
Appeal Decision

Site visit made on 14 March 2017

by R J Jackson BA MPhil DMS MRTPI MCMi

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

Decision date: 07 April 2017

Appeal Ref: APP/E5900/D/17/3167890
24 Durant Street, London E2 7BP

- 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 Mrs Dawn King & Mr Richard George against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/16/02801, dated 22 September 2016, was refused by notice dated 17 November 2016.
 - The development proposed is rear and side extensions with internal refurbishment.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The appeal relates to the extension of a domestic property and was thus being dealt with under the Householder Appeals Service. Under this procedure no further information beyond that in front of the Council should have been submitted with the appeal. However, the appellants submitted a report entitled "Daylight, Sunlight & Overshadowing" with the appeal. In order to ensure fairness the Council was asked to, and did, notify the occupiers of the two immediately adjoining properties of the report to give them the opportunity to comment on this additional information. No further representations from the neighbours were received but I have taken into account a comment from the Council.

Main Issues

3. The main issues are the effect on:
 - the Jesus Hospital Estate Conservation Area (the JHECA); and
 - the living conditions of the occupiers of 23 and 25 Durant Street in terms of outlook and light.

Reasons

Effect on JHECA

4. The Council has adopted the JHECA Character Appraisals and Management Guidelines. This notes that the character of the JHECA is defined by the homogenous layout of low scale streets. Its terraces are essentially two storeys high and follow the general pattern of London Victorian terraces. To
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the front, there are parapet cornices extending the length of the terrace and hiding a series of uniform London roofs. Much of the character of the terraces is gained from its overall uniformity and rhythm, its height, bay, width, arched window heads, consistent setback, matching materials and details. I concur with this assessment.

5. A short way to the north of the appeal site is the Ion Square Gardens. This is a large open area mostly laid to grass providing a public park. The rear elevations of the properties at the northern end of Durant Street, with their regular two storey outriggers at the rear of the properties, can be seen from the southeastern part of the Gardens. This area involves congregations of people as there is an equipped children's play area in the southeastern part of Ion Square Gardens close to the northern end of Durant Street.
6. To the rear of the appeal site is the St Peter's Church Hall. This is locally listed and thus is a non-designated heritage asset.
7. The National Planning Policy Framework (the Framework) defines 'significance' as the value of a heritage asset to this and future generations because of its heritage interest. This interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.
8. The appeal property lies on the east side of Durant Street and is a two storey detached property. In line with the other properties in this part of the JHECA it has a parapet wall on the front elevation and a 'butterfly' roof to the rear. It has a two storey outrigger to the rear, which provides a pitched roofed 'pair' with the property to the south, 23 Durant Street. Beyond the two storey pitched roof section there is a single storey flat roofed element.
9. The proposal would extend the two storey outrigger element to the extent of the single storey extension and infill the area to the northern side, adjacent to No 25, with a flat roofed extension. The new single storey extension would be lit with horizontal rooflights.
10. Currently the first floor pitched roofed pairs of outriggers to the rear of the properties provide a consistent and uniform rhythm to the rear of the dwellings in Durant Street. This can be seen clearly not only from the Ion Square Gardens open space but also at the southern end of the terrace from Warner Green. The appeal site is near to the northern end of the terrace, and within the public domain from the Ion Square Gardens. By extending the first floor element to the rear, both in extent and by the introduction of an asymmetric form, would be harmfully intrusive, damaging the overall uniformity and rhythm of the terrace, detrimental to the character and appearance of the terrace and the JEHCA. This would be particularly apparent when viewed along the length of the terrace from Ion Square Gardens.
11. The appellants have referred to an appeal decision¹ relating to 15 and 16 Durant Street for outshoot (outrigger) extensions at first floor level. I do not have full details of this scheme, but I note that the Inspector indicated that "the rear elevations are not clearly visible from the public domain"², and "or those that are not open to view, the contribution to the important

¹ APP/E5900/A/14/2214803

² Ibid paragraph 4

characteristics of the conservation area is of very limited significance”³. This is different from the current appeal situation where the rear elevation is clearly visible from Ion Square Gardens and the existing rear elevations add to the significance of the JHECA. While taking this earlier appeal decision into account I consider that there are significant differences between the schemes.

