



Appeal Decision

Site visit made on 9 July 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 12th August 2024

Appeal Ref: APP/Y5420/W/24/3338716

405-407 Lordship Lane, London N17 6AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Okkes Alici against the decision of the Council of the London Borough of Haringey.
 - The application Ref is HGY/2023/0920.
 - The development proposed was originally described as "Retention of external alterations to roof and single storey side extension together with associated alterations."
-

Decision

1. The appeal is allowed and planning permission is granted for the retention of external alterations to roof and single storey side extension together with associated alterations at 405-407 Lordship Lane, London N17 6AG in accordance with the terms of the application, Ref HGY/2023/0920, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application form states that the development was completed in August 2021. During my site visit I observed a single storey extension which matched the application plans. I have therefore considered the appeal on a retrospective basis.
3. Planning Permission¹ was granted for the change of use and merging of 405 and 407 Lordship Lane to form a bistro café, with associated works including a side extension, similar to what has been built. The appeal proposal represents an amended version of that proposal. An Enforcement Notice² has been issued for a breach of conditions relating to development being completed not in accordance with approved plans, external materials not matching the existing building and the roof being openable. My decision is without prejudice to the ongoing enforcement action.

Main Issues

4. The main issues are the effect of the proposal on:
 - the character and appearance of the area; and,
 - the living conditions of occupants on Walpole Road and Lordship Lane, with particular regard to noise and disturbance.

¹ Planning permission Ref. HGY/2020/1559

² Enforcement Notice Ref. UNW/2022/00390

Reasons

Character and appearance

5. The appeal site is at the junction between Lordship Lane and Walpole Road. There are several commercial properties of varying design in proximity to the appeal site, along Lordship Lane. There are often residential properties above the commercial uses. Walpole Road is a predominantly residential road but accommodates The Parish Church of Saint Benet Fink. Therefore, the appeal site is in a transitional area between commercial and residential properties. The area has the character of a small, urban, commercial centre.
6. A single-storey side extension with a shallow pitched roof, which projects the full length of the appeal property has been granted planning permission. Therefore, the scale of the extension is considered acceptable. Similar to the approved extension, the extension as built does not seek to replicate the architectural form of the appeal property. However, it does not appear out of context with nearby commercial properties which are of varying design.
7. Whilst metallic external finishes are not common in the area, the metallic structure blends well with the unit's frontage. The extended section represents a contemporary addition which contributes positively to the commercial character of the area.
8. The development is in a prominent position and provides an important transition between residential and commercial properties. The extensively glazed side elevation provides the appearance of a commercial property, but the vegetation in front of the glazing ensures that a secondary frontage is not created. This has the same effect as the design previously approved which included a significant amount of glazing, higher up the side elevation.
9. Although flat roofs are not a common feature in the area, there is a long flat roof on the extended section of the commercial building on the opposite side of Walpole Road. Therefore, the design of the roof of the extended section assimilates with the commercial property opposite. The design of the extended sections of these buildings, combined with a lack of an active frontage provide a neat transition between the residential and commercial properties.
10. Overall, the proposal does not have a harmful effect on the character and appearance of the area. It therefore complies with Policy SP11 of Haringey Council's Local Plan, Strategic Policies 2013-2026, March 2013³, Policy DM1 of Haringey Council's Development Management DPD, July 2017 (DMP) and Policy D4 of The London Plan, The Spatial Development Strategy for Greater London, March 2021 (LP). These policies indicate that all new development should create places that are attractive and should make a positive contribution to a place, amongst other matters.

