
Appeal Decision

Site visit made on 4 July 2023

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2023

Appeal Ref: APP/E5900/W/22/3313398

Bishop Bonner Public House, 21 Bonner Street, London E2 0QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Vincent Walsh against the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/22/01750 was dated 26 August 2022.
 - The development proposed is the demolition of the existing garage and studio flat on the junction of Stainsbury St and Royston St, and construction of a 5-storey development comprising a ground floor garage with 4 residential flats above, including creation of a first-floor terrace to the rear of the former Bishop Bonner Public House.
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Decision

1. The appeal is dismissed, and planning permission is refused for the demolition of the existing garage and studio flat on the junction of Stainsbury St and Royston St, and construction of a 5-storey development comprising a ground floor garage with 4 residential flats above, including creation of a first-floor terrace to the rear of the former Bishop Bonner Public House.

Procedural matters

2. The appellant has made an application for costs against the Council. This application is the subject of a separate decision.
3. The Council has confirmed that had it been able to determine the application, then planning permission would have been refused for the reasons set out in its Statement of Case. I have proceeded on that basis.
4. The appellant has requested at the final comments stage that the appeal be determined with consideration given to Daylight/Overshadowing Additional Data, dated June 2023 (DOAD). The DOAD seeks to correct deficiencies in the original Daylight/Overshadowing Report, dated August 2022 (DOR), that was based on an outdated methodology and did not include within its remit a first-floor rear window of the former public house. While the appellant states that the DOAD is the first opportunity to respond to the Council's objections as set out in its appeal evidence, it includes new material evidence. As the Council has neither formally considered the DOAD, nor consulted others on it, interested parties could be prejudiced if I were to consider the document. Consequently, in the interests of fairness, I have not done so.

Main issues

5. The main issues are:

- the effect of the proposed development on the character and appearance of the local area;
- whether the proposal would provide satisfactory living conditions for future occupiers with regard to living accommodation, privacy, outlook and light;
- the effect of the proposal on the living conditions of the occupiers of nearby properties with reference to visual impact, sense of enclosure, privacy, light, and potential noise and general disturbance;
- whether the proposal would provide adequate cycle parking facilities and thereby support sustainable travel options; and
- whether the proposal would provide adequate facilities for the storage of recycling and waste.

Reasons

Character and appearance

6. The proposal is primarily to erect a 5-storey building containing a ground floor garage and storage areas and 4 flats above at the corner of Stainsbury Street and Royston Street within a predominantly residential area. A 2-storey pitched roof building and an adjoining partly covered yard would be demolished and removed to make way for the new addition. A new first floor amenity area would also be introduced at the back of a former public house that addresses the corner of Bonner Street and Royston Street.
7. Notwithstanding the set back of the top floor to the new building, it would appear as a 5-storey block on a prominent corner plot with 2 and 3-storey buildings on either side. In views from Royston Street to the southwest of the site, the substantial built form and height of the new block would sharply contrast with the lower 2-storey former public house forming an abrupt visual transition in the street scene. Similarly, when seen from Stainsbury Street to the south of the site, the new block would be considerably taller than the neighbouring 3-storey terrace with its flat roof accentuating the scale and bulk of the new building. The new addition would also tower intrusively over the row of 2-storey dwellings along the northern side of Royston Street. In that context, the proposal would draw the eye as a dominant, overbearing and an incongruous element in the streetscape and within the local area.
8. There are 4-storey pitched roof buildings further along Stainsbury Street and Bonner Street although these form an integral part of a wider terrace that includes modest variations in height within the original design. There are also tall standalone buildings within generally spacious plots further afield, which provide a more neighbourly response to their immediate surroundings than the proposal. There are also tall blocks of flats on the Cranbrook Estate and elsewhere to which the appellant has referred and some of these are close to smaller buildings. However, it is the 2 and 3-storey buildings in the vicinity of the site that provide the immediate context for the proposal and with which it would be mainly visually 'read'.

9. Compared to the building and yard to be replaced, the proposal would include additional ground floor openings that would introduce some activity along the road as people come and go to the new building. However, the ground floor frontages of the new building facing the road would still include a considerable expanse of solid wall and full-length garage doors that are likely to be closed for much of the time. As a result, the contribution of the proposal to the public realm through the introduction of active frontages would be modest.
10. On the first main issue, I conclude that the proposed development would cause significant harm to the character and appearance of the local area. As such, it is contrary to Policies S.DH1 and D.DH2 of the Tower Hamlets Local Plan 2031 (THLP) and Policies D3, D4 and D5 of The London Plan (LP). These policies aim to ensure that new development achieves good and inclusive design and is appropriate in its context. It is also at odds with the National Planning Policy Framework (the Framework), the Council's Central Area Good Growth Supplementary Planning Document (SPD) and the National Design Guide. These documents seek to ensure that development is sympathetic to local character and that it adds to the qualities of the local area.

Living conditions – future occupiers

11. LP Policy D6 states that the minimum floor to ceiling height must be at least 2.5-metres for at least 75% of the gross internal area of each dwelling. Both main parties accept that the proposal would not meet this requirement. From my inspection of the plans, I have little doubt that the proposal would result in unacceptably low ceiling heights for each new flat, in conflict with LP Policy D6. Whether or not the appeal scheme achieves a minimum floor to ceiling height of 2.3-metres, to which the appellant has referred as a national standard, my assessment is based on the LP as this is part of the development plan.
12. It may be, as the appellant suggests, that the individual floor levels of the proposed building could be adjusted to achieve the minimum ceiling height cited in LP Policy D6 with no change to its overall total height. Even if this outcome could be achieved, with no other implications for the proposal, all floors of the new building would be affected. A change of this magnitude would represent a significant amendment to the appeal scheme that is before me. The Procedural Guide – Planning Appeals – England states that the appeal process should not be used to evolve a scheme and that if amendments are necessary to overcome a reason for refusal, then a new planning application should normally be progressed. Consequently, it would be inappropriate to impose a condition to require amended plans in this instance.
13. The proposed ground floor bedroom would be single aspect with a window facing onto the adjacent footway of Royston Street. This window would provide the sole external outlook and source of natural light to a habitable room. While this window would occupy an elevated position relative to the adjacent ground level, anyone of average or above height walking past would be able to see through the window into this bedroom at close range. The privacy of the users of this bedroom would be unduly compromised as a result. Although closed blinds or curtains could prevent these overlooking problems, the consequent loss of natural light and an outlook would make this bedroom feel unacceptably gloomy and uninviting.
14. From my inspection of the plans, the main living areas of each new flat would be served by generous-sized windows, the position of which would allow a good

level of natural light to penetrate the individual rooms. Notwithstanding the deficiencies of the DOR, which are acknowledged by the appellant, I find no obvious reason to conclude that the proposal would not provide adequate natural light in the habitable rooms of the new flats.

15. Nevertheless, on the second main issue, I conclude that the proposal would not provide satisfactory living conditions for future occupiers due to the low ceiling heights and a loss of privacy. Consequently, the appeal scheme conflicts with THLP Policy D.DH8, LP Policy D6, the Framework and the Council's SPD insofar as they aim to safeguard residential amenity.

Living conditions – existing occupiers

16. The south elevation of the new building would be close to the outdoor spaces at the back of 22 Stainsbury Street and 13 Bonner Street, which are 3-storey end terrace residential properties just beyond the site. In comparison to the existing 2-storey building and yard to be replaced, the new addition would be 5-storeys with a roof level of 14.3-metres above the ground level. In views from the rears of Nos 13 and 22, the considerable scale and height of the proposed building would cause it to loom large and have a significant enclosing effect for the occupiers of Nos 13 and 22. As such, it would overbear and unduly heighten a sense of enclosure for these neighbouring occupiers.
17. Fencing placed along the southern edge of the new first floor amenity area at the rear of the former public house, as proposed, could avoid overlooking problems towards existing properties further to the south. The details of this screen could be covered by a condition. However, the roof terrace serving the new fourth floor flat would provide a platform from which views towards the dwellings on the northern side of Royston Street would be reasonably close and from an elevated position. Having carefully viewed the site from Royston Road, I have little doubt that the new roof terrace would result in an unacceptable loss of privacy because of overlooking. That would be most acutely felt by the occupiers of 3, 4 and 5 Royston Street, situated broadly opposite the site. While part of this new roof terrace could be omitted to resolve this problem, this alteration would require amended plans that again are not before me nor have not been considered by the Council or others.
18. The occupiers of some nearby properties could experience a reduction in the receipt of natural light if the appeal scheme were to proceed, notably at Nos 13 and 22, the former public house and some properties on the northern side of Royston Street, which are closest to the site. Unfortunately, some of the windows to these neighbouring properties were not visible from the public domain during the unaccompanied site visit. Consequently, I was unable to make a full assessment of the proposal insofar as this matter is concerned.
19. There would be some loss of sunlight to the land just to the west of the site caused by the overshadowing effect of the new building, particularly in the early part of the day. However, the extent and duration of overshadowing on the school playground at the opposite corner of the junction between Royston Street and Stainsbury Street would be extremely modest, if at all, given the tree cover within the school grounds and the separation distance to the new building. Consequently, the loss of sunlight would have no significant effect on the use of this space for children's play.

20. Each new flat would include an external terrace, which would allow a small number of people could gather or sit outside. Of the properties near to the site, it is the occupiers of No 22, which would stand just to one side of these terraces, facing the road, that are most likely to be affected by any associated noise and general disturbance. Given the noise levels that might be reasonably be expected from the adjacent highway and activities within a compact residential area such as this, I doubt that the occupiers of No 22 would experience greater harm from noise and disturbance because of the proposal.
21. Nevertheless, I conclude on the third main issue that the development sought would materially harm the living conditions of the occupiers of Nos 13, 22 and 3, 4 and 5 Royston Street. That harm would result from the visual impact of the proposal and its effect on privacy and a sense of enclosure. Accordingly, it conflicts with THLP Policies D.DH8, D.DH9, D.H3 and D.ES9 insofar as they aim to safeguard residential amenity.

Cycle storage

22. Cycle racks would be provided in a secure and covered space at ground floor level for use by future occupiers. It is unclear from the details provided exactly how larger or adapted cycles could be stored in this arrangement or if there would be sufficient space to adjust the internal layout to accommodate this requirement. On that basis, I share the Council's concern that the appeal scheme would not be genuinely accessible to all.
23. On the fourth main issue, I conclude that the proposed development fails to provide adequate cycle parking facilities for future occupiers and thereby support sustainable travel options. Of the policies cited by the Council that are most directly relevant to this issue, the appeal scheme conflicts with THLP Policy S.TR1 and LP Policy T5. These policies aim to ensure that developments provide appropriate cycle parking and remove barriers to cycling.

Recycling and waste storage

24. The submitted plans show a bin store just inside a ground floor entrance to the new building. In this position, bins would be conveniently located for collection, the arrangements for which could be covered in a management statement and secured by a condition. Given the size of the bin store, there is likely to be sufficient space to accommodate different types of waste and recycling even if an actual container is larger than illustrated on the drawing.
25. On the fifth main issue, I conclude that the proposal would provide adequate facilities for waste and recycling storage. It does not, therefore, conflict with Policy D.MW3 or Appendix 4 of the THLP, LP Policy SI 7 or the guidance in the Council's Supplementary Planning Document, Reuse, Recycling and Waste. These policies and guidance seek to ensure that new development includes sufficient accessible space to separate and store waste and incorporate a high-quality waste collection system. My finding on this issue does not outweigh the significant harm that I have identified in relation to the first four main issues.

Other matters

26. The site is within the urban area and the proposal would make efficient use of the space available within the site. Once complete, the appeal scheme would add to the supply of housing and choice of residential accommodation, which the appellant has described as 'much needed'. I attach moderate weight to

these benefits. I also note that the proposal has been designed to enable the new building to be extended to the Bonner Street corner in the future and that it would not prejudice an additional storey being introduced to the former public house. Should either of these schemes come forward in the future then they would be considered on their own merits. These considerations do not outweigh the significant harm that I have identified.

27. No objections were received following the statutory consultation process, or the consultation exercise as detailed in the appellant's Statement of Community Involvement. The lack of objections does not, however, equate to broad support for the scheme, as the appellant suggests, nor mean that it should therefore be supported by the Council.
28. Based on the proposed floor area created the Council estimates that a financial contribution towards affordable housing of just over £155,400 is required in this case. THLP Policy S.H1 provides support to this request. In response, the appellant has provided a Financial Viability Appraisal (FVA), which concludes that the development sought cannot viably provide additional s106 contributions. The FVA also states that the proposal is policy compliant without the provision of any affordable homes or a contribution towards this type of housing. As the appeal is to be dismissed on other substantive issues, it is not necessary for me to consider the FVA in detail or to invite the main parties to comment further because the proposal is unacceptable for other reasons.
29. The appellant is critical of the Council's handling of the application and its failure to issue a decision within the statutory period, with details of the various exchanges with the Case Officer and others provided. These matters will be addressed in the appellant's application for a costs award. The appellant also makes serious allegations of professional negligence against the Council. These matters, although very important, are beyond the remit of this appeal.

Conclusion

30. The proposed development conflicts with the development plan, when read as a whole. There are no material considerations, including the Framework, which indicate that the decision should be taken otherwise than in accordance with the development plan. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR