



---

# Appeal Decision

Site visit made on 29 November 2022

**by Jane Smith MA MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 December 2022**

---

**Appeal Ref: APP/G5180/W/22/3299758**

**78-84 High Street, Beckenham BR3 1ED**

- 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 R Earing against the decision of the Council of the London Borough of Bromley.
  - The application Ref DC/21/05885/FULL1, dated 20 December 2021, was refused by notice dated 26 April 2022.
  - The development proposed is first floor side/rear extension and the introduction of a glazed first floor front extension to facilitate an external terrace.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Notwithstanding the description of proposed development above, which is taken from the application form, it is clear from the plans and accompanying details that the proposed development would also involve elevational alterations, including infilling of existing first floor windows. The Council dealt with the proposal on this basis and so have I.
3. A Noise Impact Assessment<sup>1</sup> was submitted while the application was under consideration by the Council and I have taken account of this evidence.

## Main Issues

4. The main issues are:
  - the effect of the proposed development on the character and appearance of the street scene and the Beckenham Town Centre Conservation Area, and
  - its effect on the living conditions of nearby residents, in relation to noise and disturbance.

## Reasons

### *Character and Appearance*

5. The appeal site contains a building of three full storeys, with an additional floor of accommodation partly within the roofspace. There are restaurant units on the ground floor (nos. 78 and 82-84 High Street) and separately-accessed hotel accommodation above (no. 80 High Street). The original building (no. 80) is set back from the street, with the more modern ground floor units projecting

---

<sup>1</sup> Noise Impact Assessment by Acoustics Plus Noise & Vibration Consultants, ref 104295.ad.Issue2, 28 March 2022.

forwards. This results in an extensive flat roofed area at first floor level, where the proposed terrace would be located.

6. The site fronts the meandering High Street which is a central focus of the Beckenham Town Centre Conservation Area. The Conservation Area Statement<sup>2</sup> (CAS) identifies the Conservation Area as the historic core of Beckenham. Its significance includes the continued predominance of buildings dating from a period of rapid expansion starting in the Victorian era and continuing into the early 20<sup>th</sup> century. While several of the individually notable buildings are located further along the High Street, the CAS notes that the organic development and historic nature of the town centre has resulted in some pleasant streetscapes.
7. The street scene around the appeal site is typical of the High Street as a whole. Predominantly three storey buildings form a continuous frontage of ground floor High Street uses, with residential uses above. While building materials and detailing vary, they are generally typical of the 19<sup>th</sup> and early 20<sup>th</sup> century commercial growth highlighted in the CAS. This includes an abundance of vertically proportioned window openings on the upper floors, often highlighted with contrasting materials or decorative surface finishes.
8. Throughout the Conservation Area, there is a clear distinction between the continuous commercial shopfronts at ground floor level and predominantly brick frontages above. The proposed development would disrupt this pattern, by introducing a substantial glazed structure at first floor level. The proposed retractable roof and sliding windows would have a strong horizontal orientation, at odds with the otherwise vertical detailing of upper floors. The extent of glazing, with minimal window frames or structural elements, would lack the level of decoration and detailing found on the existing buildings.
9. The proposed structure would have a considerably greater bulk than any of the surrounding shop frontages. These are universally on a single storey, without the same level of forward projection. In contrast, the proposed structure would sit in front of no. 80, dominating and partly obscuring views of the more historic building to the rear.
10. No. 80 is not individually designated as a heritage asset, or otherwise identified as a notable building in the Conservation Area. It is also less elaborately decorated than many of the surrounding buildings. Nevertheless, the detailing of the upper floors provides a level of visual interest which is reasonably consistent with the pattern in the wider street scene, including vertically-proportioned windows with contrasting stone mullions and projecting first floor bay windows. As a result of the proposed development, the bay windows would be almost entirely obscured from view and the detailing of the floors above would also be less easily appreciated.
11. The dominant proportions of the proposed extension would be particularly apparent within views from the north, in which the ground floor of no. 78 High Street projects forward of the adjacent building line. From this perspective, it would also obscure views of the rather featureless flank wall to the adjacent property. However, any associated benefit would be outweighed by the adverse effect on views of the host building.

---

<sup>2</sup> Bromley Borough Council Beckenham Town Centre Conservation Area Statement dated July 2020

12. The proposed side extension to form a stairwell would be less visually prominent. It would also harmonise more effectively with the existing building, being in matching materials and of more subservient proportions.
13. Nevertheless, for the reasons set out above, I conclude that the front extension to form a covered terrace would be harmful to the character and appearance of the street scene and of the Beckenham Town Centre Conservation Area. Since the significance of the Conservation Area derives in large part from the characteristic streetscape along the High Street, the proposed development would be harmful to the significance of the Conservation Area as a whole.
14. The harm to the significance of the Conservation Area is less than substantial, in the words of paragraph 202 of the National Planning Policy Framework July 2021 (the Framework). Nevertheless, I have attached considerable weight and importance to the desirability of avoiding such harm. This is in accordance with Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), which requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
15. Paragraph 202 of the Framework states that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
16. Any benefit in terms of local employment opportunities would be inherently limited, given that the restaurant is already in operation and provision of an additional seating area is unlikely to require a significant expansion in staffing.
17. Within the immediately surrounding area there are several restaurants, bars and other hospitality venues. A number of these advertise opening hours into the late evening and some already provide outdoor seating areas at pavement level. Therefore, there is an established choice of hospitality venues, including indoor and outdoor facilities, which appear capable of supporting the day and night-time economy of the High Street. Little evidence has been provided that the proposed terrace would address any particular deficiency or play an otherwise specific role in boosting the vitality and viability of the High Street. Therefore, I have given this potential benefit limited weight.
18. Although the appellant considers that the proposed extension would introduce a positive visual feature within the High Street, I have reached the opposite view, for the reasons explained above.
19. For the above reasons, I have afforded the potential public benefits of the proposed development limited weight. I have set out above the harm that would arise to the character and appearance of the Conservation Area and its significance and I conclude that the public benefits would not outweigh the harm to the significance of the Conservation Area.
20. I therefore conclude that the proposed development would fail to preserve the character and appearance of the street scene and the Beckenham Town Centre Conservation Area and would not meet the requirements of section 72 of the Act. For the same reasons, the proposed development does not accord with relevant paragraphs in the Framework, including paragraph 202, or with Policies 37 and 41 of the London Borough of Bromley Local Plan adopted January 2019. These policies, amongst other things, require that new

development preserves and enhances the characteristics and appearance of Conservation Areas, including by respecting the scale and form of existing buildings and positively contributing to the existing street scene.

### *Noise and Disturbance*

21. The appeal site is within an established commercial area, in which there are several existing restaurants and bars. There are also existing residential uses surrounding the site, comprising the hotel use within no. 80, as well as flats on upper floors of neighbouring buildings. Although there are already some outdoor seating areas within the High Street, these are currently at pavement level. In contrast, the proposed terrace would be elevated and therefore more directly in line with neighbouring residential uses. The plans make clear that the retractable roof would usually be open and that the vertical glazing would be partly openable, limiting the extent to which these features would act as noise screens.
22. The Noise Impact Assessment (NIA) assesses the effect of the proposed terrace on second floor windows at no. 80 and on two adjacent buildings. It judges that these would be the closest and therefore most affected windows. The NIA concludes that the noise environment would remain below upper internal noise level recommendations, based on British Standard and World Health Organisation guidelines for bedroom or living room spaces used during the day time period. The NIA further concludes that the level of increased noise would be categorised as 'none/not significant' as defined in IEMA guidelines on Environmental Noise Impact Assessment.
23. Notwithstanding the above conclusions, the NIA recommends a series of management measures to minimise the predicted noise impact. These would place significant reliance on restaurant staff to limit large group bookings within the terrace, as well as requiring them to intervene when customers are found to be making excessive noise. Such measures are likely to be difficult to enforce and challenging for busy restaurant staff engaged with serving potentially uncooperative customers.
24. The NIA is also based on an underlying assumption that customers would be talking in normal relaxed voices. While this may be a reasonable assumption during the day, it is less clearly justified in terms of noise levels during the evening, bearing in mind that the existing restaurant advertises the availability of alcohol and the proposed opening hours would extend to 11pm.
25. The NIA also does not appear to consider the potential effect on residential uses at first floor level, in buildings adjoining the proposed terrace, or on the opposite side of the High Street. While the latter are more distant, they would be directly in line with the opening vertical glazing, without benefitting from any screening provided by the fixed portion of the glazed roof. The NIA does not assist with understanding the potential effect on the living conditions of these additional neighbouring properties.
26. The Council's Environmental Protection Officer raised no technical objection to the methodology in the NIA. However, they did recommend that a temporary permission be granted, due to concern about the likely effectiveness of the proposed noise management measures. Since the proposed development includes built development, a temporary permission would require imposing a condition requiring demolition of the roof terrace, in the event that noise

