



Appeal Decisions

Site visit made on 8 August 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: 6th September 2017

Appeal A: APP/U5360/W/17/3175444

21 London Lane, Hackney, London E8 3PR

- 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 Tristin Norwell against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2016/3584, dated 16 September 2016, was refused by notice dated 19 December 2016.
 - The development proposed is remodelling and retention of existing 2 storey live-work building to create a remodelled 4, part 5 storey mixed use building providing 2 no Business (B1) units on rear ground and 1st floors and 3 no C3 flats (1x1 bed, 1x2 bed, and 1x3 bed).
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Appeal B: APP/U5360/W/17/3175462

17 London Lane, Hackney, London E8 3PR

- 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 Jo Hagan against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2016/3647, dated 16 September 2016, was refused by notice dated 15 December 2016.
 - The development proposed is remodelling and retention of existing 2 unit 2 storey live-work building to create a remodelled 4, part 5 storey mixed use building providing 2 no Business (B1) units on rear ground and 1st floors and 3 no C3 flats (1x1 bed, 1x2 bed, and 1x3 bed).
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Appeal C: APP/U5360/W/17/3175963

19 London Lane, Hackney, London E8 3PR

- 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 Kevin Kingston against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2016/3630, dated 16 September 2016, was refused by notice dated 20 December 2016.
 - The development proposed is remodelling and retention of existing 2 storey live-work building to create a remodelled 4, part 5 storey mixed use building providing 1 no Business (B1) unit on rear ground and 1st floors and 4 no C3 flats (1x1 bed, 2x2 bed, and 1x3 bed).
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Decisions

Appeal A: APP/U5360/W/17/3175444

1. The appeal is dismissed.

Appeal B: APP/U5360/W/17/3175462

2. The appeal is dismissed.

Appeal C: APP/U5360/W/17/3175963

3. The appeal is dismissed.

Procedural Matter

4. Whilst the application forms relating to both Appeal A, No 21 London Lane and Appeal B, No 17 London Lane, refer to the creation of 1 x 1 bed, 1 x 2 bed and 1 x 3 bed units, the plans and supporting information indicate that these proposals are in fact for 1 x 1 bed and 2 x 2 bed units¹. I have considered these appeals on this basis.

Background and Main Issues

5. The appeal properties comprise a short terrace of three two-storey properties located within the Mare Street Conservation Area. Each of these properties has been the subject of previous planning applications and approvals. The most recent and relevant in relation to No 21 involves the reconfiguration of the existing live work unit, a 2 storey rear extension at ground floor and first floor levels and a 2 storey roof extension at second and third floor levels to form three residential units. Work to implement this approval has commenced on site².
6. In relation to No 17 work to implement a previous approval has also commenced on site³. This involves the reconfiguration of the two existing live work units, a 2 storey rear extension at ground floor and first floor levels and a 2 storey roof extension at second and third floor levels to form three residential units.
7. Finally, in relation to the central property, No 19, an expired scheme relating to a 2 storey rear extension and a second floor roof extension to allow for the creation of two residential units is the subject of a current application⁴. However, at the present time I understand that this scheme does not have planning permission.
8. Therefore the baseline positions for the assessment of the proposals in relation to No 17 and No 21 are as illustrated in the schemes which are currently being implemented. However, the assessment of the proposals in relation to No 19 must proceed on the basis of the unaltered two storey building.
9. Whilst the appeal proposals have been submitted concurrently and propose schemes of similar and corresponding appearance for each property, the appellants state that due to the separate financial arrangements of each owner it is not possible to submit a joint scheme. As such the appellants suggest that the schemes could progress either together or separately. However for the purpose of these appeals, as no mechanism or agreement is in place to secure the delivery of all three schemes concurrently, their assessment must proceed on the basis of their individual implementation.

¹ The second floor residential unit 2 at No 17 London Lane is incorrectly labelled as a 3 bed unit.

² 2013/4234. Scheme also the subject of 2016/4721, undetermined.

³ 2013/4232. Scheme also the subject of 2016/4773, undetermined.

⁴ 2016/4741.

10. As a result the main issues in all three appeals are:

- Whether the proposals would preserve or enhance the character or appearance of the building to which they relate, the terraced row and the Mare Street Conservation Area;
- The effect of the proposals on the living conditions of the occupiers of adjoining and adjacent properties with particular reference to the provision of light and outlook;

Additionally, with respect to Appeal A and Appeal B only:

- The effect of the proposals on the provision of accommodation within the Borough which is suitable for families.

Reasons

Character and appearance

11. The appeal sites are located adjacent to the western boundary of the Mare Street Conservation Area (CA), in an area of mixed commercial and residential uses. This part of London Lane has buildings of varying character, including the impressive five storey nineteenth century warehouse building at No 9-11 London Lane and two storey traditional terraced houses on the northern side of this road. Whilst the scale and height of these buildings varies, overall there is a stepped reduction in building height to the west of Mare Street and south of London Lane.
12. The Conservation Area Appraisal 2000⁵ stated that the northern side of London Lane was in need of upgrading and repair. At the time of my site visit a large plot centred on 22-44 London Lane opposite the appeal sites was being redeveloped with a significant building of contemporary appearance, contrasting with the predominate use of brick and render elsewhere in this part of the CA. This scheme reaches 6 storeys in height at the corner with Mentmore Terrace, though steps down to three stories adjacent to the terraced housing to the east. I accept this area is undergoing significant change, though I note that most of the other schemes referred to by the appellants are outside the CA.
13. The appeal buildings date from the late 20th Century and are two storeys in height with a combination of brick and render front facades. They are described as being *of poor design and inappropriate scale that detracts from the qualities of this part of the proposed Conservation Area*⁶. As such, given the 'modest' architectural value of these properties the principle of their individual extension at roof level and to the rear has been accepted in each case. However, the approved schemes retain the original appearance of their front elevations. To the rear of these properties is a large yard area, though the extant approvals have established the principle of extending the rear building line of the appeal properties significantly into this area.
14. The appellants state that they do not understand why the appeal sites were included in the CA. However it is clear that the area bound by London Lane, Silesia Buildings and Gransden Avenue contains a number of distinctive warehouse and factory buildings which contribute to the setting of 9-11 London

⁵ Mare Street Conservation Appraisal April 2000

⁶ *ibid*

Lane and the character of the wider CA. This context should inform the approach to new design within this area.

15. Each of the appeal schemes would be five storeys in height, a substantial increase from their original two storey height. Whilst the principle of the individual extension of these buildings, and others in the vicinity, has already been established, approved schemes do not feature the increase in the vertical mass and bulk to the degree proposed in the appeal cases. Therefore, whilst the appellants' suggest that individually these structures would appear as a discrete 'towerette', the juxtaposition of significant height differences within this terrace would appear as jarring and discordant elements within the established townscape.
16. The appellants also argue that these proposed additions would not appear substantially larger than the extant approvals. In this respect I note that they would be setback at fifth floor levels to the front and rear elevations, and in the case of No 17 and No 21, to the east and west respectively, with additional setbacks to the rear at fourth floor levels. Nonetheless, whilst the extant approvals for No 17 and No 21 include two storey rear extensions and two roof extensions, they will be substantially set back to the rear at second floor level and involve a small centrally positioned addition at third floor level. They will therefore be considerably less bulky than the appeal proposals.
17. The proposals for No 17 and No 21 would appear particularly incongruous in relation to the current two storey height of No 19. If the scheme previously consented for No 19⁷ were to gain approval, this amended baseline consideration would mean that the degree of incongruity and imbalance within the terrace would lessen. However the additional bulk and mass resulting from the implementation of either or both of the proposals for No 17 and No 21 would still be incompatible with both the scale and appearance of the terrace as a whole.
18. I accept the appellants' point that the two storey terrace currently appears at a lower level than some surrounding buildings, particularly the substantial building at 9-11 London Lane. I also note that the redevelopment opposite will be four stories in height opposite the appeal site. Nevertheless the buildings to the west and along Gransden Avenue are of more modest two and three storeys in height. Whilst No's 23-27 London Lane to the west are two storey with two storey roof extensions, these extensions are stepped away from the front elevation and do not appear out of scale in this setting.
19. Even though I accept that the additional fifth storey of the appeal proposals would not be visible in public views from the front of these buildings they would be seen in longer range views. Whilst I also accept that 9-11 London Lane is itself five stories, overall the appeal schemes, particularly the proposals for No 19 and No 21, would not reflect the reducing scale of the streetscape from Mare Street and within Gransden Avenue, and therefore would not integrate well with this context.
20. Whilst I understand that the proposals would use a contemporary *rain water façade system* consisting of vertical panels with alternating bands of glazing and cladding, limited detail has been provided about the form and finish of these elevational treatments. Whilst I accept that this site could accommodate

⁷ Involving a single storey roof extension as well as a two storey rear extension

some variation on traditional materials, this lack of detail means that the acceptability or otherwise of this aspect of the schemes cannot be determined. In basic terms I accept the appellants' point that these proposed materials, along with the extent of glazing to the rear elevation, could give these structures a light appearance. However, having noted their size and bulk I do not agree that this would serve to substantially reduce the perceived mass of these proposals as individually constructed.

