



Appeal Decision

Site visit made on 29 May 2019

by Sian Griffiths BSc(Hons) DipTP MScRealEst MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 2 August 2019

Appeal Ref: APP/U5360/W/19/3222745

61 Kenninghall Road, Hackney, London E5 8DQ

- 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 M & R Developments against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2018/1570, dated 2 May 2018, was refused by notice dated 14 August 2018.
 - The development proposed is described as a one-storey, three-bedroom family home.
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Decision

1. The appeal is allowed, and planning permission is granted for a one-storey, three-bedroom family home at 61 Kenninghall Road, Hackney, London E5 8DQ in accordance with the terms of the application, Ref 2018/1570, dated 2 May 2018, subject to the conditions in the attached schedule.

Preliminary Matters

2. The National Planning Policy Framework was revised in February 2019 (the Framework). I have taken this into account as part of the determination of this appeal.

Main Issues

3. The main issues are:
 - The effect on character and appearance, where it relates to the adjacent non-designated heritage asset, and
 - The effect on the living conditions of future and existing occupiers

Reasons

Character and Appearance

4. The appeal site is garden land to the rear of 61 Kenninghall Road (the host building), which has been converted to 8 self-contained flats. No 61 forms part of a terrace of similar properties which front Kenninghall Road.
5. The appeal site is bounded by a substantial garden wall and is surrounded by blocks of flats which are around 4 or 5 storeys in height. There are trees and shrubs within the garden and around the boundary. This gives the immediate area an enclosed and secluded but distinctly urban character. At the site visit, I noted that the appeal site could not be seen from the public domain.

6. As a non-designated heritage asset, No 61 positively contributes to the urban character of the area as a result of its pleasing frontage design, set within a terrace of similar properties, which is repeated along that much of Kenninghall Road. This significance is largely derived from the front elevation of the host building.
7. The Framework, at paragraph 197, requires that the effect of a proposal on the significance of a non-designated heritage asset should be considered, applying a balanced judgement to the scale of any harm or loss and the significance of the heritage asset.
8. I note the information submitted with the Planning and Heritage Statement in relation to another site at No's 51/53 Kenninghall Road. This site was recently granted permission for two two-storey dwellings within the rear garden of those properties (Ref 2016/2208). The Council are of the view that historically, the site had been subject to an easement making it more separate to the host buildings. That is not the case at 61 Kenninghall Road, where the proposals involve subdivision of the existing rear garden and I have no plans before me in order to make a full assessment of whether that scheme is comparable to this proposal. I have therefore not attributed weight to this and determined this appeal on its own merits.
9. The proposed dwelling would be a striking design consisting largely of brick, with a shallow pitched roof in a stack brick pattern, echoing that seen in brick kilns and reflecting the past use of the site as a brickfield. This innovative design, which has taken cues from historic activity at the site, in my view carries moderate weight in favour of the scheme. I also consider there to be a benefit, albeit limited, to the provision of a new family dwelling within the Borough, together with the attendant benefits associated with its construction and occupation.
10. The council consider that the proposed new dwelling would not correspond to the design of the host building and the contemporary style would not be appropriate. I consider that it would be sufficiently modest and subservient in scale, but of a style suitably different to the host dwelling as to not 'compete' with it. Further, being single storey, the proposed dwelling would, in my view, have a very limited impact on the setting of the host dwelling.
11. I therefore consider on balance that the benefits of the proposals would outweigh any harm to the setting of No 61. I consider the proposals comply with policies 24 (Design) or 25 (Historic Environment) of the London Borough of Hackney Local Development Framework Core Strategy (2010) (CS), and the Development Management Local Plan (2015) (DMLP) policy DM1 (High Quality Design) and DM28 (Managing Heritage Assets) all of which seek development that respects the setting and character of the wider area, incorporating rigorous design that contributes positively to the historic environment.
12. I also do not find conflict with policy 7.4 (Local Character), 7.6 (Architecture) or 7.8 (Heritage Assets and Archaeology) of the London Plan (2016) (LP) which seeks development of a high quality that positively responds to its setting.

Living Conditions

13. The appellant's state that the proposed dwelling would be a minimum of 15.8m from its habitable windows to the rear wall of the host building, outside of the

25 degree line in terms of overshadowing. The Council claim this distance to be 13m, with the shortest distance being between the neighbouring De Vere Court at 8.8m at the closest point.

14. In light of the existing and proposed boundary treatments, the orientation of proposed bedroom windows and the oblique angle between the appeal site and the rear of De Vere Court, I do not consider such proximity would be harmful in this case.
15. The Council consider that the proposed landscaping would not provide adequate screening for the habitable rooms within the proposed dwelling, but it is not clear why. I consider that an adequate landscaping scheme is capable of being delivered by the appellant in order to address the Council's concerns, and this could be covered by an appropriately worded planning condition.
16. The appellants claim that the appeal site would occupy 29% of the existing garden area and would retain an area of communal garden extending to 100 sqm as well as the two private gardens retained for use by the ground floor flats within the host building. Whilst I consider the loss of garden land to be a disbenefit, I do not consider the proposal would result in a particularly cramped layout. The dwelling would make a good use of the available space, creating an interesting and efficient layout that, whilst having a minimal area of external space serving it, would still be functional.
17. I therefore do not consider that the loss of garden land would outweigh the benefits I have set out above and I therefore do not consider the proposals to be contrary to Policies 24 (Design) and 25 (Historic Environment) of the Hackney Core Strategy 2010, policies DM1 (High Quality Design) and DM28 (Managing Heritage Assets) of the Development Management Local Plan (2015), and policies 3.5 (Quality and design of housing developments), 7.4 (Local Character), 7.6 (Architecture), and 7.8 (Heritage assets and archaeology) of the London Plan 2011, and the Hackney Residential Extensions and Alterations Supplementary Planning Document 2009 nor the relevant parts of the Framework.

