



Appeal Decision

Site visit made on 25 April 2017

by **A J Mageean BA (Hons) BPI PhD MRTPI**

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

Decision date: 16 May 2017

Appeal Ref: APP/U5360/W/17/3166382

69 Kingsland High Street, Hackney, London E8 2JS

- 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 Mr Mustafa Cicekci against the Council of the London Borough of Hackney.
 - The application Ref 2106/3084, is dated 16 August 2016.
 - The development proposed is erection of part 2, part 3 and part 4 storey building to the rear yard area to accommodate additional Cafe space (A3 Use) at ground floor and 2 No self-contained flats (C3 Use) at 1st, 2nd and 3rd floor levels. The addition of a 2 storey extension at 1st and 2nd floor levels to rear and side of the existing building to enable the conversion of an existing flat into 2 No self-contained flats.
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Decision

1. The appeal is dismissed.

Main Issues

2. Whilst the appeal is made against the failure to give notice within the prescribed period of a decision on an application for planning permission, the Council has provided an appeal statement in which it sets out its objections. Therefore, on the evidence before me, the main issues are:
 - Whether the proposal would preserve or enhance the character or appearance of the Dalston Road Conservation Area;
 - Whether an appropriate mix of residential accommodation would be provided;
 - Whether the proposal would support sustainable means of transport; and,
 - Whether satisfactory living conditions for future residents would be provided, with particular reference to space standards and outlook.

Reasons

Character and appearance

3. The appeal site forms the rear of a three storey traditional Victorian end terrace property, located on the corner of Kingsland High Street and Bradbury Street in a busy part of Dalston town centre. The buildings fronting Bradbury Street to the west are of similar character. Directly to the north west of the appeal site is
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the entrance to Gillett Square, an outdoor public events space, including some buildings with a more contemporary appearance.

4. The site is located within the Dalston Conservation Area (CA), which was designated in 2014, and therefore forms part of a heritage asset. This application and appeal follows an previous approval which predates the CA designation¹, and as such the policy context relevant to the consideration of the present appeal has changed. Specifically, I note that the Conservation Area Appraisal regards the view through from Kingsland High Street to Gillet Square as being important within the CA². The present proposal must be considered in this context.
5. The proposed four storey addition would fill much of the depth and width of the rear of the plot. The third floor of the proposed extension would be partly set back from the second floor, giving the appearance of a mansard roof, the height of which would be similar to that of the existing building. There would be a narrow gap of around 2m between the existing building and the extension from first floor upwards. However this would not be sufficient to provide clear visual separation between these elements, and in most views the extension would appear as a continuation of the existing building.
6. The previously approved design was of a similar scale to the present proposal, though included a much wider separation gap between the existing building and the extension. This is because the present scheme appears to have greater floor areas at most levels, and includes a third floor addition to the rear of the current building which was not included in the previous scheme. As such, the previous approval would have enabled views through to the rear of the buildings to the south, including visibility of the distinctive butterfly roof forms which are a characteristic element of these buildings. In contrast the extent of the three and four storey elements of the present proposal would enclose the street to an excessive degree, with views through to the rear being lost. In my view this would be unacceptable.
7. The appellant states that the proposal reflects the recent development on the site opposite, at the rear of No 71 Kingsland High Street. However, in this case there is a clear separation gap between the existing building and the rear extension above first floor level.
8. The proposed extension would be of contemporary appearance. Whilst I accept that this part of the CA close to Gillet Square has a more varied character, the proposal would nonetheless be closely related to the existing building and appear as part of the traditional Bradbury Street street scene. The Council has accepted that a reasonably sized extension could be accommodated on this site and I have no reason to take a different view. I also accept that the use of brick would be appropriate. However, no attempt has been made to demonstrate how the proposal would integrate with its neighbours in terms of the architectural treatment of the prominent northern elevation at ground level and above. This lack of contextual appreciation is unacceptable.
9. I accept that the National Planning Policy Framework (the Framework) requires Councils' to avoid unnecessary prescription or the imposition of particular styles,

¹ 2010/0658: Whilst the appellant states that this proposal gained approval in May 2013, the decision notice supplied is dated 12 May 2010. As evidence of this approval being extended has not been provided, my understanding is that it was valid until May 2013.

² Dalston Conservation Area Appraisal 2016

and that concerns about incompatibility with the townscape should not prevent developments which promote sustainability. However, this site does relate to a designated heritage asset, and in such cases Government attaches considerable importance to design matters.

10. I have found that the appeal proposal would not preserve or enhance the character or appearance of this site in terms of either its overall form or the detailing of its northern elevation. In these respects it would be in conflict with Hackneys Core Strategy 2010 (CS) Policies CS24 and CS25, Hackneys Development Management Local Plan (LP) Policies DM1 and DM28 and the London Plan Policies 7.4 and 7.5, all of which require high quality design which relates to its context and supports local character and distinctiveness.

