The Planning Inspectorate

Appeal Decision

Site Visit made on 17 March 2021

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 13 April 2021

Appeal Ref: APP/G5750/W/20/3246712
39 Dames Road, Forest Gate, London, E7 0DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Macneil Ltd against the decision of the London Borough of Newham.
- The application Ref 19/02086/FUL, dated 24 July 2019, was refused by notice dated 13 November 2019.
- The development proposed is two storey side and rear extension and a change of use of the formerly 'Forest Glen' Public House to a nursery and residential accommodation. In addition, the property will incorporate landscaping, external enclosed bin stores, parking and secure cycle stores.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was lodged The London Plan (2021) (the New London Plan) has been published by the Mayor of London and is now part of the development plan. The policies within the London Plan (2016) are therefore no longer extant. The parties have had an opportunity to comment on the New London Plan in relation to the case during the appeal process.

3. I have taken this into account in my determination of the appeal. In so doing, I am satisfied that the appellant has had the opportunity to consider the provisions of the relevant New London Plan and no-one's case is prejudiced by my taking them into account.

4. The Council refer in their documents to draft Policy D2 of The London Plan. This draft policy has been renumbered D4 in the published London Plan.

Main Issues

5. The main issues in this appeal are:

   - The effect of the proposal on the character and appearance of the site and the surrounding area with particular reference to 39 Dames Road, a Locally Listed Building (LLB),
   - Whether there is a local need for a nursery in this location, and:
   - The effect of the proposal on parking stress and highway safety in the area.

Reasons

Character and appearance

6. 39 Dames Road is a Locally Listed Building, a non-designated heritage asset. It is a substantial two storey building, used as a public house but currently vacant, occupying a prominent position at the junction of Dames Road and Bignold Road. The surrounding area is predominantly residential, containing two storey brick-built dwellings.

7. The appeal property is a traditional two storey public house and its scale and position on a street corner give it prominence in the street scene. The building retains much of its original external appearance. These features contribute positively to the significance of the building, retaining an appearance reflective of its use.

8. I therefore conclude that the building is justifiably identified as an LLB, particularly in view of its prominence in the street scene, and its authenticity makes a significant contribution to the character and appearance of the area.

9. The proposal would change the use of the building to a nursery with residential accommodation above. The building would be enlarged by the addition of a two storey side and rear extension. The existing building currently has a poor quality, run-down appearance, resulting from poor maintenance during the period that it has been vacant. Whilst the massing of the extensions is considerable, they would replace some poor quality extensions to the rear and balance the form of the main elevations onto Dames Road and to the rear.

10. The existing building would be restored to its pre-2009 appearance and the proposed extensions would be complementary in design and materials to the retained features of the existing building. In terms of their scale and design the rear extensions would remain subservient to the main building whilst replacing a number of haphazard elements, producing a more coherent appearance. I therefore consider that, notwithstanding its status as an LLB, these extensions would have a positive effect on the building and surrounding area. I note that there is no dispute between the main parties in this regard and that both consider the renovation of the building would be a benefit to the area.

11. There is dispute, however, regarding the effect of the proposed rear canopy on the character and appearance of the building and the immediate area. The proposed canopy would have a colour coated aluminium fascia and would extend across the whole width of the building. A canopy is necessary in association with the proposed nursery use and would reinforce the legibility of the rear of the building as the entry point for that use.

12. The canopy fascia would be of significant depth and would have a heavy, massive appearance. It would thus become a prominent feature to the rear of the building. The structure would be visible from the windows of nearby properties and, notwithstanding the height of the proposed boundary wall on that frontage, Bignold Road.

13. The massing and appearance of the canopy would be out-of-keeping with the host building and the design of surrounding buildings and this incongruity would, in this case, given the prominence of the structure and the status of the building as an LLB, introduce a discordance that would amount to significant

harm to the non-designated heritage asset, and thus to the character and appearance of the site and the surrounding area.

14. My attention has been brought to a previous planning permission on the site for a single storey smoking shelter. Whilst this shelter was also to the rear of the building its relationship to the host building was in regard to the built form at that time. I have assessed the proposal before me on the basis of the merits of the proposal before me, which significantly alters the built form of the building. I therefore give this matter limited weight.

15. I therefore conclude that the proposal would result in significant harm to the character and appearance of the site and the surrounding area. The proposal would be contrary to Policies D1 and D4 of the New London Plan and Policies SP1, SP2, SP3 and SP8 of the London Borough of Newham Local Plan -2018- (the Local Plan).

16. These policies jointly, amongst other things, require new development to respect and enhance the positive elements and distinctive features of the Borough, particularly with regard to the contributions made by heritage assets and should, by being sympathetic to the assets' significance and appreciation within their surroundings, preserve their significance. It is required that the cumulative impacts of incremental change from development on heritage assets and their settings should also be actively managed, reinforce local distinctiveness or enhance the character and appearance of the area, preserve or enhance local character and distinctiveness of the historic environment and respect historic fabric, design and materials.

17. Whilst the policies within the Local Plan and the DG pre-date the current version of the National Planning Policy Framework -2019- (the Framework), they, and the policies in the New London Plan are in close conformity with the aims of Sections 12 and 16, with which the proposal would also be in conflict, and therefore carry full weight.

Local need

18. Policy INF8 of the Local Plan states that community facilities development and growth will be co-ordinated to ensure that the delivery and retention of community facilities is carefully managed in order to align provision with the needs of new and existing communities in the Borough, seeking, amongst other things, that development should provide supporting evidence that the proposal will, in the main, be used by residents living within the Borough.

19. The appellants state that the nursery will, primarily, appeal to residents living in close proximity to the site, where access is convenient on foot or by cycle. It is reasonable to assume that, when travelling with young children the site will have appeal to such a customer base. It is likely, however, that longer trips on public transport or by car would be less appealing at times linked to journeys to work or linked to other purposes.

20. The proposal would provide 87 nursery places. The appellants have provided a Childcare Demand Report (CDR) and copies of Childcare Sufficiency Assessments (CSAs) for Newham and Redbridge. The CDR demonstrates that existing nurseries close to the site have limited spare capacity.

21. It is predicted that Newham, overall will experience high population growth in the near future, with an associated rise in the child population. This

notwithstanding, the Ward within which the site is located, Forest Gate North (FGN) currently has 1 childcare place for every 3 resident children and a CSA at the time that the application was determined indicated a sizeable surplus of childcare spaces within FGN. Further the Greater London Authority predicts that, whilst there will be an overall increase in the child population of nursery age within the Borough overall, the Ward within which the site lies will experience a sizeable decrease in the number of 0-4 year olds.

22. The CSA for Newham provided by the appellants is more recent than that upon which the Council based its decision and this indicates a shortfall in childcare places across the Borough, with other wards experiencing much lower provision than that in FGN.

23. The appellants have provided evidence to demonstrate that, in the longer term, there will be an increase in demand for childcare places in the wider Borough and in adjacent Boroughs, and that wider public transport connectivity could be used to access the site. Nonetheless, it remains likely that the catchment of the nursery would remain more local, albeit that this may include some limited areas in adjacent boroughs.

24. The appellants have provided a copy of the GLA Working Paper 'Demand for childcare in London – drivers and projections' -2018. However, whilst this indicates that there will be a significant increase in the demand for formal childcare in London in the future, it provides no specific projection for future demand in the immediate locality of the site.

25. Bringing these matters together, based on the information before me no specific need for the number of childcare spaces proposed has been demonstrated to exist in this location, or that, should such a facility be provided, the places would be predominantly taken up by residents living within the Borough.

26. I therefore conclude that the site would not provide for a local need for childcare places. The proposal would therefore not comply with the requirements of Policy INF8 of the Local Plan. Similarly the proposal would be contrary to Policies GG1, S1 and S3 of the New London Plan in as much as these, amongst other things, require proposals, including childcare facilities to provide high quality, inclusive social infrastructure in areas of identified need.

Parking

27. The appellants have provided Transport and Supplementary Transport Notes (the TNs) in support of their proposal. The proposal would provide four car parking spaces, for use by the nursery, within the site. One of these would be for use by disabled people. No parking provision is made for occupiers of the proposed flats. Separate cycle parking provision would be made for residents of the flats and the nursery, together with storage for buggies and scooters for the nursery.

28. No 39 lies within a Controlled Parking Zone (CPZ) where on-street parking is rigorously controlled. Nearby parking is restricted to permit holders or persons paying by phone for fixed periods of time. Census data indicates a low car ownership locally. The site lies within PTAL level 3, having moderate access to public transport, with access to local buses and nearby rail stations linking to the wider public transport network. The site lies close to dedicated cycling

infrastructure and the streets linking the site to that are subject to speed restrictions and traffic management measures.

29. Trip generation and travel mode are analysed within the TNs. However, the sites from which the data is extrapolated are not within London so there is doubt upon their direct comparability, particularly, in my mind, with regard to modal distribution.

30. In combination the limited number of spaces on site for pick up and drop off and on-street parking restrictions would be likely to discourage the use of private cars by future employees of the nursery and customers picking up and dropping off children. The availability of public transport, cycling facilities and storage for buggies would provide further support for the use of sustainable transport modes.

31. Taken overall these provisions and restrictions would be likely to limit the catchment of the nursery, both for customers and recruitment, to the local area or those further afield with access by public transport, whilst discouraging access by private car.

32. The appellants have provided a car parking beat survey in support of the proposal. The parameters of the survey assume a five metre length of space as being suitable for parking a car. This would leave limited space for manoeuvring into and out of the space for a family sized car. However, given the levels of kerbside occupancy identified on local streets at likely principle nursery pick-up and drop-off times by the survey, it is unlikely, even given the doubt on modal share and potential overestimation of capacity, that the proposal would generate a level of additional demand for car parking that would add significant on-street parking stress.

33. Concerns have been raised with regard to the effect of the nursery on highway safety. The local streets have traffic management measures installed and vehicular speeds in the side roads are likely to be effectively restrained by these and constraints on driver behaviour resultant from the general environment. Whilst there may be limited periods when pick-up or drop off may occur on-street in association with the nursery operation, these would be likely to occur in identified parking spaces, albeit that the restrictions governing the use of those spaces may be breached. There is little substantive evidence before me to demonstrate an existing safety issue that would be made demonstrably worse or, given the likely use of existing parking spaces on-street, that any would arise from the proposal.

34. I therefore conclude that the proposal would not result in an unacceptable increase in parking stress in the area or an unacceptable effect on highway safety.

35. The proposal would, therefore, be in accordance with Policies T1, T4 and T6 of the New London Plan and Policies SP2 and INF2 of the Local Plan in as much as these policies jointly, amongst other things, require new development to restrict parking in line with levels of existing and future public transport accessibility and connectivity, increase walking, cycling and public transport use and not increase road danger. For similar reasons the proposal would also accord with those parts of the Framework which seek to promote sustainable transport.

Other Matters and Overall Conclusion

36. Given my overall conclusion that the appeal should fail, there would be no effect on the Epping Forest Special Area of Conservation and therefore it is unnecessary to consider this matter further.

37. I have found that the proposal would result in significant harm to a non-designated heritage asset. The National Planning Policy Framework -2019- (the Framework) advises that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining a proposal. In weighing proposals that directly or indirectly affect non-designated heritage assets, a balanced judgement is required having regard to the scale of any harm or loss and the significance of the heritage asset.

38. The proposal would bring the building back into use. The building would be renovated, improving its appearance within the street scene. However this benefit could also be achieved by works on the building as it stands.

39. The proposal would not result in the loss of the building and the impact upon the appearance of the building would be limited to views from the rear. However, the harm on that aspect is significant.

40. The proposal would harm the character and appearance of the area and has failed to demonstrate a specific need for nursery places. The proposed development would conflict with the development plan taken as a whole and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal fails.

I Dyer

INSPECTOR