



Appeal Decision

Site visit made on 24 November 2020

by G Powys Jones MSc FRTPI

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

Decision date: 22 December 2020

Appeal Ref: APP/E5330/W/20/3248252

The Vanbrugh Tavern, 91 Colomb Street, London SE10 9EZ

- 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 Hamna Wakaf Limited against the decision of the Council of the Royal Borough of Greenwich.
 - The application Ref 19/3587/F, dated 14 October 2019, was refused by notice dated 10 January 2020.
 - The development proposed is described as the construction of a 3 bedroom, 2 storey house (including lower ground floor level) fronting Vanbrugh Hill.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a 3 bedroom, 2 storey house (including lower ground floor level) fronting Vanbrugh Hill at The Vanbrugh Tavern, 91 Colomb Street, London SE10 9EZ in accordance with the terms of the application Ref 19/3587/F, dated 14 October 2019, subject to the conditions set out in the attached Schedule.

Preliminary matters

2. My site visit was planned as an Access Required visit, and prior arrangements had been made for me to be met. However, no-one was at the site when I arrived, and I received no response at the adjacent public house, which was shut. I therefore conducted an unaccompanied site visit. I was able to satisfactorily see all that I needed to see in order to assess all relevant aspects of the proposal.
3. Reference has been made to a recent appeal decision¹ affecting the site involving a similar proposal. In the previous case, the Inspector addressed issues raised by the Council and local residents in respect of design, visual impact on the surrounding area, and the potential consequences of its relationship in land use terms with the public house. The previous appeal is a material consideration attracting significant weight.
4. The appellant has sought to address the sole reason why the Inspector found the previous scheme unacceptable. In terms of siting and external appearance the current proposal is similar to that subject of the earlier appeal. I find myself in agreement with the previous Inspector's conclusions on design, effect on local character and appearance, and the relationship with the public house.

¹ APP/E5330/W/18/3214042 dated 1 August 2019

5. Having regard to the content of the officer report, the Council has taken full account of the previous Inspector's conclusions and object to the proposal for a single reason, which is reflected in the main issue.

Main issue

6. Having regard to the foregoing the main issue relates to the adequacy of the proposed external amenity space provision.

Reasons

7. As noted by the previous Inspector, a certain tension exists between the external amenity space requirement for family housing as set out in the explanatory text to Policy H5 of the Royal Greenwich Local Plan: Core Strategy (CS), and that contained in the Mayor of London Housing Supplementary Planning Guidance 2016. I attach more weight to the provisions of the CS for the same reasons as the previous Inspector.
8. The appellant has strived to achieve the requirement set out in the CS for a 3-bedroom dwelling. The Council agrees that the requirement of at least 50m² of external amenity space is provided, but considers that it is of insufficient quality. In particular, the amenity areas on the lower ground floor are split in two, with parts being covered and partly enclosed under the proposed first floor. In the Council's view, the garden should not be sub-divided and the extent of '*private green space which would be suitable as a play area for young children*' would be insufficient.
9. I have looked carefully at the guidance contained in the CS's explanatory text relied upon by the Council². I can see nothing there to suggest that the garden area could not be divided, or that it must be green. Indeed, if the test of appropriateness of an external amenity area is largely dependent on its attraction or usefulness to accommodate the needs of young children then, in my experience, particularly in the winter and during inclement weather all year round, a hard-surfaced, partly sheltered amenity space would prove useful and beneficial.
10. Moreover, the two main amenity spaces have been specifically designed so that they could be used as active extensions to the internal living areas with easy mutual accessibility. With safety in mind, the well thought out design would make the supervision of young children at play that much easier. Accordingly, whilst the form of amenity space provision may not match the normal perception of a suburban garden, it would nevertheless to my mind be fit for the purpose intended in terms of quantity and quality.
11. I conclude that the proposed development makes adequate and acceptable provision for external amenity space. Accordingly, no conflict arises with that provision of CS policy H5 requiring family housing normally to have direct access to a private garden.

Conditions

12. The Council belatedly provided a suggested list of conditions, and the appellant was provided with the opportunity to comment on them. I find that most are required, albeit that the form and wording of some are subject to modification.

² Paragraph 4.1.31

13. It is necessary in the interests of certainty that the development is carried out in accordance with the approved plans.
14. Conditions in respect of landscaping, boundary treatment and tree protection are imposed in the interests of visual amenity. For the same reason a condition relating to external building materials is necessary.
15. Two of the suggested conditions require compliance with aspects of the Building Regulations. However, as advised in the *Planning Practice Guidance*³ (PPG) '*conditions requiring compliance with other regulatory regimes will not meet the test of necessity*'. These two suggested conditions are not therefore imposed.
16. In view of the compactness of the site, and to protect the overall integrity of the design I consider that the removal of certain permitted development rights is justified and necessary.
17. In the interests of protecting neighbouring amenity a condition is imposed requiring a construction method statement. Since the site does not involve the creation of a basement beneath an existing building, the Council's proposed condition regarding basements is not considered necessary.
18. So as to ensure that future occupants of the dwelling are protected from the effects of external noise, particularly from the use of the adjoining pub, a noise attenuation condition is imposed.
19. No car parking spaces are provided in the scheme. To assist in ensuring that the dwelling remains 'car-free' a condition designed to deter its future occupants from applying for local parking permits is imposed in the interests of encouraging sustainable development.
20. During the course of the appeal it was brought to my attention that the land upon which access to the proposed dwelling is to be obtained forms part of the public highway. This small area of land falls outside the application site and the appellant's control or ownership. To ensure that adequate access to the dwelling is obtained, and having regard to the advice of PPG, a Grampian form of condition is imposed, in preference to that suggested by the Council

Other matters

21. The majority of the comments made by the public in respect of the previous appeal have been repeated in the representations submitted for this appeal, but the Council refused permission for one reason alone.
22. Many of the public's representations are directed to concerns that the proposed development may affect the future of the pub, which, it is said is a valued local community asset, and was particularly appreciated during the earlier part of the pandemic. In this regard residents consider that the loss of part of the pub's garden would materially affect the pub's viability, and possibly lead to its closure. I note that such representations were made previously in opposition to earlier similar proposals.

³ Paragraph: 005 Reference ID: 21a-005-20190723

23. I note also that a viability assessment was carried out in respect of one of the earlier proposals⁴, the results of which were not challenged by the Council. Neither the Council nor local residents have presented firm empirical evidence to support the contention that the pub's viability would be affected by the loss of part of its beer garden, indeed, the Council does not object on this basis. Although I understand the basis of local residents' concerns, in the absence of firm, convincing evidence I could not reasonably conclude that the pub's future would be put in doubt as a direct consequence of this development proposal coming to fruition.
24. All other matters raised in the representations have been taken into account, including the views of local amenity societies, but no other matter is of such strength or significance as to outweigh the considerations that led me to my conclusions.
25. Accordingly, for the reasons provided above, the appeal is allowed, subject to conditions.

G Powys Jones

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers: PL-1011-MB-000-100(Rev. 01), PL-1011-MB-000-101(Rev. 01), PL-1011-MB-00-99(Rev. 01), PL-1011-MB-00-100(Rev. 01), PL-1011-MB-00-101(Rev. 01), PL-1011-MB-00-102(Rev. 01), PL-1011-MB-04-100(Rev. 01), PL-1011-MB-04-101(Rev. 01).
3. Prior to the commencement of development details of the external materials to be used in the construction of the dwelling shall be submitted to the local planning authority for its written approval. The development shall be carried out in accordance with the approved details.
4. The development hereby permitted (including preparatory works and site operations) shall not begin until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for: (a) the parking of vehicles of site operatives and visitors; (b) loading and unloading of plant and materials; (c) storage of plant and materials used in constructing the development; (d) the erection and maintenance of any security hoardings; (e) measures to control the emission of dust and dirt during construction, including wheel washing facilities; (f) a scheme for recycling/disposing of waste arising from construction and demolition works, (g) proposals for monitoring and

⁴ Application Ref 17/2165/F

controlling noise and vibration emanating from construction activities, and (g) the days and times when construction or any other site activity is not permitted. The development shall be carried out in accordance with the approved details.

5. Prior to the commencement of development an attenuation scheme for the protection of future occupants of the dwelling from external sources of noise shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), no extensions or alterations to the building hereby approved shall be carried out.
7. No development shall take place until arrangements have been made to secure the development of a car-free development in accordance with a detailed scheme or agreement which shall have been approved in writing with the local planning authority. The approved scheme or agreement shall ensure that no occupiers of the approved development shall apply for, obtain or hold an off-street parking permit to park a vehicle on a public highway within the administrative area of the local planning authority (other than a disabled person's badge or permit) and any such occupier shall surrender any such permit wrongly issued or held. Such scheme or agreement shall be implemented prior to the occupation of the dwelling hereby permitted and shall be retained and operated for so long as the use hereby permitted continues.
8. No development shall take place until arrangements have been made to secure the means of access to the dwelling hereby permitted in accordance with a detailed scheme or agreement which shall have been approved in writing with the local planning authority. The approved scheme or agreement shall ensure that any changes made to the layout of the amenity/landscaped area adjoining the site shall be appropriately mitigated. Such scheme or agreement shall be implemented prior to the occupation of the dwelling hereby permitted.
9. Prior to the commencement of development a scheme of hard landscaping, a scheme of site enclosure and a scheme for the protection of trees during construction shall be submitted to the local planning authority for its written approval. The development shall be carried out in accordance with the approved schemes.