



Appeal Decision

Site visit made on 8 March 2022

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th March 2022

Appeal Ref: APP/E5900/W/21/3286772

2 Grove Road, London E3 5AX

- 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 S Vali (S & S Estates Management Ltd) against the decision of London Borough of Tower Hamlets.
 - The application Ref PA/21/01636, dated 8 July 2021, was refused by notice dated 8 September 2021.
 - The development proposed is a basement extension to reconfigure the existing restaurant, partial demolition of first floor with retention of front and side elevations, replacement of first floor windows and two-storey extension to form two residential units.
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Decision

1. The appeal is allowed and planning permission is granted for a basement extension to reconfigure the existing restaurant, partial demolition of first floor with retention of front and side elevations, replacement of first floor windows and two-storey extension to form two residential units at 2 Grove Road, London E3 5AX in accordance with the terms of the application, Ref PA/21/01636, dated 8 July 2021, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. The description in the banner heading above has been taken from the planning application form. However, I have omitted the reference to the Tredegar Square Conservation Area (TSCA) as this is not an act of development.
3. Amended plans were submitted with the appeal which increase the size of the outdoor amenity space for the upper floor flat from 5 square metres to 8 square metres by reducing the width of the landscaping. The Council raise no objection to the amended plans, and as a result, no longer defends the second reason for refusal.
4. Given the very modest nature of the change and the fact the Council and interested parties have had the opportunity to consider these amendments, I am satisfied no party would be prejudiced by my acceptance of them. Therefore, I have taken account of the amended plans and considered the appeal accordingly.
5. The Council raise no objections to the basement extension, with the reason for refusal focusing solely upon the upper floor extension. I agree and have therefore focussed my reasons upon the 2 storey extension only.

Main Issue

6. This is the effect of the 2 storey extension on the character and appearance of the host building, terrace row and TSCA.

Reasons

7. The site is a 2 storey former public house fronting west on Grove Road in the TSCA. It is locally listed and sits within a terrace row of similarly locally listed buildings of various heights, appearances and age. The building dates from the late 1800s and contains a tiled and brick façade at ground floor, a stuccoed first floor with attractive window architraves, and quoins, cornice and parapet detailing. Directly adjoining the site northwards is a row of 3 and 4 storey buildings. Those of 4 storeys contain mansard roof additions. However, the height reduces to 2 storey at the host building and continues at 2 storeys to where it meets Mile End Road.
8. The Tredegar Square Conservation Area Character Appraisal (July 2016) details the significance of the TSCA is derived from well-proportioned buildings of similar styles laid out in a grid and uniform pattern, with the core being Tredegar Square. The host building and terrace row sits on the edge of the TSCA, and does not follow this uniformity of style or materials, containing a variance of heights and designs, both in shop fronts and upper floor treatments. This is reflective of the commercial nature of the street. I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA, as required by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
9. The proposal is for a 2 storey extension on top of the existing building, consisting of a single storey at 2nd floor level, topped with a flat roofed mansard. It would provide a 2 bedroom flat at 1st floor and a 3 bedroom flat over the 2nd and 3rd floors. The proposed 2nd floor façade would be faced with stucco painted grey to match the existing building and the existing 1st floor windows would be replaced with traditional painted timber sliding sashes. The new second floor windows would have plain reveals, and this would ensure the decorative stucco surrounds of the first floor windows remain a focal point.
10. The mansard would be slate hung and the 2 dormers to the front and rear would be clad in lead with painted timber frame windows. The dormer windows to the front would be positioned directly between the first and ground floor windows, set back, indicative of the hierarchy of the building, with the top floor appearing subservient and subordinate. To the rear, each flat would be provided with outdoor amenity space and one of the chimney stacks would be retained on the southwestern corner.
11. The Council has approved¹ a single storey roof extension to the building already, which indicates acceptance of the principle of an upper floor extension in this location. This is a material consideration. Furthermore, the previous appeal decision² did not disagree with the principle of the proposal, finding harm with the two planed design of the roof, hipped end and position and number of dormer windows. The design before me is different to the previous decision and I have considered it upon its merits.