management measures are ineffective. Planning Practice Guidance is clear that it would rarely be reasonable to impose such a condition and therefore granting a temporary permission would not be a realistic option. Furthermore, both the Council and the appellant agree that a temporary permission is inappropriate.

27. Requiring closure of the terrace at 9pm, rather than 11pm, as the appellant suggests, may reduce the effect on neighbouring living conditions at the most sensitive times. However, given the level of uncertainty about the underlying assumptions and noise management measures, there is insufficient objective evidence to support a firm conclusion to that effect.
28. I acknowledge that the appeal site is within a busy High Street location, in which residents may be relatively tolerant of elevated noise levels. I further note that the immediately adjoining rooms are used as hotel accommodation and not permanent dwellings. Nevertheless, the occupiers could still be harmfully affected by noise and disturbance. Given the conclusions I have reached above, I do not consider that the nature of the surrounding environment or accommodation adequately mitigates the risk of noise and disturbance having a material adverse impact on neighbouring occupiers.
29. For the above reasons, on the basis of the information before me, I am not satisfied that the proposed development would avoid having a detrimental effect on the living conditions of nearby residents, in relation to noise and disturbance. As such, it conflicts with Policies 37 and 119 of the Bromley Local Plan. These policies, amongst other things, require that proposed development respects the amenity of occupiers of neighbouring buildings, including avoiding harm from noise and disturbance, and that noise evidence fully identifies issues and appropriate mitigation measures to minimise adverse impacts on noise sensitive uses.

### **Other Matters**

30. My attention has been drawn to a previous planning permission, granted in 2011 but not implemented, for a first floor terrace at the appeal site. However, this decision pre-dated designation of the Conservation Area in 2015 and adoption of the current Local Plan in 2019. As such, the application would have been considered in a different policy and statutory context. Furthermore, the Council's Officer Report indicates that the scale of the alterations proposed in 2011, in terms of the number of covers, was significantly less than the current proposal. The relationship with neighbouring residential uses was also different, since the first floor was also proposed to be used as a restaurant.
31. Since there were several material differences in both the policy context and the site-specific circumstances considered in 2011, I have given this previous unimplemented permission limited weight.
32. St George's Church, beyond the crossroads north of the appeal site, is a Grade II\* listed building and the CAS map identifies additional listed buildings near the church, mainly fronting Bromley Road. In their response to consultation on the planning application, the Advisory Panel for Conservation Areas alleged harm to the setting of the church and other heritage assets. However, the Council did not consider that the proposed development would have any adverse effect on listed buildings, their setting or any features of special architectural or historic interest which they possess.

33. Notwithstanding my conclusions in relation to the effect on the Conservation Area, having visited the site and considered the development, including its relationship with St George's Church and other heritage assets, I concur that the appeal proposal would preserve nearby listed buildings, their setting and their significance as designated heritage assets.

### **Conclusion**

34. The proposed development would result in less than substantial harm to a heritage asset, which is not outweighed by public benefits. Furthermore, I am not satisfied that the living conditions of neighbouring residents would be adequately safeguarded. Having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

*Jane Smith*

INSPECTOR