



Appeal Decision

Site Visit made on 11 May 2021

by Samuel Watson BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th June 2021

Appeal Ref: APP/E5900/W/21/3269097

67 Brick Lane, London E1 6QL

- 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 Mr Olivier Dimaria for Covent Garden Brewery Ltd against the decision of London Borough of Tower Hamlets.
 - The application Ref PA/20/02070, dated 22 September 2020, was refused by notice dated 25 November 2020.
 - The development is described as being retrospective planning permission for a first floor roof terrace to rear of the building.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The roof terrace has already been formed and therefore I have considered this appeal retrospectively.

Main Issues

3. The main issues are the effect of the development on:
 - the character and appearance of the area; and
 - the living conditions of neighbouring occupiers with particular regard to the privacy of the occupiers of 25 Princelet Street.

Reasons

Character and Appearance

4. The appeal site is a first floor flat within a four-storey building close to the junction with Princelet Street. It is part of a block which surrounds a central area which is characterised by varied and sporadic buildings, extensions and open spaces. The roof terrace has been formed over an existing rear projection within this central area.
5. The appeal site is located within the Brick Lane/Fournier Conservation Area BLFCA and in proximity to 25 Princelet Street which is a Grade II Listed Building. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require me to pay special regard to the desirability of preserving or enhancing the character or appearance of the setting of a listed building, and conservation area. In this respect national planning policy on heritage assets is set out in the National Planning Policy Framework (the Framework). At paragraph 192, it sets out matters which

should be taken into account including sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness.

6. From the limited information before me, the significance of the BLFCA stems from the block pattern of development formed of tall, somewhat uniform terraces which retain traditional materials including timber windows and doors. On the ground floor, those shop fronts which had not clearly been replaced also contribute towards the significance of the conservation area.
7. By way of its positioning, the roof terrace is read in relation to the varied and informal development at the back of the surrounding properties. During my observations on site, I noted a number of other terraces, including on rooftops, serving nearby properties. Given the residential appearance of the timber fence panels, they are not incongruous with the character or appearance of the block's central area. Therefore, whilst the terrace is visible from surrounding properties and external amenity spaces, I find it is not an incongruous feature harmful to the character and appearance of the BLFCA.
8. That said, whilst partially screened from views by the fence around the roof terrace, the UPVC door serving the terrace is still visible from surrounding properties. The door, by way of its materials and modern appearance, is not in keeping with the timber joinery and fenestration predominant on the surrounding buildings. The UPVC door therefore stands out as a jarring and incongruous feature in the context of the surrounding development, which to my mind harms the appearance of the BLFCA.
9. Turning to the effect of the development on 25 Princelet Street, this building is set perpendicular to the appeal site. This Listed Building has a simple but ordered appearance to the front which includes large timber sash windows, string courses and an ornate porch. To the rear, the building is plain and not as ordered as the front, with leadlight casement windows contrasting the larger sashes on the front. I find the significance of this building to stem from the extent to which its historic features and detailing are intact, its appearance as a substantial townhouse, and the legibility of the public and private facing elevations. Given their close siting within the same development block, and that the rear of both buildings are legible together. Therefore, the appeal site clearly affects the setting of the listed building.
10. Moreover, as the terrace projects across part of the rear of the listed building at first floor level, the tall and solid fence panels block views towards this heritage asset. Although not affecting the front of the building, or public views, the rear elevation is important in appreciating the historic interest of the building as a whole as it demonstrates the simpler, private elevation of the building. Moreover, the whole building is listed and is of historic importance, and I have considered it accordingly. Therefore, whilst the development does not affect the physical form of the listed building, it does affect the setting and appreciation of the building by blocking views and is therefore an inappropriate and harmful feature.
11. In light of the above, I conclude that the proposal would neither preserve or enhance the character or appearance of the setting of the listed building or the BLFCA.

12. In the context of the Framework, the level of harm I have identified must be considered to be less than substantial. Paragraph 196 states that where a development would lead to less than substantial harm to the significance of a designated heritage asset (such as the BLFCA and the Listed Building), this harm should be weighed against the public benefits of the proposal.
13. It has been submitted that the roof terrace improves the living conditions of the property's occupiers by way of an external amenity space. Whilst I have no doubt that the provision of such a space, especially during the Coronavirus lockdowns would be of benefit to the Appellant, it could at best only amount to very limited public benefit. Moreover, whilst the roof terrace may have been built to the appropriate engineering standards this is not a benefit of the scheme and so cannot outweigh the harm identified.
14. Taking the above into account, I am of the view that the public benefits of the development, do not outweigh the harm I have identified to the character of the BLFCA or the Listed Building.
15. For the reasons above I conclude that the development fails to preserve the character and appearance of the BLFCA and the setting of the Grade II Listed Building contrary to Policies S.DH1 and S.DH3 of the Tower Hamlets Local Plan 2031 (THLP) which requires development to be of a high quality design, which positively responds to its context and preserves or enhances any heritage assets. It would also conflict with the overarching aims of the Framework.

Living Conditions

16. As noted above, the roof terrace is located to the rear of 25 Princelet Street. The side of the roof terrace alongside No.25 has a low boundary fence which allows views towards a number of clear glazed windows. Whilst the fence is also topped by a slatted panel this does not substantially increase the height of the fence, and the gaps between the slats allow views through towards the neighbouring windows. As the roof terrace is otherwise surrounded by tall walls and fence panels, views are directed towards the rear of No. 25.
17. Whilst the details of the previously approved development show a window where the door to the roof terrace is sited, the level of overlooking this would have likely allowed would have been significantly less than is currently afforded by the roof terrace. From my observations on site, I could see directly in to the first floor windows of No. 25 from the terrace. Given the above, I find that the terrace has resulted in a significant loss of privacy to the neighbouring occupiers, to the detriment of their living conditions.
18. In coming to the above view, I acknowledge that the high-density nature of the area gives rise to an element of overlooking. However, the roof terrace has resulted in a significant and detrimental increase in such overlooking to the occupiers of No. 25. This is particularly the case as it appears to me that prior to the formation of the roof terrace there would have been no outside space from which mutual overlooking could have occurred.
19. In conclusion I consider the roof terrace, as a result of the significant increase in overlooking, has an unacceptable impact on the living conditions of the neighbouring occupiers at No. 25 Princelet Street. This is contrary to Policy D.DH8 of the THLP which requires development to protect the amenity, including privacy, of the occupiers of new and existing buildings.

Conclusion

20. The proposal would harm the character and appearance of the area in conflict and would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR