

Appeal Decisions

Site visit made on 13 March 2017

by G J Fort BA PGDip LLM MCD MRTPI

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

Decision date: 10 April 2017

Appeal A Ref: APP/U5360/W/16/3162575

55 New North Road, Hackney, London N1 6JB

- 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 Euro Salamis Ltd against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2016/0759, dated 2 March 2016, was refused by notice dated 9 May 2016.
 - The development proposed is alterations and rear extension to the existing building to provide 4 no. additional flats.
-

Appeal B Ref: APP/U5360/W/16/3162576

55 New North Road, Hackney, London N1 6JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Euro Salamis Ltd against the Council of the London Borough of Hackney.
 - The application Ref 2016/2944, is dated 5 August 2016.
 - The development proposed is the erection of rear extensions to facilitate the creation of three additional self-contained residential units; associated works including creation of side terraces and provision of ground floor cycle parking (revised scheme)
-

Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed and planning permission for the erection of rear extensions to facilitate the creation of three additional self-contained residential units; associated works including creation of side terraces and provision of ground floor cycle parking (revised scheme) is refused.

Application for costs

3. An application for costs was made by Euro Salamis Ltd against the Council of the London Borough of Hackney. This application is the subject of a separate Decision.
-

Procedural Matter

4. In the interests of clarity I have slightly amended the description of development in relation to Appeal B, which was given on the application form as "Erection of rear extensions to facilitate the creation of three additional self-contained residential units. Associated works including creation of side terraces and provision of ground floor cycle parking (revised scheme)". I have substituted a semi-colon for the full stop that appeared before the word "associated" in the description given on the application form.

Background and Main Issues

5. Both appeals relate to alternative designs for the same site. Appeal B follows the failure by the Council to determine the planning application within the statutory timeframe. However, I have been supplied with the draft refusal reason for the proposed development subject to Appeal B, which the Council would have issued if it had been in a position to make a determination.
6. Consequently, I consider the main issues to be:
 - firstly, in respect of Appeals A and B, the effect of the proposed developments on the character and appearance of the host building and the wider streetscene,
 - secondly, in respect of both appeals the effect of the proposed developments on the setting of the listed building at 53 New North Road;
 - thirdly, in respect of Appeal A only, whether the proposed development would supply an appropriate mix of housing for the purposes of the development plan;
 - fourthly, in respect of Appeal A only, the effect of the proposed development on the living conditions of the occupiers of adjacent residential properties, and future occupants of the appeal scheme in terms of privacy.

Reasons

Site, Surroundings and Proposals

7. Set in a prominent and widely visible focal point addressing the fork in New North Road and East Road, the appeal property is a substantial building of three storeys, with a large mansard roof which also contains accommodation, and a projecting single-storey frontage, the roof of which has a balustrade parapet. The appeal building's front elevation is rich in architectural detailing and has a strong sense of symmetry emphasised by its fenestration pattern including the paired dormers and the balance of its decorative balustrades at the main roof level.
8. The rear elevation is a clear contrast to the more architecturally formal façade, but due to the gap between it and the buildings to the rear is very visible in the streetscene, where the mansard roof and irregularly spaced dormer windows, and wider fenestration pattern add to the varied character of the streetscene. However, this rear aspect is marred to some extent by incremental additions including plant and machinery at the lower level. Whilst more modern high rise buildings are in the wider environs of the site including the two blocks to its rear, the appeal property, taken together with the attached listed building at No 53, and the listed cast iron arch and lamp-holders to the front form a

pleasant group that impart a traditional character to this point of the streetscene.

9. At the front, the proposed development subject to Appeal A would remove the existing dormers, and replace them with three dormers, one centrally placed, and one at either side. To the rear, the existing extensions would be demolished to facilitate the redevelopment of a mainly four-storey, flat-roofed extension the roof of which would remove the lower slope of the mansard roof. Flank walling would be introduced to each side of the extension extending the building line of the appeal property's existing gable ends. The proposed development subject to Appeal B would not include substantive changes to the front. Demolitions to the rear would facilitate an extension of mainly four storeys, flat-roofed, but inset from the flank walls of the appeal property where it meets the mansard roof.

