



Appeal Decision

Site visit made on 2 November 2022

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th December 2022

Appeal Ref: APP/E5900/W/22/3302790

163-167 Devons Road, Tower Hamlets, London, E3 3QX

- 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 Cem Yesil of Arazcan Limited against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref: PA/22/00739, dated 20 April 2022, was refused by notice dated 20 June 2022.
 - The development proposed is described as: Shop front extension into the pavement and adding new shutters.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the area; and
 - The effect of the proposal on pedestrian safety in the vicinity of the appeal site.

Reasons

Character and appearance

3. The premises that form the subject of this appeal comprise part of the ground floor of a five storey, mixed use, block fronting onto Devons Roads and returning around the corner with Watts Grove. The upper floors of the building are in residential use and the majority of the ground floor of the Devons Road frontage is occupied by five retail units that include the appeal site.
4. To the south of this building are two other blocks of flats of a similar age and external appearance. All of these date from the first half of the twentieth century.
5. The appeal site is the largest of the retail units present and, from the evidence, was formed by amalgamating three smaller units. The building is constructed of red brick with a tiled, hipped, roof. The ground floor section, where the retail units are located, projects slightly beyond the main front façade of the building. The commercial units have modern shop fronts and fascia signs, and several have external shutter boxes.

6. The surrounding area is largely residential in nature, although with some business premises present, and is mostly comprised of low rise blocks of flats between three and five storeys in height resulting in relatively large building units with long continuous façades and which characterise the area. Some small groups of two and three storey, terraced, houses are interspersed amongst the larger blocks and slightly to the north is a tower block approximately 18 storeys high.
7. The surrounding buildings are of various ages and designs but generally finished in brickwork, although some have rendered elements. It was evident from the site visit that the surrounding area has been extensively redeveloped during the twentieth century. A small number of older buildings remain. Just to the east of the block where the appeal site is located, is the two storey Angel of Bow public house and on the opposite side of Watts Grove, the large, four storey, block of flats known as Sumner House is dated 1929. A short distance to the north east, All Hallows Church and its associated rectory, now converted to flats, forms an attractive group and the apsed end of the church building is mirrored in the faceted façade of the continuation of the block that contains the appeal site as it turns the corner with Watts Grove. Slightly further along Devons Road, past All Hallows Church, the Lighthouse Baptist Church is a solid Victorian presence.
8. The proposed extension would project beyond the current shop frontage by approximately 1.5 metres. The sides of the extension would be fabricated from metal sheets and a shallow, sloping, roof, covered with corrugated bitumen, would join the main building just below the level of the existing shop fascia. An existing automated teller machine would be relocated in a small enclosure at the west end of the extension and in line with the new frontage. Internally timber display shelves would be provided, and the frontage of the extension would be fully open during the trading hours of the shop. When the shop is closed the frontage of the extension would be secured by four steel roller shutters which would be painted to match the existing shop front.
9. Whilst it is not cited in the reason for refusal, Policy D.DH9 of the Tower Hamlets Local Plan 2020 (the Local Plan) specifically addresses the design of shopfronts and sets out a number of criteria against which new shopfronts will be assessed. These include maintaining active shopfronts at all times; having a sensitive relationship with the upper floors of the building; and the use of materials which are appropriate and enhance the local character.
10. The supporting text to Policy D.DH9 sets out that if security measures are to be incorporated these should be in the form of security glass and retractable internal grills rather than external shutters and that shopfronts should be of a scale which relates to the upper floors of the building. The supporting text does not form part of the policy, however, it sets out how it is expected that the policy is to be implemented.
11. Although the proposed extension is relatively small in scale, it would project forward of the long, continuous, ground floor frontage of the building and would result in an asymmetrical addition to the small group of shop units that currently share a uniform frontage. In addition to this, the low overall height of the proposed extension would result in a poorly proportioned addition to the principal façade of the building with the extension appearing diminutive compared to the five storey building elevation and also excessively long in

relation to its height. The materials proposed to be used on the extension are not present elsewhere on the host building or in the immediate vicinity although further away zinc cladding is used at roof level on a small number of more recent buildings. Due to the low overall height and shallow pitch of the roof of the proposed extension, at times when the security shutters were closed, the extension would essentially have the appearance of a metal box attached to the front of the building at ground level.

12. As such, the proposed extension would be an incongruous and alien addition to the principal elevation of the building and would not sit comfortably in its context. This would be harmful to the character and appearance of the building and the surrounding area.
13. I therefore find that the proposed development would cause harm to the character and appearance of the area. It would not comply with the relevant requirements of Policies S.DH1, D.DH2 and D.DH9 of the Local Plan which, when read together expect new development to be of a high standard of design that optimises active frontages towards public streets and spaces and ensures that new shopfronts have a sensitive relationship with the upper floors of the building and use materials that are appropriate to their context.

Pedestrian safety

14. The appeal building is located on Devons Road, which is a busy principal route through the area.
15. The reason for refusal in respect of pedestrian movements set out in the Decision Notice issued by the Council cites Policies S.DH1, D.DH2, and D.DH9 of the Local Plan as being contravened.
16. Policy S.DH1 expects development to be of a high quality design that, among other matters, create well connected, inclusive and integrated spaces which can be easily adaptable to different uses and the changing needs of users, whilst Policy D.DH2 seeks to ensure that existing public routes are maintained, and that development contributes positively to the public realm by reducing visual clutter and obstacles in the public realm.
17. The Planning Officer's report refers to Local Plan Policy S.TR1 which is not referred to in the reason for refusal. This policy addresses sustainable travel and expects, among other matters, that new development prioritises the needs of pedestrians and cyclists.
18. Although the Council have cited Local Plan Policy D.DH9 of the in the reason for refusal, this policy relates to the design of shopfronts. Whilst this policy may be relevant to the proposal as a whole, it contains no specific reference to highways matters or the effect of proposals on pedestrian movements. Consequently, I do not consider that it is relevant to this issue.
19. The footway adjacent to the appeal building is approximately 5.4 metres wide. Whilst this is a generous width, I saw when I visited the site that the useable width is constrained in the vicinity of the appeal building by both the current external display of goods outside the appellant's shop and by the presence of large, commercial, refuse bins on the outside edge of the footway. The available width is also reduced by the presence of a metal pedestrian guard rail inset from the edge of the kerb.

20. In addition to this, there are metal bollards across the footway at each end of the parade of shops, and a short distance to the north east a bus shelter and a telephone kiosk are also present in the footway. The combined effect of the above features serves to make the footway in the vicinity of the appeal building appear cluttered and to create a variety of obstructions to movement.
21. The Manual for Streets (2007) advises that obstructions on the footway should be minimised. Street furniture is typically sited on footways and can be a hazard for blind or partially-sighted people. Manual for Streets 2 (2010) further sets out that providing more generous and better quality facilities for pedestrians can lead to increases in walking.
22. The appeal proposal would extend the ground floor of the building forward by approximately 1.5 metres, which would be approximately equivalent to the area that is presently used for the external display of goods and is enclosed beneath the retractable awning installed at the premises. The presence of commercial 1100 litre wheeled bins opposite the appeal site reduces the useable width of the footway by approximately a further 1.3 to 1.4 metres. This would, nonetheless, leave a usable footway width of approximately 2.5 metres across the shop frontage which would exceed the normal 2 metre width that is generally considered to be the standard minimum width for a footway. The Council has not advised of any specific standards in terms of footpath widths that apply within its administrative area.
23. I saw when I visited the site that the nearby Angel of Bow public house has an external seating area to the frontage which restricts the footway width outside this premises to approximately 2 metres. Although I have no information regarding whether or not this area previously formed part of the highway, in practical terms, the effect of this is not dissimilar to the effect that the appeal proposal would have.
24. I also observed that whilst Devons Road is a main route, during the time that I was at the site and surrounding area, in the early afternoon on a typical weekday, the number of pedestrian movements on the footway was low, and restricted footway width resulting from the combination of the goods displayed outside the shop and the wheeled bins did not cause an impediment to pedestrian movement. I recognise that this is a snapshot of the time that I was present in the area and that other times there may be a higher level of footfall. However, my attention has not been drawn to, nor did I see, any uses or facilities in the near vicinity of the appeal site that would result in significantly increased pedestrian flows along the footway in question. Consequently, I am satisfied that what I saw during the site visit is relatively typical of the level of pedestrian movements in the area.
25. The Highway Authority have commented that the proposed extension would be on land which is adopted as highway. The appellant states that they rent the space currently used for the display of goods and which would be occupied by the proposed extension from the Council. However, no evidence has been provided that would substantiate this assertion. Neither has any evidence been submitted which would indicate that the Council has taken steps to prevent the display of goods outside the premises.
26. This latter point notwithstanding, at present there are a number of pre-existing obstructions on the footway in addition to the external display of goods and these other obstructions are outside the control of the appellant. Although the

proposed extension would permanently reduce the width of the footway, from the evidence before me and from what I saw when I visited the site, it would not result in a significant interruption to pedestrian movements or reduce the footway to an unacceptable width.

27. I therefore find that the proposed development would not cause harm to pedestrian safety in the vicinity of the appeal site. It would comply with the relevant requirements of Policies S.DH1 and S.TR1. Whilst the appeal proposal would not reduce visual clutter or obstacles in the public realm, as required by Policy D.DH2, it would not make the existing situation noticeably worse, and a sufficient width of footway would be retained. Similarly, the majority of the other current obstructions within the footway are outside of the control of the appellant and the appeal proposal could not result in the removal of these. Although the proposal would not fully comply with this requirement of Policy D.DH2, these are material considerations that indicate that permission should not be withheld on this particular ground. Nevertheless, of itself, this does not make the proposal acceptable or overcome the other harm that I have found.

Other Matters

28. I have noted that a letter supporting the proposal has been received from the operator of an adjoining shop. However, this just offers a generalised support for the proposal and does not set out any detailed reasons that would indicate a different decision should be made.

Conclusion

29. I have found that the appeal proposal would cause harm to the character and appearance of the building and to the surrounding area. It would, therefore, conflict with a number of policies in the development plan that are most important in determining the appeal. This is an important matter and although I have concluded that the proposal would not cause harm to pedestrian safety in the vicinity of the appeal site and would thus comply with some aspects of the Local Plan, I find that the proposal when taken overall would conflict with the development plan and no material considerations have been identified that would indicate that a decision should be made other than in accordance with the development plan. As such, the appeal must fail.
30. For the above reasons, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR