decision

Site visit made on 7 January 2021

by Martin H Seddon BSc MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2021

Appeal Ref: APP/E5900/W/20/3255699
270 Hackney Road, London E2 7SJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Gary Hedgecock against the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/19/02451, is dated 8 November 2019.
 - The development proposed is change in access and hours of use to an existing music studio live workspace. Site access will be switched from prior car park entrance (below residential flats) to Hackney Road entrance for all evenings from 7pm. Smokers will be directed to Hackney Road entrance at all times. Sound insulation has been updated to meet advice set out by Tower Hamlets Environmental Health and tested within residential flat above by an independent acoustic engineer to achieve 10NR broadly equivalent to LAeq 15 dBA. This is in line with other music studios in the same block of London Terrace. The change of hours of use requested is to allow the legacy music studio to operate a functioning business with no impact on the residents above.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from live work unit to B1 and C3 use, including change in access and hours of use at 270 Hackney Road, London E2 7SJ in accordance with the terms of the application, Ref PA/19/02451, dated 8 November 2019, and subject to the conditions listed at the end of this decision notice.

Preliminary Matter

2. I have determined this appeal on the basis of the description of development as "change of use from live work unit to B1 and C3 use, including change in access and hours of use" as it is a more appropriate specification for the proposed development. The appellant and the Council were consulted on the amended description.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of neighbouring residents in respect of noise and disturbance.

Reasons

4. The appeal site is Unit 8 London Terrace, 270 Hackney Road, comprising part ground and basement levels of a four storey terraced row of buildings. There is a single storey commercial frontage facing Hackney Road. A rear courtyard provides access, servicing, and parking space for workshops at ground and lower ground floor level. The commercial unit facing Hackney Road is proposed as an evening access point. The appellant advises that the lower ground floor space has been in use as a music studio since the year 2000. Unit 5 of London Terrace is also in use as a music recording studio.
5. Objections to the proposal mainly concerned noise and disruption from a variety of activities including from the late hours of operation of the music studio, from staff entering and leaving the premises, noise from visitors in the service area, deliveries, and operation of shutters.
6. The development plan includes the Tower Hamlets Local Plan 2031 (adopted in 2020) and the London Plan. The emerging development plan is the Intention to Publish London Plan.
7. Local Plan policy D.ES9 and London Plan policy 7.15 seek to manage noise and vibration from new development and to manage the effect of existing sources of noise on sensitive development. Local Plan policy D.DH8 concerns the protection of amenity from matters including noise pollution.
8. The appellant seeks to increase the hours of use of the music studio which are currently confined to 08:00 hrs to 18:00 hrs on weekdays, excluding Bank Holidays. This is to make it viable and competitive. The appellant commissioned an acoustic survey in 2019 by AF Acoustics Ltd following noise complaints from neighbouring occupiers of the building. The Council requested that Noise Rating NRL 10 should be met as a low enough noise level such that it would not be recognisable as emanating from the source in question and would not alter the perception of the ambient noise environment that would prevail in the absence of the source in question. The appellant increased sound insulation at Live Rooms 1 and 2 through a "box in box" construction method. Noise tests were undertaken for flat 18 above Live Room 1 and commercial space at No.272 Hackney Road.
9. The acoustic survey concluded that all the noise calculations showed that the potential noise generated in the Hackney Road studio rooms to the flat above and adjacent commercial property were below the NRL 10 criteria stipulated by the Council and noise transfer to the neighbouring residential flats and commercial space should not cause complaints from the operations of the studio.
10. In its Statement of Appeal the Council has concluded on the basis of the findings of the acoustic report that the proposed extension of operational hours would be acceptable, subject to conditions. I see no reason to disagree as the appellant has carried out remedial works to mitigate any significant harm resulting from use of the music studio and has confirmed through the technical study that NRL 10 will be achieved.
11. The Bath Road entrance has generally been used as the main entrance to the appeal premises for staff and deliveries. This is near to upper floor bedrooms in the terrace and has been the source of noise complaints because of the use

of shutters, and visitors talking and smoking outside the entrance late at night. The Council has suggested that use of this entrance should be restricted to day-time hours through a condition, with the Hackney Road entrance being the alternative at night. I consider that, subject to conditions, there would be no significant harmful effect from the proposal on the living conditions of neighbouring residents in respect of noise and disturbance. It would therefore not conflict with Local Plan policies D.ES9 and D.DH8 or with London Plan policy 7.15.