21. Whilst I have noted that a mechanism to secure the concurrent implementation of all three schemes has not been presented, as these proposals have been designed to complement each other their composite design would alleviate some of the concerns regarding the incongruity of the appearance of these proposals individually. Their combined implementation would create a distinctive design which in some ways would reflect the evolving character of the area and respond to the requirements of the Hackney Local Development Framework Core Strategy 2010 (Core Strategy) Policy 24, which requires new development to seek to enrich and enhance the built environment. Nevertheless some concerns would remain regarding the combined bulk of the proposals and their failure to reflect the reducing scale of buildings away from Mare Street.
22. The appellants' note that the Conservation Area Advisory Committee did not object to the proposals. Nevertheless this lack of objection is not in itself an indication of acceptability, particularly as the Government attaches great importance to design. Furthermore, 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 which would be caused by these proposals would be significant, it would be less than the substantial harm referred to by the National Planning Policy Framework (the Framework).
23. In accordance with paragraph 134 of the Framework I am required to consider the public benefits that would accrue from these proposals. In each case these proposals would retain live/work units and also provide further accessible and affordable commercial space, for which the appellants have identified demand from a range of local creative industries. Additionally, No 17 and No 21 would each provide three residential units and No 19 would provide four residential units. However, whilst I accept that these benefits would be of value, they would not outweigh the harm of each proposal to the significance of the designated heritage asset.
24. I therefore conclude that, when considered individually, the proposals for Appeal A, Appeal B and Appeal C would fail to preserve or enhance the character or appearance of the building to which they relate, the terraced row and the Mare Street Conservation Area. Therefore, whilst I have noted that a composite of all three proposals may comply with the Core Strategy Policy 24, when assessed individually there would be conflict with both Core Strategy Policies 24 and 25 in terms of the need to respect the architectural qualities of the surrounding area and make a positive contribution to the enhancement of heritage assets. Similarly the Hackney Development Management Local Plan 2015 (Local Plan) at Policies DM1 and DM28 requires that new development addresses its setting and context, with innovative proposals being considered when they are in scale with their surroundings. There would also be conflict with the London Plan Policies 7.4, 7.6 and 7.8 which require new development

to respond to local character, make a positive contribution and conserve the significance of heritage assets.

Living conditions

25. In each case the Council has referred to aspects of concern about the effect the proposals would have on light reaching properties to the east, west and north. I will examine each area of concern in turn.
26. I will look firstly at the effect of each proposal on properties to the east. Starting with No 17, the five storey apartment block on the corner of London Lane is located on the other side of a narrow carriageway, with large windows to what appear to be habitable rooms at all levels facing No 17. In the extant approval, whilst the second floor is illustrated as rising directly from the existing side wall, it is set back a little to the front and notably to the rear. The third floor is set back considerably to the front, side and rear. In contrast in the current scheme there would be no set back at second floor level, a modest amount of setback to the front and rear at third floor level, and a significant degree of set back to the fourth floor. Overall, there would be an increase in building mass adjacent to the apartment block at third floor level in comparison with the approved scheme. Bearing in mind the narrow width of the carriageway between the two buildings, my view is that there would be some modest increase in light loss to the lower level windows on the western elevation of 9-11 London Lane.
27. To the east of No 19 is No 17. The extant approval for No 17 illustrates a significantly sized second floor amenity area to the rear of the building, along with rear rooflights to second and third floors. I accept that part of the fourth and fifth floors of No 19 would be stepped away from No 17 to the rear. Nonetheless there would be a notable increase in building mass close to the rear light sensitive areas of No 17.
28. Looking at the impact of No 21, to the east is No 19. As this building does not have rear windows, nor rear habitable areas, the proposed increase in the building mass adjacent to No 19 would not have a detrimental effect in terms of light loss.
29. Turning to consider the effect of these proposals on light reaching properties to the west, the proposals for No 17 would not have a detrimental effect on No 19 due to the lack of rear habitable areas at present. However, should the expired approval for No 19 gain planning permission, similar issues around the effect of the building mass proposed for No 17 and No 21 on rear windows and habitable areas may arise.
30. Looking at the effect of the proposals for No 19 on light loss to No 21, the extant approval for No 21 illustrates a rear second floor amenity area plus second and third floor rooflights. As the proposed scheme would present a solid five storey height wall directly adjacent to this property this would have a significant impact on sun reaching the rear light sensitive area of this property, particularly during the earlier part of the day.
31. Whilst not specifically raised by the Council, the occupant of No 23 London Lane, located on the opposite side of Gransden Avenue to the west of No 21, has raised concern about the effect of the development at No 21 on light reaching his property. Whilst the approved scheme for this site includes a

significant setback at third floor level away from No 23, the current proposal would rise to five storeys. Apart from the fifth storey there would be little setback. It is therefore possible that there could be some detrimental effect in terms of light loss. No 23 has a significantly sized two storey roof extension and what appear to be windows to habitable rooms on the elevation facing the appeal site. However, the main windows to this property are to the south and north, suggesting that the appeal scheme would not cause significant harm in terms of light loss.