Living conditions

11. The nearest noise sensitive properties to the food and drink use are located on the upper floors of the appeal property and along Walpole Road. The Noise Assessment Report⁴ concludes that with the windows open, the roof shut, and the extended section being used at full capacity, that the increase in noise has

³ Consolidate with alterations since 2017

⁴ Noise Assessment Report, 405-407 Lordship Lane, RBA Acoustics, 10 March 2023, Revision 2

- a slight effect and leads to a just perceptible increase in apparent loudness at the nearest noise sensitive property. There is no substantive evidence to the contrary and the Council's Environmental Health Team has not commented on the proposal.
12. With the roof open more noise would be experienced in nearby properties. However, it would be reasonable to attach a condition to the planning permission ensuring that the extractable roof is closed when the extended section is in use.
 13. The ongoing use of the property as a late night, food and drink venue has been accepted through the approved scheme. This proposal does not alter the capacity of the extended section or lead to increased opening hours. Therefore, the nature of the development in this location is established, and the development does not lead to additional noise through extended opening hours or through additional vehicle movements.
 14. I acknowledge that some of the neighbouring occupants are young families with children. Therefore, the protected characteristic of age is relevant. When reaching my conclusion, I have had due regard to the Public Sector Equality Duty (PSED) set out under Section 149 of the Equality Act 2010; in particular the need to eliminate discrimination against persons with protected characteristics, advancing equality of opportunity for those persons and fostering good relations between them and others. In this instance, whilst the amount of noise experienced has increased, it is only just perceptible and not to a harmful extent. Therefore, I am satisfied that people with protected characteristics are not discriminated against, it has not affected their equality of opportunity, and it has not altered the ability to foster good relations between them and others.
 15. Overall, I conclude that the proposal does not have a harmful effect on the living condition of occupants on Walpole Road and Lordship Lane, with particular regard to noise and disturbance. The proposal complies with DMP Policies DM1 and DM23 and LP Policy D14. These policies indicate that proposals should mitigate and minimise potential adverse effects from noise; and proposals for potentially noisy development must suitably demonstrate that measures will be implemented to mitigate its impact; amongst other matters.

Other Matters

16. The appeal site is next to the Grade II listed Parish Church of Saint Benet Fink. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act) requires me to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses. The significance of the listed building includes its traditional architecture and its setting alongside residential development on Walpole Road and the commercial properties on Lordship Lane.
17. The proposal includes the extension of the property toward the Church. It maintains a similar relationship between the appeal property and the Church, as the approved scheme. The development has not altered the church and does not encroach upon its established grounds. I conclude that the appeal proposal

preserves the listed building and its setting, and any features of special or historic interest that it possesses.

18. The capacity and use of the extended section have already been established by the previously approved scheme. The development has not led to additional parking demand or increased hours of operation which may lead to increased anti-social behaviour.

Conditions

19. The Council has not provided a list of suggested conditions in their representations. In accordance with the Planning Practice Guidance, I have kept conditions to a minimum but attached conditions I consider to be reasonable and necessary. I have sought agreement on the wording of the conditions from both the Council and the appellant.
20. A condition specifying the approved plans is necessary in the interest of certainty. Conditions specifying opening hours and for the roof to remain close whilst the extended section is being used by customers, and for no amplified music to be played when the roof is open, are necessary to preserve the living conditions of neighbouring occupants.
21. A condition requiring details of secure cycle storage is necessary to ensure that the unit has sufficient cycle parking.

Conclusion

22. For the reasons given above the appeal should be allowed and planning permission should be granted.

J Hobbs

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the Site Location Plan entitled "405-407 Lordship Lane, London, N17 6AG" and drawing nos: 475-EXT-06; 475-EXT-07; 475-EXT-08; 475-EXT-09; and 475-EXT-10.
- 2) Within 12 months of this decision, details of secure cycle storage shall be submitted to and approved in writing by the local planning authority. The approved cycle storage shall be implemented within 6 months of the written approval and retained thereafter.
- 3) The premises shall only be open for customers between the following hours:
0800 - 2300 Mondays - Thursdays
0800 - Midnight Fridays and Saturdays
0800 - 2200 Sundays and on Bank or Public Holidays.
- 4) The roof of the extended section of the building shall not be open when being used by customers and there shall be no amplified sound or music played in the extended section of the building when the roof is open.