The Planning Inspectorate

Appeal Decision

Site visit made on 22 July 2019

by Conor Rafferty LLB (Hons), AIEMA, Solicitor (Non-practising)

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2019

Appeal Ref: APP/U5360/W/19/3228351
Flat A, 120 Middleton Road, Hackney, London, E8 4LP

- 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 Dolapo Awoyinka against the decision of the Council of the London Borough of Hackney.
- The application Ref 2019/0310 dated 25 January 2019, was refused by notice dated 21 March 2019.
- The development proposed is a mansard roof extension to 120A Middleton Road.

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Application for Costs

3. An application for costs was made by Mr Awoyinka against the Council. This application is the subject of a separate Decision attached below.

Procedural Matters

4. The Council's reason for refusal makes reference, amongst other policies, to Policy DM2 of the Hackney Development Management Local Plan (2015). This policy seeks to ensure that development will not result in significant adverse impacts on the amenity of occupiers and neighbours. It is therefore not relevant to this appeal.

Main Issue

5. Whether the proposed development would preserve or enhance the character or appearance of the Graham Road and Mapledene Conservation Area.

Reasons for the Recommendation

6. The appeal site is located on the south side of Middleton Road in the Graham Road and Mapledene Conservation Area (the CA). It comprises a mid-terrace Victorian style two storey dwelling with lower ground floor. The surrounding residential part of the CA is characterised by the similar dwellings. Middleton Road is lined with a largely unbroken row of properties that vary in size and design, but which retain a consistency in terms of architecture, materials and character. Towards the eastern end of the street at the

junction with Lansdowne Road the nature of the properties changes, with more modern blocks of low-rise flats on either side.

7. The appeal property adjoins the Ropewalk Mews building on its western side. This has a unique frontage when compared with the other buildings on the street, with a pitched roof that sits taller than the appeal property. Nonetheless, Ropewalk Mews retains the character and style seen along the majority of Middleton Road. By contrast, the eastern side of the appeal property forms part of a row of four dwellings with a high level of similarity in terms of frontage. Of particular note in this group of properties is the uniform butterfly roofline style and consistent appearance from the street.

8. The proposal comprises the installation of a mansard roof extension to allow for an additional bedroom. This would be set back from the front elevation of the property and finished in dark grey slate to match the existing roof. The size, style and positioning of the windows would also be chosen to match the fenestration of the property. The extension would not be visible from the street and would be further screened from certain vantage points by the chimney stacks of neighbouring dwellings.

9. In designing the scheme, alterations have been made to previously refused applications in an attempt to lessen its impact on the building, street scene and the CA. Nonetheless, the proposal would introduce an incongruous feature. The extension would be an uncharacteristic addition to the appeal property that would detract from its current more traditional Victorian style and character.

10. The proposal would not be visible from the street frontage and the butterfly aspect of the appeal property would be retained. However, the extension would represent the only addition to the rooflines of the row of four terraced dwellings within which it sits. It would be uncharacteristic in the CA, with extensions of this nature not being prevalent in the immediate surrounds. The heightened similarity of the row of dwellings to the east of the appeal property, and the wider sense of consistency of character along Middleton Road are distinctive features of this part of the CA. Through the addition of the proposed extension, this uniformity would be lost.

11. The proposal would cause harm to a designated heritage asset. This harm is lessened due to the fact that there would be limited visibility of the proposal. As such, this would equate to less than substantial harm having regard to the National Planning Policy Framework. Nonetheless this harm must still be given considerable importance and weight. From the information provided, limited public benefits to the scheme have been advanced. The appellant has stated that in creating an additional bedroom, the proposal would improve the living conditions of occupiers and maintain and enhance the existing housing stock. The high quality design of the extension has also been put forward as a positive aspect of the scheme. However, these benefits are personal to the appellant and would not sufficiently outweigh the harm identified, particularly when considering the weight to be given to the conservation of the asset.

12. I find that the development would fail to preserve or enhance the character or appearance of the CA. Accordingly, it would fail to comply with Policies DM1 and DM28 of the Hackney Development Management Local Plan (2015), Policies 24 and 25 of the Hackney Local Development Framework Core Strategy (2010) and Policies 7.4, 7.6 and 7.8 of the London Plan (2016).

Other considerations

13. The appellant makes reference to similar developments in the Borough to support its case. However, limited further information has been provided on the nature of these

developments or their comparability to the current proposal. In any event, this proposal should be assessed on its own site-specific circumstances.

Conclusion and recommendation

14. Having had regard to all matters raised, I recommend that the appeal should be dismissed.

C Rafferty

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too agree that the appeal should be dismissed.

A U Ghafoor

INSPECTOR

Costs Decision

Site visit made on 22 July 2019

by Conor Rafferty LLB (Hons), AIEMA, Solicitor (Non-practising)

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2019

Costs application in relation to Appeal Ref: APP/U5360/W/19/3228351
Flat A, 120 Middleton Road, Hackney, London, E8 4LP

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Awoyinka for a full award of costs against the Council of the London Borough of Hackney.
- The appeal was against the refusal of planning permission for a mansard roof extension at 120A Middleton Road.

Decision

1. The application for an award of costs is refused.

Procedural Matter

2. The costs application lists both Mr and Mrs Awoyinka as the claimant in this matter. However, as the sole appellant in the corresponding appeal, this costs order has been granted to Mr Awoyinka only.

3. The respondent has been given the opportunity to respond to the submitted costs application however, at the date of this recommendation, no such comments have been received.

4. The applicant has provided evidence supporting its application for costs relating to the planning application that is the subject of this appeal, and also to previous planning applications 2017/3273/PA, 2018/0089 and 2018/3066/PA for similar development at the site. In accordance with paragraph 32 of the Planning Practice Guidance (PPG), costs that are unrelated to the appeal are ineligible. My recommendation therefore only takes into account the evidence submitted in respect of the planning application that is the subject of this appeal.

Reasons for the Recommendation

5. The PPG advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The application needs to clearly demonstrate that this is the case, as parties in planning appeals normally meet their own expenses.

6. In seeking its award for costs the applicant contends that the respondent behaved unreasonably as it: (i) failed to conduct a site visit for the proposal; (ii) raised additional issues in its determination that were not raised at the pre-application stage; and (iii) failed to cooperate in finding a suitable solution to the proposal.

7. Paragraph 47 of the PPG states that local planning authorities are required to behave reasonably in relation to procedural matters at the appeal. Paragraph 49 of the PPG

states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal.

8. With regards to the respondent's alleged failure to conduct a site visit in assessing the impact of the development, paragraph 47 of the PPG states cites failure to attend or be represented at a site visit as an unreasonable behaviour that may result in an award of costs. However, it is noted that this alleged procedural issue occurred during the application process in this instance rather than the appeal process. It has not therefore been demonstrated that the respondent has behaved unreasonably in relation to procedural matters at the appeal stage as set out in paragraph 47 of the PPG due to its failure to conduct a site visit.

9. The applicant also alleges that the respondent raised additional issues in its determination that were not raised at the pre-application stage. However, from the evidence submitted all matters that were raised in the pre-application advice are noted in its analysis of the proposal outlined in the Officer's Report. Further material issues or considerations are not raised in the determination. Furthermore, the resulting reason for refusal is adequately substantiated. On the evidence submitted the respondent has not therefore acted unreasonably in relation to this point.

10. The application further seeks costs on the basis that the respondent failed to cooperate in finding a suitable solution to the proposal. In this regard paragraph 49 of the PPG states that '*refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal*' is an unreasonable behaviour that may result in an award of costs.

11. It is clear from the documents submitted that the respondent did enter into pre-application discussions with the applicant, both in writing and by telephone. A brief analysis of the proposal was provided to the applicant, with a conclusion that the scheme was contrary to local and national policy. While the applicant did seek further clarification, and that there is no evidence that a reply was received, the respondent has nonetheless discharged its duty to enter pre-application discussions. It liaised with the applicant at the pre-application stage and provided advice, with which the later Officer's Report remains consistent. On the evidence submitted the respondent has not acted unreasonably in relation to this point.

12. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and the application is refused.

C Rafferty

APPEAL PLANNING OFFICER

Inspector's Decision

13. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too concur that the application for an award of costs is refused.

A U Ghafoor

INSPECTOR