
Appeal Decision

Site visit made on 8 February 2017

by Nicholas Taylor BA(Hons) MRTPI

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

Decision date: 6th March 2017

Appeal Ref: APP/U5360/W/16/3164164
407 Mare Street, Hackney, London E8 1HY

- 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 Ron Hopkins against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2016/3538, dated 21 September 2016, was refused by notice dated 16 November 2016.
 - The development proposed is single storey 2nd floor roof extension to create a single, self-contained dwelling (C3 use).
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Decision

1. The appeal is allowed and planning permission is granted for single storey 2nd floor roof extension to create a single, self-contained dwelling (C3 use) at 407 Mare Street, Hackney, London E8 1HY in accordance with the terms of the application, Ref 2016/3538, dated 21 September 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawings numbered 1972.P.11, 1972.P.12, 1972.P.13, 1972.P.14 and 1972.P.15.

Procedural Matter

2. The appellant's name is spelt differently in various documents to do with the application and appeal. The spelling I have used in the heading to this decision is as used on the appeal form and in the majority of references.

Main Issue

3. The main issue in this case is whether the character or appearance of the Clapton Square Conservation Area would be preserved or enhanced and whether the setting of the listed buildings at 270 – 300 Dalston Lane would be preserved.

Reasons

4. The appeal property comprises, in effect, two adjoining five storey terraced buildings, including basements. The basement and ground floors are in retail use, with the upper floors occupied by flats. At the rear of the property, a two storey built element stands partially separated from the frontage building, with
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light wells in between. There are several outdoor spaces to the rear and also a linked, one-and-a-half storey annex containing further flats. The property is situated on one of the main shopping streets in Hackney town centre. The area to the rear of the street block is enclosed by buildings and comprises back yards and residential gardens. Consequently, although the rear of the appeal property is visible from a number of surrounding properties, it is not prominent in any public, street views.

5. The proposed extension would add an extra floor on top of the two storey element at the rear. It would be linked to the main, frontage buildings, by a narrow corridor and bathroom accommodation, thereby retaining the two light wells. In views from buildings to the rear of the site, or their gardens, the apparent height of the extension would be reduced by the 'mansard' roof form of its west, rear-facing elevation. To the somewhat limited extent that views would be possible of the sides or east-facing elevation, the extension's bulk would be mitigated by its unusual profile, with almost half the flat roof cut away to a slope so as to maintain light and outlook to the light wells.
6. There is currently no overall consistency of scale or architectural unity to the accretions at the rear of the host property and its neighbours. Given the modest bulk and massing of the proposed development, the addition of a third storey would in this instance remain subservient to the host building and would not appear unduly dominant, overbearing, intrusive or incompatible with its surroundings. Moreover, the proposal's restrained scale, horizontal design emphasis and materials would, at worst, have a neutral effect on the host building's architectural composition and proportions.
7. The Council has referred me to an earlier appeal decision¹, dismissing a proposal for a second floor extension at the rear of 411 Mare Street. The circumstances, including the design and precise location of that scheme, were different to the current proposal and so I afford it limited weight here. I must also give limited weight to other schemes for which the Council has refused permission, as I have not been given any detailed evidence about them.
8. Nos. 270 – 300 Dalston Lane, a series of listed, two storey, semi-detached villas, back onto the spaces at the rear of Mare Street. Consequently, the appeal property forms part of the setting of the listed buildings. The Council considers that the appeal proposal would preserve the setting and, for the reasons set out in the two previous paragraphs, I concur.
9. The Clapton Square Conservation Area is extensive and varied, encompassing civic and commercial town centre buildings, terraced houses and open spaces. The contribution of the appeal property to the character and appearance of the conservation area derives primarily from its situation fronting the narrow section of Mare Street. For the reasons set out in the preceding paragraphs, the proposed development would not harm the character or appearance of the conservation area, thereby ensuring that it would be preserved.
10. National policy and statute relevant to heritage assets does not require development to positively enhance those assets. Therefore, in view of my conclusion, the proposal would comply with policies 7.4, 7.6 and 7.8 of the *London Plan* which, together, seek to protect the quality of local character, architecture or heritage assets. Nor would it conflict with policies 24 and 25 of

¹ APP/U5360/A/13/2210718

the *Hackney Local Development Framework Core Strategy* or policies DM1 and DM28 of the *Hackney Development Management Local Plan*, which, in combination, also seek to achieve good design and preserve heritage assets. My conclusions indicate that the proposal's design would also comply with the *Hackney Residential Extensions and Alterations Supplementary Planning Document*.

11. It would also satisfy the *National Planning Policy Framework* (the Framework) which, at paragraph 132, requires great weight to be given to the conservation of heritage assets. Moreover, there would be no conflict with the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires the decision maker to have special regard to the desirability of preserving the setting of a listed building and to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Other Matters

12. A number of third parties raise concerns in addition to those covered by the main issue. I am satisfied, as is the Council, that the scheme has been designed in such a way that there would be no unacceptable reduction in daylight or privacy, leading to any perceptible reduction in quality of life, to occupiers of existing dwellings. I also consider that the single flat as proposed is likely to have an acceptable impact in terms of parking, noise and anti-social behaviour. Any inconvenience or disturbance due to construction activity would be temporary and would not justify withholding permission. All in all, therefore, these other concerns do not lead me to alter my overall conclusion.

Conditions

13. I have considered the Council's suggested conditions in the light of national policy and guidance² and for succinctness and clarity and have amended them accordingly where necessary. In addition to the usual commencement condition, it is necessary, in the interests of proper planning and for the avoidance of doubt, to specify the approved plans.
14. The Council suggests a condition limiting NOx emissions from any central heating or combined heat and power system to be installed in the scheme. However, the internal consultation response outlined in its officer report amounts to a suggestion and questions whether some NOx monitoring evidence is up to date. The specialist advice also differs in detail from the suggested condition. Whilst I recognise that air quality is clearly a serious matter, particularly in inner London, the evidence before me does not provide a strong basis, in planning terms, to justify such a condition, which could be argued to be disproportionate to the scale and nature of the development and, as the Council acknowledges, falls within the scope of the Building Regulations.

Conclusion

15. For the reasons set out above, the appeal should be allowed.

Nicholas Taylor

INSPECTOR

² Paragraph 203 and 206 of the Framework and *Planning Practice Guidance: Use of Conditions*