
Appeal Decision

Site visit made on 10 October 2017

by Michael Boniface MSc MRTPI

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

Decision date: 13th October 2017

Appeal Ref: APP/U5360/W/17/3180012

87 Kingsland High Street, Hackney, London, E8 2PB

- 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 Andre Grant against the Council of the London Borough of Hackney.
 - The application Ref 2017/1827, is dated 3 May 2017.
 - The development proposed is demolition of existing extension at rear of retail premises and construction of three storey building to provide two residential units.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. No formal decision was issued by the Council and no statement has been provided in response to the appeal. However, correspondence between the Council and the appellant during the application process is before me and I have had regard to the matters raised by the Council in reaching my decision.
3. The submitted drawings were amended during the course of the application involving minor alterations to the rear of the building. The Council has had the opportunity to comment on the amendments and as they reduce the size of the building slightly I am satisfied that no party would be prejudiced by me taking them into account.

Main Issues

4. In light of the above, the main issues are whether the development would preserve or enhance the character or appearance of the Dalston Conservation Area; the effect on neighbours' living conditions, with particular regard to overlooking from the roof terrace and loss of light; whether acceptable living conditions would be created for future occupants' of the development; and whether a suitable mix of accommodation would be provided in the context of local need.

Reasons

Character and appearance

5. The appeal property is part of a tall terrace which retains much of its Victorian character and design quality, albeit that modern shop fronts have had a marked effect on the appearance of the building at street level. The rear of the

terrace is similarly traditional in its appearance, with a typical 'saw tooth' roof line, uniform window arrangement and London brick. Small yards exist behind the buildings which appeared to be used predominantly for parking and servicing the retail units and many accommodate rear single or two storey extensions or outbuildings.

6. A small service road runs to the rear of the terrace and apartment or muse style properties have relatively recently been constructed. The service road, known as Gillett Place, is gated and leads off of Gillett Square, an open public space that is home to a range of commercial and entertainment uses. It appeared well used at the time of my visit and this is supported by the submissions to the appeal. From the square, views towards the rear of the appeal property and wider terrace are readily available, terminating in a view of the listed Rio cinema.
7. The existing rear protrusions would be removed from the principal building as part of the proposals and the proposed development would extend from the remaining building, initially at two storeys and then increasing to three storeys with an additional appendage serving a roof terrace above. It would extend up to the boundary with Gillett Place and would become a building of substantial scale, mass and height. It would far exceed the scale of existing structures to the rear of the terrace and would not appear as an ancillary subservient structure as existing buildings do.
8. Instead, the expansive addition would become a prominent and visually dominating building, detracting from the simple rear elevation of the Victorian terrace, obscuring and dominating it and the wider terrace, significantly diminishing the open views towards the Rio cinema. Although the development would introduce activity to Gillett Place this is already provided by the existing residential development opposing the yards and, in isolation, the development would not reflect the simple utilitarian character of this small service road. There is no reason to expect that other yards will be developed in a similar manner, as the appellant suggests.
9. The Dalston Conservation Area Appraisal (2016) notes that the area has been damaged by modern influences and general decline but notes that the conservation area continues to include a range of high quality and important traditional buildings that should be protected as positive attributes of the conservation area. These buildings are all the more important in the context of the loss of integrity and damage to the character of the area that has occurred over time. The proposed development would be at odds with the traditional terrace I have identified in this case and would become a visually intrusive anomaly.
10. Therefore, the development would harm the character and appearance of the conservation area. Whilst the harm would be less than substantial in the context of the conservation area as a whole, this is not outweighed by the public benefits identified in this case, including the re-use of previously developed land in an accessible location, tidying up a neglected site, the environmental efficiency of the proposed building, the contribution to local housing supply and any improvement to site security.
11. As such, the development would be in conflict with Policies 7.4, 7.6 and 7.8 of the London Plan (2016) (LP); Policies 24 and 25 of the Core Strategy (2010) (CS); Policy DM28 of the Development Management Local Plan (2015) (DMLP);

and the detailed guidance contained in the Council's Residential Extensions and Alterations Supplementary Planning Document (2009), which together, seek high quality design that respects local character and distinctiveness, require the preservation and enhancement of heritage assets and seek to guide the scale and dimensions of extensions and alterations to existing buildings.

12. I have had regard to the examples of other developments granted planning permission by the Council¹ submitted by the appellant. However, the full details of these cases are not before me and I do not know the circumstances under which they were granted planning permission. As such, I have determined the appeal on its own merits.

Neighbours' living conditions

13. A partially enclosed roof terrace would be provided above the residential units allowing views towards the appeal property and surrounding buildings, including residential units. The appellant does not address the concerns of the Council in this respect and it seems to me that there would be a very real likelihood of overlooking neighbouring properties leading to a harmful loss of privacy. At the very least there would be a perceived loss of privacy by surrounding residents and this would be detrimental to their living conditions.
14. The proposed building would be of significant height, scale and mass. It would also stand very close to properties on the opposite side of Gillett Place and those within the appeal property and wider terrace. Very little evidence has been provided as to the effects of the development on the daylight and sunlight reaching neighbouring residential properties. Some analysis is shown in the submitted drawings and the appellant concludes that BRE Guidelines are satisfied. The analysis provided in the appellant's statement has not been challenged by the Council but I nevertheless find it lacking.
15. There is no evidence that residential properties within the neighbouring terrace, particularly Nos 85 and 89, would continue to receive acceptable levels of light. To the contrary, the appellant identifies a breach of the '45 degree rule' from a neighbouring window as a result of the development. Numerous other infringements are also identified but these are dismissed on grounds that they are already infringed by the existing building. In my view, this does not demonstrate that the significantly larger building now being sought would not have much worse impacts on the levels of light received by neighbouring properties. Overall, I am not satisfied that neighbours' living conditions would remain acceptable.
16. As such, the development would be in conflict with Policy 7.6 of the LP and DM2 of the DMLP, which seek to protect neighbours' living conditions.

Living conditions of future occupants'

17. The development plan requires the highest standards for new accommodation in London, including Hackney. In this case, the scale of development within a relatively small plot constrained by the existing buildings and land uses has led to compromised living conditions for future occupants'.
18. The Council identifies a number of bedroom windows which face on to small courtyards which are enclosed by other buildings, including the existing terrace

¹ Ref. 2012/1394, 2013/3435 and 2013/3931

and neighbouring outriggers. This would significantly reduce the amount of light reaching the room, result in an extreme sense of enclosure, and poor outlook dominated by existing buildings. One of the bedrooms would have no outlook whatsoever because its window and roof lantern would both be obscure glazed.

19. This does not represent the high quality living space required for the capital city and would not provide acceptable living standards for future occupants'. As such, the development would be in conflict with Policy 3.5 of the LP; Policy CS24 of the CS; or Policy DM1 of the DMLP, all of which require a high standard of living accommodation.

Accommodation mix

20. The proposed scheme would deliver two 2-bedroomed units. The Council suggests that this does not reflect the type of accommodation needed in the area but no evidence has been provided to support this assertion. Whilst the development plan notes a need for additional family housing, it does not preclude other types, particularly where the site circumstances make it impractical to provide suitable family accommodation, as is the case here according to the appellant. In light of the above, I find no conflict with Policies 3.3, 3.4 and 3.5 of the LP; Policies CS19 and CS22 of the CS; or Policy DM22 of the DMLP.

Conclusion

21. Whilst the development would provide an acceptable type of accommodation, it would harm the character and appearance of the conservation area and neighbours' living conditions. It would also provide an unacceptably poor standard of accommodation for future occupants.
22. In light of the above, and having considered all other matters, the appeal is dismissed.

Michael Boniface

INSPECTOR