32. Finally in terms of light loss, to the north of the appeal schemes is the redevelopment site at No 22-44 London Lane. As noted above, this is a significantly sized scheme rising to 6 storeys at the corner with Mentmore Terrace, though it will be 4 storeys in height opposite the appeal site. It is possible that the appeal proposals could, collectively or individually, have some effect on light levels reaching the dwellings fronting the south facing elevation of this redevelopment, particularly during the winter months. However, the appeal properties have a large set back from the back of the pavement. I also note that the area between these buildings has a number of mature trees which already affect light levels. Overall any potential harm resulting from these proposals would in my view not be significant.
33. The appellants' argue that an assessment of the effect of the proposals on light should not be required as such an assessment was not required for the extant approvals. However, my view is that the absence of harm in relation to light loss to the schemes currently being implemented at No 17 and No 19, and to 9-11 London Lane, has not been demonstrated.
34. Turning to the effect of the proposals on outlook, again it is appropriate to review each scheme in turn. Whilst the Council considers that the proposals for No 17 and No 21 would have an overbearing effect on the outlook for the occupiers of No 19, as there are no windows to habitable rooms or amenity areas to the rear of this building the occupiers of this live/work unit would not be harmed by these schemes. Again, this may change if the expired approval for No 19 were to gain planning permission.
35. Looking at the effect of the proposal for No 19 on No 21, as the blank side wall of this scheme would rise to 5 storeys directly adjacent to the second floor rear amenity area of this property, it would appear as an oversized and overbearing addition when viewed from this space. The proposal for No 19 would have a lesser impact on the rear second floor amenity area relating to No 17 due to the set back on this side at fourth and fifth floor levels, such that its effect on the outlook from this amenity area would not be overbearing.
36. I have examined this issue on the basis of the individual implementation of each scheme and found there to be some issues in terms of the relationship of the appeal sites to each other. However, it appears that were these schemes to be considered and implemented consecutively the issues identified would be resolved by virtue of their complementary scales, floor levels and positions of amenity areas. That said, concerns about possible light loss to the apartments at 9 to 11 London Lane would remain.
37. In relation to Appeal A I conclude that the proposal would not have a harmful effect on the living conditions of the occupiers of adjoining and adjacent properties with particular reference to the provision of light and outlook. In these respects it would comply with Core Strategy Policy 24 and Local Plan

Policy DM2, which require that development should not have a significant adverse effect on the amenity of neighbours. It would also comply with the London Plan Policy 7.6 which requires that development should not cause harm to the amenity of surrounding land and buildings.

38. In relation to Appeal B and Appeal C I conclude that the proposals would have a harmful effect on the living conditions of the occupiers of adjoining and adjacent properties with particular reference to the provision of light and outlook. In these respects they would not comply with the policies noted above.

Accommodation for families

39. Core Strategy Policy 19 requires new residential development to respond to current and future housing needs in the Borough, with the supporting text stating that *the demographic of Hackney's population creates a greater requirement for family sized accommodation (3 bed or larger) than most other London boroughs*. This requirement is further clarified by Local Plan Policy DM22 which at Table 2 identifies the preferred dwelling mix for market housing as 33% of units having 3 or more bedrooms.
40. The Appeal A and Appeal B properties would provide 1 x 1 bed unit and 2 x 2 bed units, though in both cases the 2 bed units occupying the third floors (and fourth floor in relation to Appeal A) would have significant floor areas of around 165m². The appellants' note that these units could be altered to create 3 bed units. Whilst I accept that it seems that this could be possible, amended schemes are not before me. Nevertheless, should these proposals be acceptable in other respects, this is a matter which could be resolved and therefore it would not be reasonable to withhold planning permission on this basis alone.
41. On this point I conclude that the Appeal A and Appeal B proposals would be acceptable in terms of the provision of accommodation within the Borough which is suitable for families. In this respect they would comply with the London Plan Policy 3.8, the Core Strategy Policy 19 and the Local Plan Policies DM19 and DM22 which, taken together require new housing development to incorporate a range of sizes and types and to reflect Hackney's current and future housing needs.

Conclusion

42. I have found that Appeals A and B would be acceptable in terms of the provision of accommodation suitable for families. I have also found that Appeal A would be acceptable in terms of its effect on the living conditions of the occupiers of adjoining and adjacent properties, though Appeals B and C would not be satisfactory in this regard.
43. However, in all three cases I have found harm in relation to the character and appearance of the Mare Street Conservation Area. This latter issue is decisive in these cases. Therefore as material considerations do not indicate that I should conclude other than in accordance with the development plan taken as a whole, Appeal A, Appeal B and Appeal C are dismissed.

AJ Mageean

INSPECTOR