
Appeal Decision

Site visit made on 10 February 2015

by R J Marshall LLB DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 February 2015

Appeal Ref: APP/E5900/A/14/2221772
129, Cadogan Terrace, London E9 5HP

- 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 RCT Construction against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/14/00816, dated 25 March 2014, was refused by notice dated 20 May 2014.
 - The development proposed is for the erection of a 3 storey building with basement, comprising a replacement public house and 8 self contained flats.
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Decision

1. The appeal is dismissed.

Background

2. The appeal site is in the Victoria Park Conservation Area, a designated heritage asset. It lies at the end of a terrace of locally listed buildings, Cadogan Terrace, which are non designated heritage assets. For reasons I shall detail later the appeal building has only limited significance in its own right as a non-designated heritage asset. The Council has recently granted permission for the redevelopment of the appeal site with a similar, albeit smaller scale development. I shall have regard to this in my decision.

Main Issues

3. The main issues in this appeal are: **first**, the effect of the proposed development on the character and appearance of the Victoria Park Conservation Area and non-designated heritage assets; and **second**, its effect on the living conditions of those in neighbouring properties with special reference to visual impact, light and privacy.

Reasons

Effect on Conservation Area and non-designated heritage assets

4. The Victoria Park Conservation Area is centred on Victoria Park. It was established in the 1840's and is a fine example of the English Landscape park tradition. Victorian housing surrounding the park and overlooking it, such as the locally listed terrace adjoining the appeal site, are included in the Conservation Area. The attractiveness of the park and the historical background to its establishment as a park designed specifically for the

populace means that the Conservation Area is of substantial significance. The houses in Cadogan Terrace are 3 storeys high and also contain a basement. They were built in the 1870's and most contain their original features. As such it is an attractive terrace which makes a positive contribution to the Conservation Area and is a non-designated heritage asset of considerable significance.

5. The appeal building, 2 stories high on the road frontage, is a public house. It was in use as such until recently. Once known as the Milford Castle the property had been a public house since its construction in the mid 1800's. However, the building, when seen from the road frontage, contains little of its Victorian character and appearance having an unattractive render finish and poor fenestration. Taken individually in architectural terms it has little heritage significance. The building has a peripheral connection with the first murder to have taken place on a train in that the body of the victim was taken to it where he died of his wounds. This gives the building only minor heritage significance in historical terms. Given these findings the appeal building has no inherent attribute in architectural or historical terms to warrant it having substantial significance as a non-designated heritage asset.
6. However, the appeal building cannot be seen in isolation. It lies at the end of a terrace of housing which has historically had a public house at both ends. To the north of Cadogan Terrace is The Morpeth Castle. This was once a public house and although now converted to housing retains its public house character. Part of the established character of the area has therefore been the "bookending" of the terrace by public houses/buildings retaining the character of a public house.
7. However, subject to a redevelopment of the appeal site retaining a public house use, and having the appearance of a public house, this established character would be retained. The proposed development achieves this by having a public house at street level. The Council is concerned that the front elevation of the proposed development would look insufficiently like a public house. I disagree. The larger windows at this level and the large door give this part of the proposed development an entirely different appearance from the residential development above. Moreover, once the use is established it is almost certain that pub signs would be erected and there would be views through the windows of activity within the pub. And it is not inconceivable that canopies over the windows would not also follow, adding to the pub like appearance of this part of the building.
8. The proposed development would, moreover, do more than just preserve the character and appearance of the Conservation Area and adjoining terrace. It would enhance them. The existing building, for reasons given above, detracts from the character and appearance of the area. From the road frontage it appears as a squat and unattractive building. In contrast the proposed development would match the height of the adjoining terrace and at the upper floor residential levels the fenestration would match. It would thus fit in far better with the character of the area than the existing building.
9. The Council is concerned about a lengthy rear extension that is part of the proposal. It is much longer than rear extensions on terraced houses to the north. However, I see no harm in this on what is effectively an end of terrace property, especially as this part of the proposed development would face onto

the Hertford Union Canal and towards a modern development of flats on the opposite side of the canal.

10. In conclusion no harm would arise from the loss of the appeal building and there would be an improvement to the character and appearance of Cadogan Terrace and an enhancement of the Victoria Park Conservation Area. There would be no conflict with Policy DM27 of the Local Plan Managing Development Document (LP) and Policy SP10 of the Core Strategy (CS) which reflect the Statutory requirement that in Conservation Areas new development should preserve or enhance the character and appearance of those areas.

Living conditions

11. The appeal site adjoins No. 128 Cadogan Terrace. The lengthy rearward extension of the proposed development would have a side elevation facing the rear garden of this house. However, as windows in this elevation would be high level and to non-habitable areas there would be no overlooking of the neighbour's garden, or other gardens locally, from within rooms of the proposed development. Overlooking could potentially occur from proposed balconies. However, had I been minded to allow the appeal this could have been prevented by requiring balcony screens. Given the findings of a daylight, sunlight and overshadowing report I am satisfied that there would be no unacceptable harm through loss of light or overshadowing.
12. However, given the extent to which a lengthy 2 storey wall would run parallel with the boundary of No. 128 the proposed development would appear over-dominant and intrusive when seen from within this house and much of its garden. I am of this view notwithstanding the degree to which this wall would be set back from the boundary. And although the existing building on the appeal site extends back into the garden area and is closer to the site boundary the degree of rearward extension is significantly less. It thus has a far less dominating effect upon those at No. 128 than would the proposed development. The development recently permitted on the site, although similar in many respects to the case before me, is of a size and design that would have significantly less visual impact on the neighbouring house.
13. It is concluded that the proposed development would detract from the living conditions of those at No. 128 Cadogan Terrace with special reference to visual impact. As such it would be contrary to CS Policy SP10 and LP Policy DM25 which seek to protect residential amenity.

Other matters

14. I note local concerns on car parking and additional traffic that it is said would be generated by the proposed development. However, the proposal would be car free in accordance with the Council's policies and no future occupier would be allowed to apply for an on-street parking permit. Wooden panelling inside the building is of insufficient quality to merit retention. Sycamore trees in the rear garden that would be lost appear self seeded. They are of limited size and attractiveness and their loss would not conflict with the statutory duty on the protection of Conservation Areas. The effect of the proposed development on an alleged private right of access is primarily a private matter and of no material bearing on the planning merits of the proposal.

Conclusion

15. Drawing together my views the proposed development is in many respects an entirely satisfactory scheme. Indeed, in terms of its impact on the Conservation Area and adjoining terrace there would be an enhancement to character and appearance. However, the harm through visual impact on the neighbour would be substantial. As such I find that this must outweigh the other benefits of the proposal, which include the provision of housing in a sustainable location. In coming to this view I have taken into account the development recently permitted on the site. There seems a reasonable prospect, therefore, that the improvements sought in the proposal before me could still come to pass.
16. For the reasons given above it is concluded that the appeal should be dismissed.

R J Marshall

INSPECTOR

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