Character and Appearance

10. The excessive scale and depth of appeal scheme A, combined with the full width alterations at the roof level, which would obscure the appeal property's existing rear elevation, and erode the form of the mansard roof would read as a dominant and insensitive addition strongly at variance with the character of its host property. For these reasons the proposed development would not read as a sensitive modern interpretation of a traditional closet wing. Due to the prominent siting of the building at the point of the fork in the road, and the wide gap between it and the high rise developments to the rear, the incongruity of these alterations would be widely visible in the streetscene. As the appeal property due to its character and visual separation from the buildings in its environs clearly reads as a building of considerably different character to the high rises to its rear, their presence does not mitigate the harmful effects of the proposed development in this respect.
11. The excessive depth and scale of the proposed extensions to the flank walls would substantially diminish the existing symmetry and balance of these widely visible and prominent elements of the appeal building. As a consequence the extended flank walls would appear as dominant additions insensitive to the architectural form and character of their host building.
12. In terms of Appeal A, the proposed dormer windows on the front would be offset from the centres of the rows of decorative balustrades at eaves level, at variance with their alignment with the fenestration pattern beneath and would thus read as insensitive and incongruous additions, which would upset the architectural balance of the front façade. The central dormer would introduce fenestration considerably out of line with the pattern in the upper storeys of the facade. As a consequence, the proposed dormer arrangement would read as an incongruous and unsympathetic alteration, insensitive to the pattern and balance of its host dwelling, and as a result cause harm to its character and appearance.
13. Whilst appeal scheme B does not include the alterations to the front dormers it would nevertheless introduce considerable built form to the rear of the appeal property. The scale of the flat-roofed element at the roof level of the appeal building would be a reduction to that of appeal scheme A; however, its depth would be greater. Moreover, whilst the width of this element would be inset to some extent from the appeal building's flank walls it would constitute a bulky addition, obscuring and dominating the original roof form and introducing

development of a character strongly at variance to the materials palette and architectural detailing of its host building. Due to the scale, depth and detailing of the proposed development it would appear as a dominant and incongruous addition, and this would not be mitigated to any great degree by the employment of coining, stepping in or matching fenestration in its design.

14. As a consequence, for the reasons given above both proposed developments would be harmful to the character and appearance of their host building and the wider streetscene and would thus conflict with Policy 7.4 of the London Plan-The Spatial Development Strategy for London: Consolidated with alterations since 2011 (adopted March 2016) (the London Plan); Policy 24 of the Hackney Core Strategy (adopted November 2010) (the Core Strategy); and Policy DM 1 of Hackney's Development Management Local Plan (adopted July 2015) (the DM Local Plan). Taken together, and amongst other things, these policies seek to ensure that development optimises the distinctive character of local buildings, has regard to the scale and mass of surrounding buildings, and identifies with and respects the architectural quality and character of the surrounding environment.

Listed Buildings

15. I am required to consider the effect of the proposed developments on the setting of heritage assets. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be given to the desirability of preserving the setting of listed buildings. Paragraph 132 of the National Planning Policy Framework (the Framework) establishes that the significance of a heritage asset can be harmed or lost through development within its setting. The Framework defines the setting of a heritage asset in terms of the surroundings in which it is experienced.
16. 53 New North Road is attached to the appeal property and is of a considerably smaller scale than that latter building. No 53 is listed at Grade II features a mansard roof and is of two storeys, of yellow stock brick in a Flemish bond pattern, with stucco detailing, and gauged brick window surrounds. Its significance resides to a considerable degree in its dignified architectural detailing and the restrained palette of materials employed in its construction; its intimate scale imparts a pleasant variety to the townscape. To the front of the appeal building there is a cast-iron arch with lamp-holders that is listed at Grade II. Its significance largely derives from its ornate detailing and its relationship to the historic townscape including the appeal property and No 53. Taken together, the appeal building, arch and No 53 have visual and historic relationships, that impart a considerable amount of group value.
17. No 53 is tightly bounded by the highway in an urban location where incremental change and redevelopment is not uncommon, as a result its setting is relatively constrained. Nevertheless, the appeal property, due to its inter-visibility with, and physical attachment to, No 53 clearly forms part of the setting contributing to the significance of the listed building. From New North Road, the inter-visibility of the gable elevation of the appeal building with No 53 provides a visually interesting roofscape in contrast to the more austere modern forms to the rear. The gap between No 55 and the higher rise buildings to the rear, provide breathing space for the listed building allowing appreciation of its proportions, a skyline view of the roof ridge, and clear visual separation of the more modern development to the rear and the group of older buildings.