Other Matters

12. Cycling provision already exists at the site. Although smokers would be directed by the appellant to use the area around the Hackney Road entrance, rather than the rear service and parking area, I agree with the Council that this would only be likely to involve a small number of people and any adverse effect from congregation would only be minimal.
13. The proposal would involve an increase in employment from 1 full-time and 3 part-time staff to 2 full-time staff and 4 part-time staff with the support of a number of freelancers. It would comply with Local Plan policy D.EMP2 which supports the provision of a range of workspaces, emphasising the importance of spaces for small and medium enterprises. It would also comply with Local Plan policy D.EMP3 which seeks to avoid the loss of employment space.
14. A representation has questioned the validity of the ownership certificate included in the application form. However, that is a matter for the parties concerned and not for my determination as part of this appeal.

Conditions

15. I considered the conditions suggested by the Council and added to and amended the wording where necessary. The appellant was consulted on the revised conditions and suggested further amendments. The Council subsequently confirmed that the appellant's amendments were acceptable. Although the appellant added the reasons for the conditions when consulted, these are summarised in general terms in paragraph 16 below, in accordance with normal procedures for appeal decisions.
16. In addition to the standard condition for the commencement of development a condition is included to confirm the approved plans. Several conditions are imposed to protect the amenity of neighbours from being harmed through noise and disturbance. These include a condition which requires compliance with the noise transmission values in the acoustic report. Conditions are imposed requiring the restriction of operational hours of the music studio and to restrict servicing hours. A condition also restricts use of the Bath Grove entrance and requires measures to reduce noise from operation of the shutter.

Conclusion

17. I have taken all other matters raised into account, including the letters of objection and support for the proposal. For the reasons given above the appeal is allowed and planning permission is granted subject to conditions.

Martin H Seddon

INSPECTOR

CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan EGL405903, PA_19_02451_NC-EXISTING_SECTION_PLAN-1546691, EXISTING_ELEVATION_PLAN-1546704, PA_19_02451_NC-PROPOSED_ELEVATION_PLAN-1546696, and PA_19_02451_NC-PROPOSED_SECTION_PLAN-1546700.
- 3) The noise levels in the nearest noise sensitive rooms set out in Table 4.1 of the approved AF Acoustics Ltd Technical Report dated 19-10-2019 shall not exceed from the recording studio sources the transmission values set out in Table 4.2 and 4.8 of the approved Technical Report documentation. In line with "NR L10 for entertainment noise is broadly equivalent to LAeq 15 dBA" as requested by Tower Hamlets Environmental Health.
- 4) The operational hours of the B1 music studio shall be 09:00 hrs to 22:00 hrs Monday to Friday and 10:00 hrs to 21:00 hrs Saturdays, Sundays, and Bank Holidays.
- 5) Servicing hours shall be 09:00 hrs to 19:00hrs Monday to Friday and 10:00hrs to 18:00 hrs Saturdays, Sundays, and Bank Holidays.
- 6) No alteration to the internal fabric of the noise sensitive rooms is to be carried out without a new sound test to take place, to confirm they are in line with the sound pressure level for stated dB Octave Band mid-frequencies Hz as set out in Table 4.1 of the approved AF Acoustics Ltd Technical Report dated 19-10-2019. In line with "NR L10 for entertainment noise is broadly equivalent to LAeq 15 dBA" as requested by Tower Hamlets Environmental Health.
- 7) Bath Grove entrance shall only be used 9:00 hrs to 19:00hrs Monday to Friday and 10:00hrs to 18:00 hrs Saturdays, Sundays, and Bank Holidays. Outside these hours all doors will be closed and locked. A quiet technology shutter will be installed, or existing shutter will be removed altogether within 6 months of the date of the planning permission hereby granted to meet fire exit requirements during use.