



Appeal Decision

Site Visit made on 19 October 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2021

Appeal Ref: APP/U5360/W/21/3269292

283A Kingsland Road, Hackney, London E2 8AS

- 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 Hande Sezgin against the decision of London Borough of Hackney.
 - The application Ref 2020/3475, dated 11 November 2020, was refused by notice dated 6 January 2021.
 - The development is for the continuous use of the existing seating area on the terrace floor including the metal balustrade for safety reasons.
-

Decision

1. The appeal is allowed and planning permission is granted for the continuous use of the existing seating area on the terrace floor including the metal balustrade for safety reasons at 283A Kingsland Road, Hackney, London E2 8AS in accordance with the application, Ref: 2020/3475 and the plans submitted with it, dated 11 November 2020, subject to the following condition:
 - 1) The roof terrace hereby permitted shall not be used outside the hours of 0800–2200 Sunday to Wednesday and 0800–2300 Thursday to Saturday.

Procedural Matters

2. At the time of the site visit I noted that metal railings have been installed and that the terrace is in use. The application has been submitted retrospectively and I have dealt with the appeal on this basis.
3. I note that both parties have referred to the relocation of an existing air condenser unit. However, its relocation is not referred to on the application form or on the submitted plans. Consequently, I have not treated its repositioning as being part of the appeal.
4. The new London Plan (2021) (LP) has been adopted in between the time the application was determined and submission of the appeal. Policies 7.4, 7.6, 7.8 and 7.15 of the London Plan (2016) have been superseded by new Policies in the LP. The Council has not provided information as to whether or not it considers that the proposed development conflicts with policies of the LP. My reasoning below therefore makes no reference to it.
5. The revised National Planning Policy Framework (the Framework) has been published since the appeal was submitted. Both main parties have been given the opportunity to comment on this. My decision is made in the context of the revised Framework and I am satisfied that no interested party has been prejudiced by my approach.

Main Issues

6. The main issues are:

- The effect of the development upon the character and appearance of the area including whether it preserves or enhances the character or appearance of the Kingsland Conservation Area (CA) and the effect of it upon non-designated heritage assets; and
- The effect of the development upon the living conditions of nearby occupants with regard to noise.

Reasons

Character and appearance including impact upon heritage assets

7. The appeal site comprises a locally listed property operating as a bar/café. The external appearance of the building and the neighbouring one is masked by artistic murals. The property sits on a prominent corner where Kingsland Road and Regents Canal intersect. The building has a flat roof section which has been enclosed by railings creating an outdoor terrace. At the time of my site visit I observed tables, seating and umbrellas positioned on the terrace.
8. The area has a diverse make up comprising low scale traditional buildings and large new build residential developments focused along the canal. The area is made up of a mix of uses including commercial and residential.
9. The CA is largely linear and in part derives its significance from Regents Canal and the resultant historic industrial development. This significance has been eroded by the presence of large-scale modern buildings along the canal and Kingsland Road.
10. The balustrade has a simple appearance and is sensitive to the host building and does not unduly harm its appearance. The design and height of the railings do not appear dominant or incongruous and are in keeping with the assortment of designs along the road and canal, including the railings on the nearby bridge. In my view the development would preserve the character and appearance of the CA and would not undermine the significance of the host property, as a non-designated heritage asset, or nearby heritage assets for that matter.
11. I acknowledge that the development has led to the presence of tables, seating and umbrellas on the roof resulting in a degree of visual clutter, which is visible within the area due to the elevated terrace and its prominent position. However, I am mindful that the tables, seating and umbrellas are not permanent fixtures and could be removed at any time reducing the visual impact of the development.
12. In light of the above I am satisfied that the development does not adversely affect the significance of the CA or non-designated assets. As such the development accords with Policies LP1 and LP3 of the Hackney Local Plan (2020) (HLP) which, amongst other things, require developments to respond to local character and context, to be compatible with the existing townscape and to preserve or enhance the significance of the historic environment including conservation areas. It would also accord with the Framework which, amongst other things, seeks to sustain and enhance the significance of heritage assets.

Living conditions of existing occupants

13. The appeal scheme enables customers of the bar/café to use the roof terrace between the hours of 0800–2200 Sunday to Wednesday and 0800-2300 Thursday to Saturday.
14. The surrounding area is a mix of commercial and residential uses and during my site visit, I observed considerable background noise from road traffic, the nearby railway and the comings and goings of customers visiting businesses in the area. It is not unreasonable for nearby residents to expect a certain degree of noise and disturbance from traffic and commercial uses during the day and the evening.
15. Taking into consideration the nature of the use, the opening hours proposed and the size of the terrace, the degree to which the proposal would result in additional noise over and above the existing situation is unlikely to be significant irrespective of whether a noise barrier is provided.
16. I note the Council's comments in relation to mechanical plant. Despite the limited information provided by the appellant there is no substantive evidence before me to indicate that the air condenser unit is excessively loud when operating or that it has resulted in a noise nuisance.
17. As such, I conclude that the proposed development would not adversely affect the living conditions of nearby occupants by virtue of noise. It would accord with HLP Policy LP2 which, amongst other things, seeks to ensure that there are no significant adverse impacts on the amenity of occupiers and neighbours including in respect of noise. It would also accord with the Framework which, amongst other things, seeks to ensure that developments ensure a high standard of amenity for existing and future users.

Conditions

18. I have considered the imposition of conditions in accordance with the Framework and Planning Practice Guidance. I have imposed a condition limiting the hours of use of the terrace to safeguard the living conditions of nearby occupants from late night noise.
19. As the development has already commenced it is not necessary to impose the standard time limit condition. I have allowed the appeal on the basis of the submitted plans.

Conclusion

20. For the reasons set out above the appeal succeeds.

B Thandi

INSPECTOR