18. Whilst conservation of a listed building's setting need not prevent change, the proposed development subject to Appeal A would introduce a considerable amount of flank walling within this setting more or less immediately to the rear of No 53, eroding the relative spaciousness of the visual gap when viewed from New North Street. The substantially larger scale of the proposed development would dominate No 53's more intimate scale. As a result, the proposed development would constitute an overwhelming and dominant presence in the setting, insensitive to the architectural character and intimate scale of No 53 and thus diminishing its significance.
19. Appeal scheme B proposes a reduced scale of development when compared to appeal scheme A. However, it would introduce a flat-roofed element the materials palette and detailing of which would strongly contrast with No 53, and would be inter-visible with that property from New North Road. Moreover, its scale would dominate No 53's more intimate proportions. As a consequence, it would be a dominant and incongruous feature within the immediate setting of the listed building at jarring variance to its architectural character and harmful to its significance.
20. Thus in accordance with the duty imposed on me by s.66(1), I conclude for the reasons given, that in both cases the proposed developments would fail to preserve the setting of No 53. As a consequence, the proposed developments would conflict with Policy 7.4 and 7.8 of the London Plan; Policies 24 and 25 of the Core Strategy; and Policies DM1 and DM8 of the DM Local Plan. Taken together, and amongst other matters, these policies seek to ensure that new development responds to the architectural quality of its surroundings and preserves the significance of the Borough's designated heritage assets and their settings, by being sympathetic to their form, scale, materials and architectural detail.
21. Due to the scale and siting of the listed arch, its setting comprises principally the immediate surroundings of the streetscene and the ground floor element of the appeal building's front façade. Consequently, both of the proposed developments would not affect this setting to any degree.

Housing Mix

22. Policy DM 22 of the DM Local Plan sets out the requirements for a mix of housing in new developments, and states that at least 33% of market housing schemes should provide 3 or more bedrooms, and a higher proportion of 2 bed than 1 bed units in any given scheme. The policy allows variations to this mix depending on site and area location and characteristics, and the overall viability of the scheme.
23. Whilst the proposed development subject to Appeal A would supply a mix of housing skewed to the smaller end of the market, it would do so on a highly constrained site, located in the middle of two roads, which would limit its attractiveness for family housing. Moreover, the site's accessibility to the public transport network, and adjacency to the centre of Hoxton lead me to the view that the appeal site is located in an area where the Mayor of London's Housing Supplementary Planning Guidance (adopted March 2016) supports the development of smaller residential units.
24. Taking these matters together, the specifics of the appeal site would justify a variation to the size mix given in the DM Local Plan. As a consequence, the

proposed development would supply an appropriate mix of housing for the purposes of the development plan, and would not conflict with policy 3.8 of the London Plan; or Policy 19 of the Core Strategy; or Policy DM22 of the DM Local Plan. These policies, amongst other matters, seek to ensure that new development provides a mix of dwellings to meet the needs of the Borough.

Living Conditions

25. Appeal scheme A would introduce a considerable number of habitable room windows and a balcony area along the rear elevation. I saw that of the buildings to the rear the closest windows to the appeal building are the long linear ones on the flank wall of 134-142 East Road apparently serving circulation space and given the nature of the spaces that these windows serve, I can perceive no potential for harmful overlooking arising from the proposed development in this regard.
26. There are habitable room windows on the front corner of this building, which would be inter-visible with appeal scheme A's rear windows; however, given the orientation of these, and the fact that Nos 134-142's windows are of dual aspect wrapping around the corner of the building, only very limited views into the habitable rooms would be available from the proposed rear windows and balconies of appeal scheme A. Similarly, given that the principal orientation of the corner windows of Nos 134-142 would be across the street, I consider that the potential for intrusive overlooking of the proposed development would be minimal. As a result, I consider that no unduly harmful overlooking would occur as a result of the proposed development. In terms of 43-45 New North Road to the rear of the appeal property the obliqueness of the angle of the habitable room windows closest to the appeal site, and their separation distance would also avoid materially harmful effects in terms of mutual overlooking.
27. As a consequence, I consider that the proposed development would not cause materially harmful effects either to the living conditions of the occupants of 43-51 New North Road and 134-142 East Road, or to those of the future occupants of the proposed development. The proposed development would thus not conflict with Policies 3.5, 7.4 or 7.6 of the London Plan; or Policy 24 of the Core Strategy; or Policy DM2 of the DM Local Plan; or the Mayor of London's Housing Supplementary Planning Guidance. Amongst other matters and taken together, the policies and guidance seek to ensure that developments avoid significant adverse impacts to the amenity of occupiers and neighbours.

Other Matters

28. The proposed developments could help to meet housing supply and intensify residential use on a brownfield site in an area with a high Public Transport Accessibility Level rating. To a limited degree the proposed houses could contribute to the Framework objective of significantly boosting housing supply. However, the limited number of dwellings that would be delivered as a result of the scheme leads me to attach only moderate weight to this matter in the overall planning balance.
29. Like most residential developments, the appeal schemes could have economic benefits accruing from, amongst other things, employment, materials ordering and delivery during the construction phase. However, the time-limited nature of these economic benefits means that I attach only limited weight to them in

the overall balance. Future occupants of the proposed houses could bring more consumer spending into local shops and services; however, given the existing population density of the area, and the relatively limited number of additional residents the appeal schemes could accommodate, this would be unlikely to be of a scale that would make a discernible difference to the local economy of Old Street or adjoining centres, and as a consequence is a matter to which I only attach minimal weight.

30. I am cognisant that any local finance considerations are capable of being material considerations for the purposes of decision-taking under the Town and Country Planning Act 1990 (as amended)¹. The Localism Act 2011 establishes that local finance considerations include Government grants or sums received in payment of Community Infrastructure Levy (CIL). In this case I have been supplied with no substantive evidence about the level of grants that may be triggered by the proposed developments. However, I am mindful of the CIL liability of the proposed development subject to Appeal A, as outlined in the Officer Report. CIL is set as a proportionate charge to render the infrastructure externalities of a proposed development acceptable in planning terms. As a consequence, the amounts of CIL that could be generated by the proposed developments have only a neutral effect on the overall planning balance.
31. In demolishing existing extensions to the rear the proposed developments could remove some unsightly developments that are currently widely visible in the streetscene. However, it is not clear that the proposed developments are the only courses of action that would achieve these objectives. Moreover, the relatively low-rise nature of these structures avoid the level of harm to the setting of the listed building that the proposed developments would cause. As a consequence, this is a benefit to which I only attach minimal weight.
32. I note that there were no objections to the proposed developments from interested parties and that harmful effects to living conditions of adjacent occupiers in terms of outlook and daylight and sunlight could be avoided in both cases. However, these matters are only indicative of an absence of harm in these regards, as opposed to positive benefits of the schemes, and thus have only a neutral effect on the overall planning balance.

Conclusions

33. As I have detected harm to the significance of No 53 arising from development in its setting, I am conscious of the Framework in this respect. I consider that the proposed developments would amount to less than substantial harm to the significance of No 53; however, it does not follow that less than substantial weight should be attached to this harm in the overall planning balance, and the Framework makes clear (at paragraph 134) that this harm should be weighed against the public benefits of the proposal.
34. For the reasons given above, I consider that, taken together or individually, the public benefits advanced for the proposed developments would not outweigh the considerable weight and importance that I attach to the harm caused to the significance of No 53. As a consequence, the proposed developments would conflict with the Framework in this respect.

¹ Per section 143 of the Localism Act 2011

35. In terms of both appeals, their effects to the character and appearance of the host building and its surroundings, and the significance of No 53 would be environmental harms of considerable importance and weight that outweigh the moderate social, economic and minimal environmental benefits of the proposed developments in the overall planning balance. It follows that the proposed developments would thus not comprise sustainable development for the purposes of the Framework.
36. In terms of Appeal A, whilst I have concluded that the proposed development would supply an appropriate mix of housing, and would avoid harm to the living conditions of its future occupants and those of adjacent properties, these matters would not outweigh the harm that would be caused to character and appearance and the significance of No 53.
37. The proposed developments would thus conflict with the development plan insofar as the policies that have been drawn to my attention are concerned. As no material considerations have been advanced that would justify a departure from the development plan in these cases, I conclude, for the reasons given above, and having regard to all other matters raised, that the appeals should be dismissed.

G J Fort

INSPECTOR