Housing Mix

11. The existing building contains a single 2 bedroom flat. The accommodation currently proposed across both the existing building and extension comprises one 2-bedroom unit and three 1-bedroom units. The appellant states that this reflects the accommodation approved previously. However, from the evidence before me it is clear that the previous approval retained the existing 2-bedroom flat and added one further 2-bedroom flat plus a 1-bedroom flat.
12. In support of this proposal the appellant points to the presumption in favour of sustainable housing development set out in the Framework. The Framework also states that Councils should plan for a mix of housing based on local circumstances. In this respect LP Policy DM22 sets out the preferred mix of unit sizes³, with the intention of ensuring that a good selection of housing types and tenures are built. Reference is made to the acute shortage of family dwellings (3 bedroom+), though it is noted that precise requirements will vary according to the site location and characteristics. CS Policy CS22 also states that in sustainable locations a lower proportion of family homes may be acceptable.
13. This is a town centre location and as such I accept that it may be less suited to family accommodation. Nevertheless, when assessed against local policy the number of 1-bedroom units currently proposed would be excessive. The previous approval did include more 2-bedroom than 1-bedroom units and in this respect partially satisfied policy. In the present case no justification for the proposed dwelling mix has been provided.
14. I therefore conclude that the proposal would not provide an appropriate mix of residential accommodation. In this respect it would conflict with CS Policies CS19 and CS22, and LP Policy DM19 and DM22, which taken together require housing development to respond to local needs.

Sustainable transport

15. The site is located within an area which has a PTAL rating of 6a⁴. As such, in accordance with LP Policy DM47, the Council has indicated that it would expect this to be a car free development, which, according to the sub-text of this policy, should be secured by the use of a planning agreement or condition. The fact that no objections have been made to the proposal from the Council's highway

³ In terms of market housing the preferred mix is 33% 3 bed(+), and there should be a higher percentage of 2 bed units in comparison to 1 bed units.

⁴ On a scale of 1-6 where 6b is the highest rating

consultees does not in itself indicate that the lack of consideration of this matter, in what is a controlled parking zone, renders the proposal acceptable.

16. As no vehicle parking plans were submitted for this application it appears that the assumption has been made that it would be car free, though no indication of the mechanism by which this would be secured has been given. Whilst the appellant indicates that he would be happy to provide a Section 106 agreement to address such matters, as such a document is not before me I am unable to take this into consideration.
17. A limited number of cycle parking spaces are indicated on drawing 1939.P.01 for the two units accessed from the rear entrance (Flats 1.1 and 2.1). However, similar provision does not appear to have been made for the front two flats (Flats 69A and 69B). As such, and noting that the cycle parking for the rear flats would be in a constrained location below the stairs, this provision would not appear to be particularly convenient or accessible.
18. I conclude on this matter that in the absence of the means of securing car free housing, and the inadequacy of provision for cycle storage, the proposal has not demonstrated that it would support sustainable means of transport. In this respect it would conflict with the CS Policy CS6, LP Policies DM44, DM45, DM46 and DM47, and the London Plan Policies 6.9 and 6.13, which taken together seek to reduce car dependency and promote walking and cycling, particularly by ensuring that cycle parking is secure, integrated, convenient and accessible.

Living conditions

19. Flat 69A, located on the first floor of the existing building, would have a floor area of 45.4m². This is below the 50m² required by the *nationally described space standard*⁵ for 2 bedroom three person accommodation. However, this standard sets out the internal space requirements for new buildings. As the flat in question is within the existing building I accept that, given the relatively modest shortfall in size, a strict application of the standard would not be reasonable.
20. The accommodation has been designed so that three of the units would have small outdoor terrace areas. However the value of these spaces would be limited by size and the fact that they would have restricted outlook. Specifically, the highly enclosed nature of the terrace associated with Flat 69A would undermine its usefulness for the future occupiers of this dwelling. The bedroom of this flat would also have a window looking out directly onto the terrace associated with Flat 1.1 and would therefore need to be obscure glazed and non-opening.
21. However, I have noted the challenges for design on this constrained site, and the fact that the main elevation of the new flats would be north facing. The outlook from most windows would be acceptable, given the nature of this constrained urban environment, and some rooms would be dual aspect. My view is that, overall, the standard of accommodation would be not unreasonable.
22. I therefore conclude that the proposal would provide satisfactory living conditions for future residents with particular reference to space standards and outlook. In this respect it would comply with the LP Policy DM2 and the London

⁵ *Technical Housing Standards – nationally described space standard* DCLG, 2015

Plan Policy 3.5 which together seek to ensure good design which provides a high standard of amenity.

Conclusions

23. Whilst the principle of an extension to the existing building has been accepted, and I have found that the proposal would provide satisfactory living conditions for future residents, I have found harm in relation to three of the main issues in this case.
24. The harm to the CA, a designated heritage asset, would be significant, though it would be less than the substantial harm referred to by the Framework at paragraph 133. Therefore, in accordance with paragraph 134, this harm must be weighed against the public benefits of the proposal which in this case would be the provision of three additional units of accommodation, constructed to high environmental standards in a sustainable location. However, whilst the value of additional accommodation carries significant weight in favour of the proposal, this does not outweigh the harm to the significance of the designated heritage asset. The conflict with housing mix and sustainable transport policies also weigh against the proposal.
25. I note the appellant's frustration about the lack of contact from the Council in this case, and accept that limited objections were made to this proposal. However, these matters do not alter my conclusion in this case. Although the Council has not provided clear referencing to relevant policies within their reasoning, such cases must nonetheless be determined in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.
26. In this respect, as material considerations do not indicate that the appeal should be determined other than in accordance with the development plan taken as a whole, the appeal is dismissed and planning permission refused.

AJ Mageean

INSPECTOR