¹ Application Ref: PA/19/02454

² APP/E5900/W/20/3261060

12. I accept the building could be considered something of a landmark, given its historic use as a public house, glazed tile frontage and its location in the townscape, being highly visible from the Mile End/Grove Road crossroads. I disagree, however, that its existing 2 storey design makes it a landmark or provides a welcome relief in the townscape given the taller buildings adjoining the site are not dominating nor imposing in this street scene. Indeed, the area felt open and spacious due to the width of Grove Road, the crossroads and Mile End Park to the west. Moreover, the Council's acceptance of a second floor extension is at odds with its argument about the 2 storey landmark status.
13. The scale and massing of the proposal would assimilate with existing mansard roofs in the row, containing a party wall, set back, and sympathetic, modest fenestration. Notably, there is no surviving roof form, such as a London roof, that warrants protection, and the principle of an upwards extension has already been allowed. The maximum height of the mansard would be less than the adjoining building, as would the parapet, ensuring it would not compete with this property, transitioning to the lower height properties to the south. It would also use appropriate traditional materials, with simple detailing.
14. The rear elevation would be considerably improved and tidied up and it would also eliminate the graffitied gable wall of No 4, which to my mind distracts from the street scene. These would be benefits of the proposal.
15. Key features of the building would be retained, such as the chimney stack to the rear, the ground floor glazed brick frontage, parapet detailing and the ornate window surrounds at first floor. This would ensure the history of the building is legible and readable. The party walls would act as definition and a break between buildings, and the first floor parapet would signify the old and new on a horizontal level.
16. Therefore, although the proposal would be prominent and visible, the design is appropriate such that it would not appear incongruous or dominating, nor would it result in loss of visual distinctiveness. On the contrary, it would be an appropriate addition with a sympathetic design approach to the upper floors that would maintain its landmark status. This would safeguard the significance of this locally listed building and its historic public house use, along with other locally listed buildings and the TSCA.
17. Consequently, the proposal would preserve the character and appearance of the host building, terrace row and TSCA. This would be compliant with Policy S.DH3 of the Tower Hamlets Local Plan 2031 (January 2020) and Policy HC1 of the London Plan (March 2021). Together, these policies seek to preserve or, where appropriate, enhance the borough's designated and non-designated heritage assets in a manner appropriate to their significance, by being sympathetic to the assets' significance and appreciation within their surroundings.
18. It would also comply with the Tredegar Square Conservation Area Character Appraisal and Management Guidelines, which aims to define the qualities and features that make the Conservation Area special and provide guidelines for development.

Conditions

19. The approved plans are listed for certainty. A condition for a Construction Environmental Management & Logistics Plan would be necessary to ensure highway and pedestrian safety. However, the condition as suggested by the Council was onerous and unreasonable, requiring details not relevant to this site. Therefore, I have scaled back the condition to require a scheme to be submitted for approval, rather than requiring specific details.
20. To ensure a satisfactory external appearance of the development, samples and particulars of external materials would be necessary. Conditions 3 and 4 are pre-commencement conditions because it is fundamental to the scheme that these details are agreed prior to works starting. As required by Section 100ZA(5) of the Town and Country Planning Act 1990, approval from the appellant has been sought for the imposition of these conditions.
21. The proposed works will be close to underground sewerage utility infrastructure and thus a condition for a piling method statement would be necessary if piling works are taking place.
22. To safeguard the amenity of the local area during construction, a condition controlling hours or works, vibration and noise levels is necessary. However, I have omitted the requirement to be in accordance with the Tower Hamlets Code of Construction Practice. This is because I have not been provided with this document and I do not consider the proposal would be unacceptable without compliance given control is required over noise, vibration and hours.
23. A Delivery and Servicing Plan and a Waste Management Plan would be necessary to ensure adequate collection of waste.
24. The area suffers from high parking stress and Policy D.TR3 of the THLP requires new residential developments to be permit free in terms of on-street car parking. Thus, a condition requiring this would be necessary to comply with the development plan, promote sustainable transport and to reduce pressure for on-street car parking. However, the condition proposed by the Council contemplates the execution of a planning obligation. Planning Practice Guidance³ sets out that a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in exceptional circumstances, where there is clear evidence that the delivery of the development would otherwise be at serious risk. I do not consider there are exceptional circumstances in this instance. Consequently, the use of this condition would not be appropriate, nor pass the test of enforceability set out in the National Planning Policy Framework.
25. Therefore, following comments from both parties, I have used an alternative condition that prohibits occupation until the Street, Naming and Numbering applications has been submitted to and confirmed by the Council. This would result in an internal process that requires the new addresses to be added to a database of dwellings for which residential parking permits cannot be issued. I have not however added the Council's suggested condition requiring the developer to inform the Council of commencement of development. This is

³ Paragraph: 010 Reference ID: 21a-010-20190723 Revision date: 23 07 2019

because I do not understand why this would be necessary, given the requirements of the condition imposed would restrict occupation.

