



Appeal Decision

Site visit made on 6 June 2025

by Mr D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2025

Appeal Ref: APP/E5900/W/24/3355521

130 Bethnal Green Road, Tower Hamlets, London E2 6DG

- 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 Mohe-u-din Ahmed Shakil against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref is PA/23/02240/NC.
 - The development proposed is retain the existing use of the rear courtyard and the structures within the rear courtyard, retaining the cleaning area, staff toilet, storage and circulation.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant's case states the current use is longstanding and some structures subject of this appeal are lawful, so an application was unnecessary. I have had regard to the fact that the planning history refers to a kitchen extractor system for which permission is understood to have been previously already granted¹. I note the Council agrees a Perspex structure covering much of the courtyard is lawful. However, there are other elements of the scheme where there is not a consensus.
3. Within the context of an appeal under section 78 of the Act it is not within my remit to formally determine whether a development requires planning permission. However, I shall consider the evidence as to whether the development is lawful and permission is required, so far as is material to the appeal. If the appellant wishes to ascertain whether elements are lawful, they may make an application under section 191 or 192 of the Act for a certificate of lawful use or development.
4. The development has commenced, with various elements of the structures shown on the plans being in place at my visit. There appeared to elements such as a shelf structure above the WC which is not shown on the plans. My assessment is of the scheme referred to in the application form as set out on the submitted plans.
5. The Council's reason for refusal does not specify which 'residential units' it alleges would be affected by the development and it appears there are residential property windows from No 29 Granby Street (No 29) and above No 130 Bethnal Green Road (No 130). However, the Council's delegated report specifically refers to alleged effects of the development upon No 29 only, so I have confined my consideration to that property, and it informs the main issue below.

¹ Ref. PA/23/00763.

Main Issue

6. The main issue is the effect of the development upon the living conditions of the occupiers of No 29 with particular reference to noise, overshadowing and enclosure.

Reasons

7. The appeal site is a rear courtyard area associated with a ground floor unit at No 130. No 130 has had historic uses as a betting office, taxi office, internet café, sweet shop, and then from 2021 a fast-food restaurant which remains to the present day. This appeal scheme includes the retention of various structures within the courtyard such as a WC, storage spaces, sink units, shelves, doors and associated structures such as partitions and roofing, and their associated use.
8. Even if used infrequently and when necessary, the use of the space with all application structures could result stacking and removing goods, toilet flushing, opening and closing doors, use of sinks, footfall and staff communication, very close to residential windows. Such activities, and particular combinations of them, would result in significant levels of noise emitted, through the residential windows within the courtyard wall, exacerbated by how enclosed this space is.
9. The evidence and views before the Inspector for the conversion of No 29 to a dwelling² are unclear, as is the nature of the appeal site use at that time. It seems at that time the courtyard did not include all elements of the scheme and activities that are before me. This limits the weight to be given to the position before the approval of the conversion. Based upon what I saw and the evidence before me, I can only come to the view the proposals in this appeal scheme would be highly likely to result in significant and intrusive noise within the living areas in No 29 served by the windows within the courtyard wall.
10. The evidence suggests the WC of No 29 has been enclosed by a secondary wall of the appeal site WC and circulation area, so may be quite well insulated to noise. However, this does not mitigate or outweigh the other harm to the habitable living spaces that are likely to be well-used and valued by No 29's occupiers. Therefore, the appeal scheme would result in adverse effects, such that they would result in harmful living conditions to the occupiers of No 29. This would be particularly adverse within the ground floor living space.
11. The appellant's evidence implies a WC, an adjacent doored structure, some partitions, and a shelf have been present for around 20 years³, and in a commercial use, which the Council has not disputed. Due to this, and though the evidence is not totally conclusive, I give that position significant weight. However, even were I to adopt a position those structures I am referred to and the use is lawful, the evidence does not show this is the case for all elements of this scheme, such as a large sink structure, a smaller sink, a doorway and some partitioning.
12. The large metal sink is very close to windows of No 29, particularly the ground floor. Though not to be used for food preparation, it is inherent that its use would result in noise from water from the taps, potential for sudden noises from items making contact with the sink, each other, the draining board, and underside storage shelf, with some degree of echo. This would be highly likely to be of a

² Ref. APP/E5900/W/19/3226598.

