



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: 7 June 2017

Appeal Ref: APP/U5360/W/17/3167851

Garages to the rear of 76 Malvern Road, London E8 3LJ

- 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 David B. Jan against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2016/3278, dated 2 September 2016, was refused by notice dated 31 October 2016.
 - The development proposed is alterations to existing garages to form a single double garage in line with public paving, having a pitched roof over.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would preserve or enhance the character or appearance of the Graham Road and Mapledene Conservation Area, including the likely effect on the adjacent mature tree.

Reasons

3. The appeal site currently has two single garages and is located to the rear of an end of terrace property, fronting onto Gayhurst Road. It is within an area of traditional brick built two and three storey terraced houses with small front gardens arranged in perimeter blocks. Off-road parking provision is mostly limited to locations close to the corners of some blocks. The mature trees in rear gardens provide an attractive green backdrop to the area, which is most evident through the gaps between the terraced blocks in these corner locations.
 4. The existing flat roofed garages, whilst of modest design with a simple buff brick frame, have a somewhat neglected appearance, largely due to the out of character corrugated metal fronting one of the garages.
 5. Whilst the proposed double garage would have the same rear building line as the current garage it would sit further forward in line with the front wall of the adjacent electricity sub-station. It would have a pitched roof with a significant front gable and would be constructed from the buff brick typical of the area. As the height of the brick area above the door would be greater than the door itself, this would appear as a prominent and intrusive addition to the local street scene. Such concerns would be exacerbated by the width and horizontal design of the door. Whilst gable ends are a visible element of the end of terrace properties in this area, and I note that the appellant has reduced the proposed ridge height, the adoption of this design in such a conspicuous location and in relation to an ancillary building
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would be incongruous and consequently harmful to the local street scene. I accept that the loss of the current building would not cause harm, and that the greater length of the new garage would enable the appellant to store his large cars. However the design of the garage would not be appropriate for this area.

6. The mature tree stands within the garden of No 74 Malvern Road, directly adjacent to the shared boundary with No 76. The appellant counters the Council's concerns about the effect that laying foundations for the garage would have on the tree roots by stating that it would be built on the existing foundations. However, a comparison of the existing and proposed ground floor plans illustrates that the proposed garage would extend slightly further to the east, towards the tree. Therefore any excavation required would be likely to impact on the root area. Also the roof pitch would be likely to require the removal of the lower limbs, creating a degree of unbalance within its crown. These matters could potentially undermine the tree's longer term health.
7. The appellant states that the Council has previously indicated that they would have no objection to the loss of the tree, though no evidence in support of this statement is presented. Furthermore, as the tree is a visible element of the local street scene, my view is that it has value as part of the landscape setting of this area. Whilst I note the appellant's frustration that the concerns about the tree were not mentioned earlier, these are clearly articulated in the decision notice and the appellant has had the opportunity to address them as part of the appeal process.
8. For these reasons I conclude that the proposal would not preserve or enhance the character or appearance of the Graham Road and Mapledene Conservation Area, and that it would be likely to have a detrimental effect on the adjacent mature tree. As such it would conflict with the London Plan Policies 7.4, 7.6, 7.8 and 7.21, the Hackney Core Strategy 2010 (CS) Policies 24 and 25, and the Hackney Development Management Local Plan 2015 (LP) Policies DM1, DM28 and DM35 which, amongst other things, seek to secure a high standard of design that enhances local character, particularly in conservation areas, and to protect trees with amenity value.
9. The appellant notes that the Council has not referred to the *Graham Road and Mapledene Conservation Area Appraisal* (CAA), assuming that such lack of reference suggests that the proposal complies with this document. The CAA, prepared in 1997 to support the designation of the Conservation Area, sets out principles to guide development and is a material consideration in such cases. Nevertheless, in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, the development plan is the basis on which planning decisions are made. As such in this case the Council has referred to conflict with the London Plan and the CS and LP in support of their decision.
10. Finally, the statutory duty in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. In this case whilst the harm caused by the proposed garage would be significant it would be less than the substantial harm referred to by the National Planning Policy Framework. However, the public benefits that would accrue, including the removal of the garage set back from the pavement which may address fly tipping issues, do not outweigh the harm to the significance of this designated heritage asset.
11. As material considerations do not indicate that I should conclude other than in accordance with the development plan taken as a whole, the appeal is dismissed.

AJ Mageean INSPECTOR