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## Appeal Decision

Site visit made on 21 February 2022

**by Kim Langford Tejrar LLB (Hons) BSc (Hons) PGDIP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 8TH March 2022**

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**Appeal Ref: APP/L5810/W/21/3282361**

**30 Broad Street, London TW11 8RF**

- 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 Mr Usha Patel against the decision of London Borough of Richmond upon Thames Council.
  - The application Ref 21/1889/FUL, dated 24 May 2021, was refused by notice dated 12 August 2021.
  - The development proposed is 'change of roof pitch to existing roof to appear more visually consistent with neighbouring cluster. Addition of AOV rooflight'.
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### Decision

1. The appeal is allowed and planning permission is granted for 'change of roof pitch to existing roof to appear more visually consistent with neighbouring cluster. Addition of AOV rooflight' at 30 Broad Street, London TW11 8RF in accordance with the terms of the application, Ref 21/1889/FUL, dated 24 May 2021.

### Procedural Matters

2. The description of development was changed following submission to "*retrospective application for change of roof pitch to existing roof. Addition of AOV roof light. An increase in the size of rear roof dormer*". The Appellant maintains that this change was made without their input<sup>1</sup> and that they had not intended to apply for permission for the larger rear roof dormer.
3. The described 'increase in size of rear roof dormer' draws a comparison with a 2009 planning permission (Council ref. 09/0382/FUL), which included a modest sized dormer. The 2009 permission was either not implemented or was otherwise constructed not in accordance with the approved plans. This resulted in an enforcement notice issued on 13 September 2019 which was subject to an appeal (ref. APP/L5810/C/19/3239136) on grounds (d) and (a). The appeal was subsequently dismissed on 04 December 2020, subject to a variation.
4. The Appellant states that the dormer was not included in the original description of development given on the application form because the dormer already has planning permission. The Appellant contends that the enforcement notice identified the dormer as a breach of planning control but did not require its removal, and therefore it was subject to under-enforcement. The Council considers that the appeal scheme should include the dormer to regularise what

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<sup>1</sup> National Planning Practice Guidance Paragraph: 046 Reference ID: 14-046-20140306.

it perceives to be all outstanding breaches of planning control at the site, and that the merits of the dormer are a matter for the appeal given its inclusion within the amended description.

5. Whilst the parties have both made arguments as to the lawfulness of the dormer, it is not within the remit of this appeal to determine the lawfulness of the dormer. For this reason, and as the Appellant does not agree with the Council's description of development, I have utilised the original description of development which does not refer to the dormer.
6. As the plans submitted with the appeal depict the development as built and as permitted under the 2009 scheme, there are no plans before me which entirely omit some form of dormer. The development subject to this appeal has already been completed, and I have thus not imposed any condition requiring the development be constructed in accordance with the approved plans and, therefore, have not had the opportunity to impose a caveat in relation to the dormer.
7. For the avoidance of doubt, I have considered the appeal scheme on the basis that it omits the dormer window, as per the description of development stated above. This decision letter should not, therefore, be taken as granting any planning permission for the dormer element. My assessment below relates only to the roof pitch and rooflight, as described and proposed by the Appellant.

### **Main Issues**

8. The main issues are:

- The effect of the proposal on the character and appearance of the area; particularly whether the proposal would preserve or enhance the character or appearance of the Broad Street Conservation Area (BSCA) and its setting; and,
- Whether the proposal makes sufficient provision for fire safety.

### **Reasons**

#### *Character and appearance*

9. The appeal site comprises a commercial unit at ground floor level, with residential accommodation on its upper floors. It lies at the western edge of the BSCA, which is a linear area taking in parts of the frontage of the A313 Broad Street and the immediate parts of the roads which join it. The site fronts Broad Street and flanks North Lane, its rear elevation bounds a large public car park, beyond which is North Place. Broad Street is a main road with a range of commercial uses, whilst North Lane and North Place are predominantly residential.
10. The appeal site, together with the adjoining nos. 32 and 34 Broad Street, forms a group of properties which present a similar frontage to the road and variously extended rear elevations to the carpark. On the opposite side, the appeal site adjoins a supermarket, which is higher than the surrounding buildings and has a monolithic, massive and utilitarian appearance. The character of the BSCA is defined by its bustling street scene and the scale and form of the mixed-use buildings within it. The design and scale of the supermarket detracts from the setting of the BSCA.

11. The 2009 scheme had a shallow, dual pitched roof. The appeal scheme has a dual pitch roof with a steeper pitch and greater overall height than the 2009 scheme. The dual pitched roof form is in keeping with the characteristic dual pitch roof-form of the area and its steep pitch reflects the pitch of nos.32 and 34 Broad Street. In this respect, it represents an improvement to the 2009 scheme. Whilst the appeal scheme projects above the eaves of the host building, its mass is mitigated by its steep pitch and its overall height strikes a balance between the massive supermarket and more modest scale of nos. 32 and 34 Broad Street, which have both lower and higher roof elements which also project above the eaves.
12. The development which was subject to an enforcement notice had a mansard roof with a raised parapet gable-end and was thus substantially different to the appeal scheme.
13. For these reasons, the appeal scheme is in keeping with the character and appearance of the area and preserves the significance of the BSCA, a consideration to which I attach significant weight. The appeal scheme is therefore in accordance with the National Planning Policy Framework (the Framework) and policies LP1 and LP3 of the Local Plan, adopted in 2018, and related guidance. These policies seek, amongst other things, development which sustains and enhances the significance of heritage assets.

#### *Fire safety*

14. Policy D12 of the London Plan, adopted in 2021, seeks to secure the safety of all building users by ensuring that all development proposals must achieve the highest standards of fire safety. For major development, policy D12 seeks a Fire Safety Statement. For all development, policy D12 requires that schemes identify suitably positioned unobstructed outdoor space for fire appliances and assembly, are designed to incorporate appropriate features to reduce the risk to life and the risk of serious injury in the event of a fire, are constructed to minimise the risk of fire spread, develop a robust strategy, and provide access and equipment for firefighting.
15. The appeal scheme is for roof alterations to an existing building and, therefore, is not major development for which policy D12 requires a Fire Safety Statement.
16. Certificates for sprinkler installation to each of the residential units, dated 2018, have been submitted with the appeal and the scheme includes an automatically opening vent rooflight which is designed to open and clear smoke in the event of a fire to facilitate safe escape routes. This, in part, addresses the more general policy D12 requirements which apply to all development. The supporting text for policy D12 indicates that the remaining requirements are met through identification on site plans and floor layouts. Such plans are not relevant for the appeal scheme, which relates to a roof alteration only.
17. For these reasons, the appeal scheme accords with policy D12 of the London Plan.

#### **Conditions**

18. The Council has requested a total of four conditions. The council has requested the standard conditions in respect of time limit for commencement and approved plans, however, given that the development has already been

completed, these conditions are unnecessary. The Council has also requested a condition requiring proposed materials to be submitted for written approval, however, this is also unnecessary given that the development has been completed and finished in acceptable materials. Finally, the Council has requested a condition requiring submission of a Fire Safety Strategy; I do not consider this condition is necessary to make the development acceptable in planning terms or fairly and reasonably related in scale and kind to the development, for the reasons set out above.

### **Conclusion**

19. The development accords with the relevant policies of the Development Plan, in so far as they are consistent with the Framework, and no material considerations indicate the appeal should be determined other than in accordance with the Development Plan. The appeal is accordingly allowed.

*Kim Langford Tejrar*

INSPECTOR