³ Appendix 2 of the Appellant's Appeal Statement.

level and character of noise that is markedly different and above, that which may take place associated with the purportedly lawful structures and use.

13. The use of a door, and the smaller hand sink, would be less intrusive. However, these would still contribute to overall levels of noise. The noise from all these other elements would be highly likely to result markedly elevated noise levels above the implied lawful structures and use. Such would be the levels, character and proximity, this would be intrusive and would result in harmful living conditions to the occupiers of No 29, potentially for significant parts of the day.
14. Noting the combination of the Perspex sheet structure, the courtyard walls, and obscure glazing, the ground floor window of No 29 would not have a high degree of outlook even without the appeal structures. As the ground floor WC of No 29 is not a primary habitable space and with quite short durations of use, the effect of enclosing it's window may be quite a minor in respect of overshadowing and enclosure. However, the ground floor living area window would be of some value to the living conditions of No 29's occupiers in respect of outlook and light.
15. That window was internally part covered by cardboard at my visit, perhaps indicative of the intrusive nature of some activities within the courtyard. However, this is not a fall-back that should be relied upon to provide satisfactory living conditions, and the occupiers of No 29 may wish to utilise the window to serve the what is, quite a deep living space.
16. Even adopting a view that the use and some of the structures are lawful as indicated, physical structures such as the circulation area door and ceiling would have a marked adverse impact in respect of enclosure and overshadowing. Staff using the large sink would also cause some very close proximity but perhaps more fleeting and intermittent overshadowing and enclosure. In combination, these would be such, that they would result in materially adverse effects upon the living conditions of the occupiers of No 29, due to enclosure and overshadowing.
17. Therefore, for the reasons set out above the development would result in adverse effects upon the living conditions of the occupiers of No 29 with reference to noise, enclosure and overshadowing. This conflicts with Policies D.DH8 and D.DES9 of the Tower Hamlets Local Plan 2031 (2020), which amongst other things require that development protects the amenity of neighbouring occupiers and layouts should seek to minimise the adverse effects of noise.

Other Matters

18. The appeal site is located within the Redchurch Street Conservation Area (RSCA), within which Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention shall be paid to the desirability of preserving or enhancing its character or appearance. Due to being enclosed by high courtyard walls and increases in its use being unlikely to be discernible in the wider streets within the RSCA above the other activity and commercial uses, the development would not adversely affect the character or appearance of the Conservation Area. Therefore, its character and appearance would be preserved. This is a neutral matter in the balance.
19. A neighbouring occupier has referred to the use of the sink proposed to be retained, by appeal site staff, as restricting air circulation to No 29, and No 132 Bethnal Green Road, and referred to property deeds. However, because I am

dismissing this appeal for other substantive reasons, I have not considered these matters further.

Planning Balance

20. The appeal development is likely to result in some on-going economic benefits to the business including because it provides facilities to maximise the commercial use of the main internal floorspace of No 130. This also contributes to the wider vitality and viability of the high street and surrounding area, consistent with some development plan and National Planning Policy Framework objectives. However, based upon the size of the appeal site space and its functions, these would be limited benefits, attracting limited weight in favour of the appeal scheme.
21. However, the appeal development would adversely affect the living conditions of the occupiers of No 29. Even were I to accept the appellant's view in respect of the lawfulness of the use and certain structures, the harm from noise due to the use of the other structures would be such that it still attracts significant weight against the appeal scheme. On the same basis, the adverse effects in respect of overshadowing and enclosure for the occupiers of No 29 attracts moderate weight against the scheme. Therefore, the harmful effects of the appeal scheme would outweigh the benefits. In consequence, for the reasons given, the appeal should not succeed.

Conclusion

22. The development is contrary to the development plan read as a whole. There are no considerations advanced, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Mr D Szymanski

INSPECTOR