Other Matters

18. I have considered the objections and more general comments from third parties, which focus on concerns over privacy, loss of green space, risk of crime, lease plan boundaries, increasing traffic and disruption from building works. I have addressed a number of these concerns in my reasoning, and whilst I am sympathetic to the concerns over disruption from building work, this would be temporary in nature. Other comments relate to a perceived inability of residents of the flats at No 61 to object to the proposals because of agreements signed with the landlord. However, none of these are matters which alter my findings on the main issues.

Conditions

19. I have applied standard conditions 1-5 covering timescales, plans and materials in the interests of proper planning.
20. I have (exceptionally) applied a number of pre-commencement conditions (6, 9 and 11) in the necessary interests of managing surface water run-off as close to source as possible; enhancing biodiversity values, and improve to the appearance and resilience of the building; to ensure the provision of secure

cycle parking as early as possible within the scheme in a way that does not undermine the character and appearance of the area, and to secure appropriate means of refuse storage that does not harm the appearance of the area.

21. I have applied condition 7 in the interests of promoting improvements in air quality; condition 8 in the interests of appearance and I have applied condition 10, exceptionally, because of the constrained size of the site, and in order to preserve the design of the dwelling.

Conclusion

22. For the reasons given above, and having regard to all other matters, I allow this appeal.

Sian Griffiths

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this permission.
- 2) The development hereby permitted shall be implemented in accordance with the approved plans and documents, including any subsequent approvals of details.
- 3) The Development hereby permitted shall only be carried out and completed strictly in accordance with the submitted plans hereby approved and any subsequent approval of details.
- 4) Prior to commencement of development, full details/specifications (including physical samples) of all materials to be used on the external surfaces of the buildings, boundary walls and ground surfaces, shall be submitted to, and approved by, the Local Planning Authority in writing. For the avoidance of doubt, this includes, but is not limited to, brickwork, bonds, roofing materials/finishes, and copings. The development shall not be carried out otherwise than in accordance with the details thus approved and shall be maintained as such thereafter.
- 5) Detailed drawings/full particulars of windows and doors, including sections at 1:5 scale. Shall be submitted to, and approved by, the Local Planning Authority in writing. The development shall not be carried out otherwise than in accordance with the details thus approved and shall be maintained as such thereafter.
- 6) Prior to the commencement of development, detailed specifications of at least one suitable Sustainable Drainage System (SUDS), shall be submitted to, and approved by, the Local Planning Authority in writing. The SUDS shall result in a net improvement in water quantity or quality discharging to sewers and shall reduce both the volume and rate of existing run-off from site by at least 50% where reasonably practicable. The development shall not be carried out otherwise than in accordance with the details thus approved and shall be retained in perpetuity.
- 7) All space and hot water fossil fuel (or equivalent hydrocarbon based fuel) boilers must achieve dry NOx emission levels equivalent to or less than 40 mg/kWh.
- 8) A hard and soft landscaping scheme illustrated on detailed drawings shall be submitted to and approved by the Local Planning Authority, in writing, before any work proceeds beyond superstructure level, for the planting of trees and shrubs and any hard landscaping including ground surfacing and boundary treatments, showing species, type of stock, numbers of trees and shrubs to be included and showing areas to be grass seeded or turfed; all landscaping in accordance with the scheme, when approved, shall be carried out within a period of twelve months from the date on which the development of the site commences or shall be carried out in the first planting (and seeding) season following completion of the development, and shall be maintained to the satisfaction of the Local Planning Authority for a period of ten years, such maintenance to include

- the replacement of any plants that die, or are severely damaged, seriously diseased, or removed.
- 9) Prior to the commencement of development, two (2) covered, accessible and secure cycle parking spaces shall be provided. Details/specifications of the cycle parking spaces shall be submitted to and approved by the Local Planning Authority, in writing. The development shall not be carried out otherwise than in accordance with the details thus approved and shall be maintained as such thereafter.
 - 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended by any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1, Class (es) A, B, C, D, E, F, G and H and Schedule 2, Part 2, Class A to that Order shall be carried out without the prior written permission of the Local Planning Authority.
 - 11) Prior to the commencement of development, refuse and recycling facilities shall be provided. Details/specifications of the storage shall be submitted to and approved by the Local Planning Authority, in writing. The development shall not be carried out otherwise than in accordance with the details thus approved and shall be maintained as such thereafter.

End of Schedule