



Appeal Decision

Site visit made on 19 September 2023

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st November 2023

Appeal Ref: APP/G5750/W/23/3316879

223 High Street North, East Ham, London E6 1JG

- 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 I Zafarullah against the decision of the Council of the London Borough of Newham.
 - The application Ref 21/01920/FUL, dated 29 July 2021, was refused by notice dated 3 February 2023.
 - The development proposed is a single storey rear extension (restaurant) and external and internal alteration.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension (restaurant) and external and internal alteration at 223 High Street North, East Ham, London E6 1JG, in accordance with the terms of the application, Ref 21/01920/FUL, dated 29 July 2021, subject to the following 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: Drawing Nos. 098.21/04, 098.21/05, 098.21/06, 098.21/07 Rev A and Ordnance Survey scale 1:1250 location plan.
 - 3) The external walls of the extension hereby permitted shall be finished in brickwork to match the existing building.
 - 4) Prior to the commencement of any part of the development hereby approved, details of a privacy screen, to be provided along the southern boundary of the new first floor landing/balcony area at the top of the new rear staircase, shall be submitted to and approved in writing by the Local Planning Authority. The privacy screen shall be provided in accordance with the approved details, prior to the new staircase being brought into use, and shall thereafter be retained as such.

Preliminary Matters

2. The proposed rear elevation plan submitted with the appeal did not match the other drawings. Confirmation was sought from both parties as to which drawings the Council made its decision on. The appellant confirmed that amended drawings had been submitted and provided copies of these. No response was received from the Council in relation to this matter.

Main Issues

3. The main issues are the effect of the development on i) the concentration of hot food takeaways in the area; ii) the character and appearance of the host property; and iii) the living conditions of occupiers of Nos.221 and 225 High Street North, with regard to privacy noise and disturbance.

Reasons

Concentration of hot food takeaways

4. Policy SP9(1) of the Newham Local Plan (2018) (the Local Plan) seeks to avoid creating or adding to problematic cumulative impacts. Policy SP9(2) and table 5 identify the areas of cumulative impact concern and these do not include hot food takeaways. However, Policy SP9(3)(b) seeks to avoid the over-concentration of specific uses, including takeaways, by restricting linear and area concentrations of these. Policy E9(D) of The London Plan (March 2021) (The London Plan) states that proposals containing hot food takeaway uses should not be permitted within 400 meters walking distance of school entrances or exits.
5. The site is identified in the Local Plan as being in a takeaway hot spot area. I noted at the time of my visit that there are numerous takeaways in the immediate vicinity of the site and that there is a large school to the rear of the site, within 400 metres walking distance.
6. There is no dispute that the ground floor of the appeal property is already in use as a café/restaurant with indoor tables and seating. Hot food is also available to take away. I have not been provided with the planning history of the site or of any existing restrictions controlling its use or operation.
7. At the time of my visit, which was around lunchtime, all of the tables in the café were occupied. I noted that the busy kitchen area was very small and cramped. Consequently, outbuildings and the rear yard were being used to provide the additional space necessary for the storage of refrigeration units, large items of cookware, cleaning products and an additional large sink. There is also an outside toilet.
8. The proposed rear extension would facilitate a safer, cleaner and more efficient kitchen area and working environment, with appropriate indoor storage space and staff toilet, enabling the business to better serve its existing customers.
9. Whilst the extension could also enable the business to cater for a larger number of customers, resulting in an intensification of the existing use, it would not create a new or additional hot food takeaway business or increase the number or concentration of hot food takeaway premises in the area. Moreover, the overall scale of the premises would remain small.
10. As the proposal relates to the extension of an existing building and use, as opposed to the change of use to or the introduction of a new hot food takeaway and restaurant use within a line of properties, within a 400 metre radius, or within 400 metres of the school, it would accord with the aims of Policies SP2, SP3 and SP9 of the Local Plan and Policies GG3 and E9 of The London Plan. These policies seek amongst other things to create healthy food environments by considering the cumulative impacts and avoiding the over concentration of hot food takeaway uses in town centres and close to schools. I

also find no conflict with the National Planning Policy Framework (the Framework) in terms of its aims to support healthy communities.

11. Any partial conflict with the aims of Policy SP9 of the Local Plan and with Policy E9 of the London Plan, would be minimal and would be outweighed by the benefit of improving the operation of the existing business.
12. As Policy SP1 of the Local Plan relates to place-making, I do not consider it to be directly relevant to the small extension of an existing building and use.

Character and appearance

13. The host building is a three-storey mid terraced property with a two-storey rear off-shot and a single storey, flat roof, rear infill extension. There is a large shed and various outdoor storage units located within the rear yard. The terrace comprises commercial units at ground floor level with the upper floors appearing to be in residential use.
14. To the rear of adjoining No.225 High Street North there is a two-storey extension that fills the whole of its former rear yard. Adjoining No.221 High Street North has two large single storey outbuildings to the rear, providing additional commercial storage space. The boundary fencing between No.221 and No.223 is approximately three metres high. There is a narrow pedestrian access path to the rear of the site, beyond which there is the blank flank wall of a further three-storey building.
15. It is proposed to extend the property to the rear at ground floor level only. The extension would have a flat roof that would be hidden below low parapet walls. Space would be retained to the rear of the extension for the storage of commercial refuse, which I saw being collected from the footway and gate to the rear of the premises during my site visit. Access to the upper floor residential accommodation would also be retained to the side of the extension, together with enclosed space for cycle storage and a separate access from the rear footpath. The existing steep wooden external staircase and small landing area would be replaced with a new staircase and an enlarged landing.
16. The front elevation of the building would be unchanged, and the rear of the property is largely screened by the surrounding two and three-storey buildings. Moreover, the rear elevation of the host building has already been subject to alterations and extensions. The design of the proposed extension would reflect that of the existing ground floor alterations to the property and its surroundings, whilst preserving the more traditional character and appearance of the upper floors. I note that the Council's Urban Design and Conservation Planner's consultation response states that the proposal would not be unacceptably harmful to the quality and appearance of the site or visual amenity of the area. Based upon my own observations, I have no reason to reach a different view on this matter.
17. As the extension would be contained within the existing confines of the site and would not exceed the height of the adjacent buildings and boundary treatments, its bulk and massing would not appear overbearing or incongruous.
18. I therefore conclude that the proposal would not result in harm to the character or appearance of the host property. Consequently, I find no conflict with Policy SP3 of the Local Plan or Policy D3 of The London Plan, in so far as they relate to the design quality of new development proposals and require that regard be

had to local character and context. I also find no conflict with the design aims of the Framework.

19. As Policy S1 of the Local Plan relates to major and strategic developments and Policy D1 of The London Plan is aimed at Council's and the preparation of Local Plans, I do not consider these to be relevant to this proposal. Policy SP2 of the Local Plan is not relevant to character and appearance and Policy D8 of The London Plan is not relevant given that the proposed extension would not affect the public realm.

Living conditions

20. Neighbouring properties are in commercial use at ground floor level and appear to have residential premises above.
21. There is an existing external wooden staircase and landing area to the rear of the appeal property providing access to the first-floor residential accommodation. From this staircase I was able to see into the rear yard of No.221 High Street North, which I noted was occupied by outbuildings and storage connected to the ground floor retail use of those premises, as opposed to being used as residential amenity space. I was also able to see the large first-floor window of No.221, which appears likely to serve a habitable room and is immediately adjacent to the site boundary and the existing and proposed external staircase landing area.
22. Whilst it is evident that there is already a degree of overlooking between the external staircase and landing at No. 221 and the first-floor window at No. 223, the enlarged replacement landing area proposed would result in an increased loss of privacy, which would be harmful to the occupiers of the first-floor accommodation at No. 221. In order to mitigate this harm, it would be necessary to require that a privacy screen be erected along the southern boundary of the new enlarged landing area, details of which could be secured by an appropriately worded planning condition. Both parties were provided with an opportunity to comment upon such a condition prior to my decision being issued and neither chose to do so.
23. I am satisfied that the windows to No. 225 High Street North are located sufficiently far away from the proposals that occupiers of that property would not be affected in terms of privacy.
24. Notwithstanding the fact that the replacement staircase would have a slightly longer landing area at the top, this would continue to be a relatively small and narrow space. As such, any increased noise and disturbance to occupiers of the adjacent residential premises arising from the proposal would be negligible.
25. As the extension would replace the existing outbuildings, outside toilet and outdoor storage space, it is my view that any outdoor use and activity connected to the existing commercial use of the ground floor premises would be substantially reduced, minimising the risk of noise and disturbance to occupiers of adjacent upper floor residential properties. I also note that no objections have been raised by any neighbours or by the Council's Environmental Health Officers.
26. I therefore conclude that subject to an appropriate condition, the proposal would not result in any unacceptable increased loss of privacy or increased noise or disturbance to occupiers of the neighbouring upper floor residential

premises. It would therefore accord with Policies SP2 and SP8 of the Local Plan, Policies D3 and D14 of The London Plan and the Framework in so far as they seek to achieve high standards of amenity and to mitigate and reduce potential noise impacts resulting from development.

27. For the reasons given at paragraph 19 of this decision, Policy S1 of the Local Plan is not relevant. As Policies SC5 of the Local Plan and SI 1 of The London Plan relate to air quality, which is not referred to in any of the evidence before me, I do not consider them relevant.

Conditions

28. The Council has not suggested any conditions. The views of both parties were sought on the conditions to be imposed in the event of the appeal being allowed and no responses were received.
29. In addition to the standard time limit for implementation, I have imposed a condition listing the approved drawings, in the interests of certainty. A condition to ensure the external brickwork of the approved extension matches that of the existing building is necessary to prevent any harm to the character and appearance of the host building and surrounding area. I have also imposed a pre-commencement condition requiring the submission, approval and provision of an appropriate privacy screen on the southern boundary of the new enlarged balcony/landing area, to prevent the increased overlooking of the large first floor window in the rear elevation of No.221 High Street North.

Conclusion

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

R Bartlett

INSPECTOR