



Restaurant unit 105 Field End Road Eastcote

A3626 Statement of Appeal against planning application refusal 21404/APP/2020/3281

29 December 2020

Background & context

The appellant purchased the lease of the existing restaurant unit at the above address and obtained planning permission (ref. 21404/APP/2018/3693) to alter and extend the restaurant. Prior to the implementation of the permitted works, the restaurant was served by a rear kitchen, ventilated by means of a metal flue, attached to the flank wall of the building's existing rear extension at first floor. (see *fig. 1*)



fig. 1 The pre- existing condition at the rear of the building, showing the kitchen flue attached to the flank wall of the existing rear extension

The Approved Drawings show the reinstatement of a flue at this location (see *fig. 2*).



fig. 2. Excerpt from approved drawing TP005 showing a larger flue replacing the original.

During the works, a flue was installed in accordance with the relevant technical requirements and contemporary standards. In addition, cooling and ventilation units were added at this location (See *figs. 3, 4*).



figs. 3, 4 new flue and cooling equipment installed on the roof of the new extension, in the same location as the pre- existing flue

A planning application was subsequently submitted, seeking permission for the items in question. An ensuing dialogue with the LPA highlighted the need for technical reports confirming the protection of amenity of the adjoining flats. These were produced and submitted to the LPA (21404/APP/2020/2018) who subsequently refused the application, stating the drawings failed to demonstrate the implementation of the reports' findings, and that the effects on the amenity of the adjoining residents would be unacceptable.

The appellant then made the application (21404/APP/2020/3281), the determination of which is contested in this appeal.

Basis and content of the planning application

In this application, changes were made to the drawings which further clarified how the recommendations of these reports will be implemented. The technical reports were provided again, with an update to one of the reports, made following the correction of an assumption contained therein. A summary document was also provided explaining how the conclusions in these documents form the strategy and detail of the proposals (Argent Architects document- Noise & Odour Mitigation proposals 12 October 2020).

All of the reports and drawings provided with the application are listed on a schedule of documents which is submitted with this appeal.

Reasons for Refusal provided by the LPA in Decision Notice Dated 8 December 2020

1. It has not been demonstrated that the design of the rooftop plant equipment to serve the ground floor restaurant unit satisfactorily mitigates noise and odour emissions and that it is not harmful to the residential amenities of neighbours. As such the development is contrary to Policies DMTC 4 and DMHB 11 of the Hillingdon Local Plan: Part Two – Development Management Policies (January 2020), Policy 7.15 of the London Plan (2016) and the National Planning Policy Framework.
2. The plant equipment, by reason of its siting including its location in front of a first floor residential window, size, scale and design results in an incongruous design feature, which is detrimental to the amenities of adjoining residential occupiers and the wider area, by reason of loss of outlook. As such the development is contrary to Policies DMTC 4 and DMHB 11 of the Hillingdon Local Plan: Part Two -Development Management Policies (January 2020).

Officer Report Section 7.0 Main Planning Issues

7.1 Impact on the amenities of the occupiers of neighbouring residential properties

The application is accompanied by a noise assessment which has been assessed by the Council's experts as shown in the 'Consultation' section above. This concludes that It is not clear where the mitigation in the noise and odour assessment (Nov 2020) has been reflected in the plans (Oct 2020) that are being put forward for approval. The solution appears to be incongruous and it is not clear whether it reflects the mitigation that would solve the original problems. From a design perspective, the solution to one problem appears to create another. In this regard, the development is not considered to accord with Policy DMHB 11 of the adopted Local Plan.

7.2 Impact on Street Scene

The equipment is located to the rear of the property and does not have any impact on Field End Road. However, it does extend beyond the ground floor and is located in front of a first floor window. This results in a significant and harmful visual intrusion to the adjoining properties and the wider area.

Challenge to Decision notice, point 1 & 2 and to item 7.1 & 7.2 of the Officer's Report:

The Noise Assessment dated April 2020 and the Kitchen Odour Risk Assessment dated November 2020 contain recommendations in their conclusions which bring the levels of these factors within relevant statutory limits appropriate to the site conditions and surrounding residential uses. The application drawings directly reflect these recommendations in drawn and written format, and do so in a clear and concise manner. Furthermore, each item number from the original report is cited in the notes on the drawings, linking directly back to those sections of the reports. See *fig. 5*.

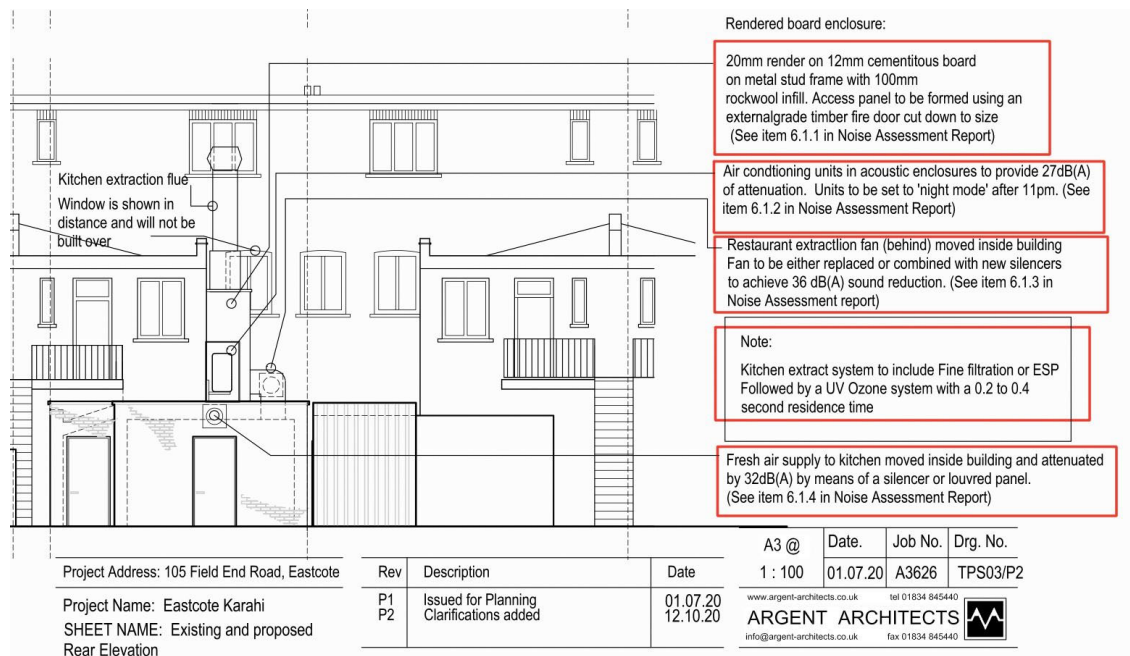


fig 5. Excerpt from TPS03 P2 from the planning application

Surprisingly, item 7.1 of the report states "It is not clear where the mitigation in the noise and odour assessment (Nov 2020) has been reflected in the plans (Oct 2020) that are being put forward for approval.....and it is not clear whether it reflects the mitigation that would solve the original problems."

As the response fails to provide any detail, other than to assert a lack of clarity, the LPA appears to have dismissed these materials out of hand, and therefore to have failed to give proper consideration to this aspect of the application.

Regarding the assertion made in the Officer's Report that the design solution appears to be "incongruous", together with item 7.2 regarding the impact on the street scene, the LPA has apparently failed to consider the existing use and character of the site, and in particular the conditions existing prior to development as illustrated in *fig1*. The street is characterized by ground floor restaurant units, and the application *does not include a change of use*. The restaurants must ventilate their kitchens at the rear of the properties, in order to preserve the street frontage. In this regard, the locating of the kitchen flue as shown on the application

drawings, and the maintaining of the location established in its previous use is appropriate and furthermore is critical to the functioning of the restaurant. The addition of the acoustic enclosure to the ventilation duct (around the section containing the fans) is a reasonable measure, backed up by a specialist report.

The air conditioning and ventilation units which are also critical to the functioning of the restaurant must be located in fresh air, in a location away from potential vandalism. Their effects on nearby residents are mitigated in the detailed proposals. Their location at the flank wall of the first floor rear extension is as discreet as possible, and still allows an outlook from the residential windows in question.

Planning Policy- Protection and growth of commerce in outer London

In considering applications of this type, the LPA is required by London Planning Policy, to balance the interests of local businesses in the wider economic agenda against those of residents. The following excerpt from policy 2.7 of the London Plan states:

*"A The Mayor will, and boroughs and other stakeholders should, seek to address constraints and opportunities in the economic growth of outer London so that it can rise above its long term economic trends by:
a enabling existing sources of growth to perform more effectively.....*

.... ensuring that appropriate weight is given to wider economic as well as more local environmental and other objectives when considering business and residential development proposals."

Summary

The appellant has invested in good faith in specialist advice and detailed proposals in order to mitigate the environmental effects of their operations. However, the proposals appear to have been dismissed summarily in a seemingly rather superficial review of the materials submitted, and an insufficiently contextual assessment of the character of the site.

As a result, in what is essentially a *commercial centre location*, the regeneration of an existing restaurant is under threat through the suppression of its ability to install services critical to its functioning, and the mitigation has been 'kicked down the line' by the LPA, leaving the residents' interests unattended.