26. Prior to the imposition of this condition, comments were sought on a different condition. Whilst the appellant had no objections, the Council considered the condition would not be enforceable and that the absence of a car free scheme would result in no changes to the Council's local land charges register, resulting in future buyers being unaware of the restriction. It would also result in no restrictions being placed upon residents to stop them applying for parking permits, creating a burden upon the Council to exercise additional control.
27. The condition imposed has similar drawbacks, and whilst I acknowledge these challenges, the condition proposed by the Council would not meet the tests for conditions and cannot be applied. The condition I have imposed would ensure that the future addresses are added to the Council's database. This would guarantee that parking permits could not be issued to these new addresses accidentally. Whilst there would be no requirement for the developer/owner to inform future residents of the car free nature of the development, they would ultimately become aware when their permit application was rejected. Notably however, the borough has a requirement in the development plan for all new residential development to be car free and therefore, permit free development would not be an unusual situation in this area.
28. Details of the kitchen exhaust system would be necessary to protect the amenity of future residents and the surrounding area. I have however amended the condition to require the proposed equipment not to exceed the lowest measured background noise level, because as drafted with "below", the condition would have been unreasonably restrictive. A condition relating to construction methods that protects the amenity of the future occupiers from undue noise and vibration disturbance is necessary. Provision of the cycle storage, refuse storage and bat boxes, prior to occupation of the dwellings would be necessary to ensure appropriate facilities and biodiversity improvements. I have removed the requirement for sparrow nest boxes as these were not indicated on the plans.

Conclusion

29. For the reasons given above, I conclude that the appeal should be allowed.

Katie McDonald

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 819-000-L-000 A, 819-200-L-001 G, 819-200-L-002 I, 819-200-L-003 D, 819-200-L-X01 G and 819-200-L-X02 H.
- 3) No development shall take place, including any works of demolition, until a Construction Environmental Management Plan and Logistics have been submitted to and approved in writing by the local planning authority in consultation with Transport for London. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until samples and full particulars of all external facing materials have been submitted to and approved by the local planning authority in writing. Details submitted pursuant to this condition shall include, but not be restricted to the following:
 - i) Samples and details of external cladding;
 - ii) Samples and drawings of fenestration;
 - iii) Samples and details of roofing;
 - iv) Details of balustrades, external rainwater goods, and any flues and vents.The relevant works shall be carried out in accordance with the approved sample details.
- 5) If piling works are taking place, none shall be undertaken until a Piling Method Statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.
- 6) Unless otherwise specified by a S61 Consent granted under the Control of Pollution Act 1974, demolition, building, engineering or other operations associated with the construction of the development (including arrival, departure and loading and unloading of construction vehicles):
 - i) Shall only be carried out within the hours of 08:00 and 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays. No works shall take place on Sundays and Public Holidays.
 - ii) Ground-borne vibration shall not exceed 1.0mm/s Peak Particle Velocity (PPV) at residential and 3.0mm/s PPV at commercial properties neighbouring the site.
 - iii) Noise levels measured 1 metre from the façade of any occupied building neighbouring the site shall not exceed 75dB(A) at residential and commercial properties, and 65dB(A) at schools.
- 7) The development shall not be occupied until a Delivery and Servicing Plan and a Waste Management Plan has been submitted to and approved in writing by the local planning authority in consultation with Transport for London. The approved scheme shall be implemented on first occupation

- of the development and remain in operation for the lifetime of the development in accordance with the approved details.
- 8) No occupation of the residential units hereby approved shall take place until a copy of the Street, Naming and Numbering applications have been submitted to and confirmed in writing as approved by the Council.
 - 9) No occupation of the residential units hereby approved shall take place until the details of the proposed kitchen exhaust system have been submitted and approved in writing by the local planning authority. The proposed equipment shall be designed so as not to exceed the lowest measured background noise level when in operation, measured one metre from the nearest affected window of the nearest affected residential property. The kitchen exhaust system shall be retained and maintained for the lifetime of the use in accordance with the approved details.
 - 10) All the approved residential accommodation shall be constructed to ensure that:
 - i) the construction accords with BS8233 'Sound Insulation and Noise Reduction for Buildings';
 - ii) internal ambient noise levels do not exceed 35dB $L_{Aeq16hr}$ between hours 07:00 - 23:00 and within bedrooms do not exceed 30 dB L_{Aeq8hr} between hours 23:00 - 07:00.
 - iii) structure-borne noise does not exceed L_{Amax} 35 dB;
 - iv) exposure to vibration is no higher than of "low probability of adverse comment" in accordance with BS6472 'Evaluation of Human Exposure to Vibration in Buildings'; and
 - v) at any junction between residential and non-residential uses, the internal noise insulation level is no less than $55D_{nT,w}=Ctr$.None of the residential units shall be occupied until a post completion verification report, including acoustic test results, has first been submitted to and approved in writing by the local planning authority confirming that the above minimum standards have been achieved.
 - 11) The cycle and waste storage facilities shown on approved drawing 819-200-L-001 G shall be provided prior to the occupation of the development and thereafter shall be made permanently available for the occupiers of the building.
 - 12) The 2 bat boxes shown on approved drawing 819-200-L-X01 G shall be provided prior to the occupation of the development and retained and maintained for the lifetime of the development.

*****END OF CONDITIONS*****