12. As such the proposal would be harmful to the character and appearance of, and thus the significance of, the JHECA although in terms of the Framework this would represent less than substantial harm. Given the special attention that has to be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area as set out in legislation⁴, this harm weighs substantially against the proposal. Paragraph 134 of the Framework indicates that where a development proposal will lead to less than substantial harm this harm should be weighed against the public benefits.
13. Currently the front elevation of the appeal property has UPVC windows; the only property in the terrace to have such windows as the rest are timber. The proposal also involves replacing these windows with timber sash windows. As this would enhance the public realm this would provide a public benefit. However, I give this benefit only limited positive weight as, while it forms part of the current proposals, there is nothing to say that the replacement would not take place in any event, or if an alternative arrangement were to be promoted.
14. The appellants have also highlighted the benefit of providing an enhanced quality to the housing stock. There is a public benefit of doing this, but this is also only of limited weight in that it has not been shown that the same benefit could not be delivered in another way. In addition, the personal circumstances of appellants can only be of limited weight in the overall balance as they will inevitably change over time while the effects on the JHECA will be long term. These benefits, therefore, do not outweigh the harm I have identified.
15. Consequently, the proposal would be harmful to the character and appearance of the JHECA. It would therefore be contrary to Policy 7.8 of the London Plan which requires that new development affecting heritage assets should conserve their significance by being sympathetic to their form and architectural details. It would also be contrary to Policy DM27 of the Tower Hamlets Managing Development Document (the MDD) which requires development to protect and enhance the borough’s heritage assets, and that applications for development within a heritage asset will only be approved where it does not result in an adverse impact on the character of the heritage asset. It would finally also be contrary to paragraph 134 of Framework as set out above.

Living conditions

16. The adjoining property to the south, 23 Durant Street, has a window in the rear elevation of the outrigger. By extending the first floor element beyond this would result in a wall adjacent to this window. This would restrict the field of view of the outlook from this window to the north. However, the area to the east and south would remain open and this would mean that the occupiers of No 23 within that window would not be unacceptably enclosed.

³ Ibid paragraph 5

⁴ Section 72(1) Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

17. In relation to No 25 to the north, the original submission showed a shadowing diagram for June, when the sun is at the highest in the sky. It therefore did not show an average effect for the whole of the year. The Daylight, Sunlight & Overshadowing report submitted at the appeal stage made an assessment against the guidelines in the BRE document 'Site Layout Planning for Daylight and Sunlight'. This showed that there would not be a significant effect on the occupiers of No 25 in relation to daylight, sunlight or overshadowing from the proposed development. I am satisfied base on this additional evidence that there would be no such harmful effect from the proposal on the living conditions of the occupiers of No 25.
18. As such the proposal would not be harmful to the living conditions of the occupiers of the adjoining properties. It would therefore comply with Policy DM25 of the MDD which requires development to protect the amenity of surrounding existing residents by not resulting in an unreasonable increase in the sense of enclosure, nor result in an unacceptable loss of outlook, and not result in an unacceptable material deterioration of the sunlighting or daylighting conditions of surrounding development. It would also comply with paragraph 17 of the Framework which seeks a good standard of amenity for all existing occupants of land and buildings.

Other matters

19. Paragraph 135 of the Framework indicates that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. Between St Peter's Church Hall and the rear of the curtilage of the appeal site is a small open area forming part of the gardens of the flats to the south in Warner Place. I am satisfied that there is sufficient separation between the proposal and St Peter's Church Hall to ensure that the setting of the non-designated heritage asset would be preserved. As such there would be no harm to the significance of this heritage asset.
20. Although there are no objections to the single storey rear extension at the side of the existing outrigger, this forms part of an integrated design and I consider that it should not be considered as an independent element.

Conclusion

21. For the reasons given above, and taking into account all other matter raised, I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR