



Appeal Decision

Site visit made on 3 September 2019

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 19th September 2019

Appeal Ref: APP/U5360/W/19/3230076 5 Mentmore Terrace, London E8 3PN

- 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 2018/3387, dated 14 September 2018, was refused by notice dated 3 December 2018.
 - The development proposed is alterations to existing building and excavation of basement to facilitate a change of use from light industrial (use class B1) to office (use class B1) at lower ground and lower ground mezzanine level and from light industrial (use class B1) to a 1-bed residential unit and a 2-bed residential unit (use class C3).
-

Decision

1. The appeal is allowed, and planning permission is granted for alterations to existing building and excavation of basement to facilitate a change of use from light industrial (use class B1) to office (use class B1) at lower ground and lower ground mezzanine level and from light industrial (use class B1) to a 1-bed residential unit and a 2-bed residential unit (use class C3) at ground, first and second floor levels at 5 Mentmore Terrace, London E8 3PN in accordance with the terms of the application Ref 2018/3387 dated 14 September 2018 subject to the conditions set out in the Schedule to this decision.

Procedural Matters

2. The description of the permission above has changed slightly from that given of the proposal in the banner heading, which was taken from the application form, to reflect the description given in the Council's notice of refusal. The difference is merely to clarify where in the building the proposed residential units are situated.

Main Issues

3. The two main issues arising in the appeal are:
 - The effects of the proposed development on the working conditions of the occupiers of the proposed business space; and
 - The effects of the proposed development on the character and appearance of the host property and the surrounding area.

Reasons

Quality of employment space

4. The proposed development consists of the redevelopment of a building currently providing employment in a light industrial (Class B1) use to a building providing a mix of commercial and residential space. Two residential flats would be created on the three upper floors. Below, the basement would be excavated and refurbished to provide two floors of office space, including into the area presently used as a car parking space fronting Mentmore Terrace. Plans show the basement office to extend to the full width of the building, with a lower ground floor mezzanine above that would extend to around two-thirds of the building's width.
5. The building lies on the corner of Mentmore Terrace and Fortescue Avenue. Opposite and above the desks on the mezzanine level would be 5 windows facing onto Fortescue Avenue. To the western end of the building, in lieu of the existing car parking area, a glazed 'cube' would extend the office space and permit of additional light into the premises, mainly from above. The 'cube' would be surrounded by brick walls and railings at street level that would also enclose a bin and cycle storage area.
6. Hackney's Core Strategy ('CS'), setting out strategic planning policies for the area until 2025, was adopted in 2010. CS Policy 16 seeks to promote employment opportunities in the Borough. CS Policy 17 encourages mixed use development with a strong viable employment component. The appeal site lies within a designated Priority Employment Area ('PEA'). CS Policy 18 seeks to protect employment land, and sets out that any employment space provided should be of high quality, flexible, have natural light and be easily adaptable to the modern needs of businesses. The supporting text promotes well designed, functional and attractive employment space.
7. Hackney's Development Management Local Plan ('LP') was adopted in 2015. LP Policy 15, concerning new business floorspace, echoes CS Policy 18 in requiring well designed, high quality buildings and floorspace incorporating a range of unit sizes and types that are flexible, with good natural light, suitable for sub-division and configuration for new uses and activities, including for occupation by small or independent commercial enterprises. The requirement of the policy for applications to include a marketing strategy has not been met in this case, although the Council raise no objection to its omission. The supporting text to LP Policy 15 repeats that premises should have good natural lighting, and states (in parentheses) that basement and windowless offices should be avoided.
8. A daylight report submitted by the appellants demonstrates that the offices would receive adequate natural light, and this is not disputed by the Council. Instead the Council's concern is that the office users would suffer from a very poor outlook, meaning that the office space would not amount to the high quality floorspace required by the policy. I disagree. As the appellant points out, LP Policy 15 does not include 'outlook' as a relevant criterion here. The supporting text, concerning basement and windowless offices, appears in the context of requiring good natural lighting to the premises, about which there is no dispute.

9. The design of the building would result in considerable natural light entering the office space from the windows facing Fortescue Avenue and the glazed 'cube' to the western end. Although the office users would lack a view of much besides the sky and any street traffic on Fortescue Avenue, I do not consider that their working environment would be unacceptably oppressive as a result. Therefore I find that the office accommodation would be of an acceptable quality and that no relevant conflicts with development plan policies CS Policy 18 or LP Policy 15 would arise. I also find no conflict with relevant policies in the London Plan of 2016, Policy 4.1 relating to developing London's economy or Policy 4.2 relating to office developments.

Character and appearance

10. The building and its adjoining neighbour to the north are unusual in being the only buildings in the immediate vicinity to retain forecourt areas to the front. The street is largely built up with more modern buildings fronting close to (or on) the highway boundary. This is the prevailing building line of the street. The appeal proposal involves building over the existing forecourt area used for car parking. The glazed 'cube' would appear in this area, surrounded by brick walls and railings that would also enclose the bin and cycle storage areas. It would thus infill the existing forecourt area and front almost onto the highway.
11. The appeal site lies opposite the entrance to the London Fields railway station, and opposite commercial premises under the arches of the raised railway line. Other commercial and residential premises lie nearby, some of modern construction and including extensive glazed elements to the ground floor, including the property immediately opposite on Fortescue Avenue. In this context I find neither the siting nor the design of the front extension (the 'cube' and its surrounding boundary treatment) to depart from the existing building form or style in the area. Therefore, I find no conflict with the requirements of CS Policy 24 or LP Policy DM1 to secure developments of a sympathetic and high quality design.

Conditions

12. The Council has suggested that a number of planning conditions are necessary and I agree with most of these. A condition requiring commencement within 3 years (if at all) is necessary to comply with statutory requirements. Development in accordance with the application plans is necessary to achieve certainty about what has been permitted. Prior approval of materials is required to achieve a satisfactory external appearance. Detailed drawings of certain aspects of the development are also required for this purpose. Restricting nitrogen dioxide levels is necessary in the interests of air quality. Given the vulnerability of the proposed end users, an assessment of land contamination is required. Nesting boxes for swifts are desirable and necessary in the interests of biodiversity.
13. The Council also proposes restricting the office use to exclude Sundays, in the interests of adjoining occupiers and local amenity. I am mindful that any B1 use can be expected to be carried out without detriment to a residential area, and as a result I am not convinced that any restriction on the hours of operation is necessary.

Conclusion

14. Subject to the imposition of those other conditions, however, I conclude that the proposed development does not conflict with the development plan for the area, and so I allow the appeal subject to the conditions set out in the Schedule below.

Laura Renaudon

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 only be carried out and completed strictly in accordance with the submitted plans hereby approved and any subsequent approval of details.

The plans hereby approved are:

5MT_GA_001 Rev A	Site Location Plan
5MT_GA_009	Site Plan
5MT_GA_002 Rev A	Existing Ground Floor Plan
5MT_GA_003 Rev A	Existing First Floor Plan
5MT_GA_004 Rev A	Existing Second Floor Plan
5MT_GA_005 Rev B	Existing Section A
5MT_GA_006 Rev B	Existing Section B
5MT_GA_007 Rev A	Existing East Elevation
5MT_GA_008 Rev A	Existing West Elevation
5MT_GA_009 Rev A	Existing North Elevation
5MT_GA_010 Rev A	Existing South Elevation
5MT_GA_	Existing East Elevation
5MT_GA_	Long Section – Existing
5MT_GA_	Existing North Elevation
5MT_GA_	Short Section – Existing
5MT_GA_	Existing South Elevation
5MT_GA_	Existing West Elevation with context
5MT_GA_	Existing West Elevation
5MT_GA_	Ground Floor Plan
5MT_GA_	Existing Second Floor Plan
5MT_GA_	First Floor Plan
5MT_GA_	Second Floor Plan
5MT_GA_242 Rev A	Proposed East Elevation
5MT_GA_241 Rev A	Proposed North Elevation
5MT_GA_203 Rev B	Proposed First Floor Plan
5MT_GA_205 Rev A	Proposed Roof Plan
5MT_GA_204 Rev A	Proposed Second Floor Plan
5MT_GA_211 Rev A	Proposed West Elevation
5MT_GA_212 Rev A	Proposed South Elevation
5MT_GA_202 Rev B	Proposed Ground Floor Plan
5MT_GA_201 Rev A	Proposed Basement/Mezzanine Floor Plans
5MT_GA_222 Rev A	Proposed Section A
5MT_GA_221 Rev A	Proposed Section C
5MT_GA_018D Rev A	Proposed Section DD

Covering letter dated 11th September 2018 prepared by Collective Planning
Daylight Statement dated August 2018
Design and Access Statement prepared by USE Architects.

- 3) Full details, with samples, of the materials to be used on the external surfaces of the building, including glazing, shall be submitted to and approved by the Local Planning Authority, in writing, before the relevant work is commenced. The development shall not be carried out otherwise than in accordance with the details thus approved.
- 4) Detailed drawings/full particulars of the proposed development showing the matters set out below must be submitted to and approved by the Local Planning Authority, in writing, before the relevant work is commenced. The development shall not be carried out otherwise than in accordance with the details thus approved.
 - a) Detailed drawings of all external windows and doors
 - b) Details of waste storage
 - c) Details of cycle storage
 - d) Details of boundary wall
- 5) All non-Combined Heat and Power (CHP) space and hot water fossil fuel (or equivalent hydrocarbon based fuel) boilers installed as part of the development hereby approved shall achieve dry NO_x emission levels equivalent to or less than 40 mg/kWh.
- 6) A soil sampling and analyses exercise shall be completed in accordance with a strategy submitted to and approved, in writing, by the Local Planning Authority prior to the exercise being undertaken and in line with the Council's guidance for 'Small scale investigation works in garden, landscaped and yard areas'. The results, assessment and recommendations shall be agreed with the Local Planning Authority before any remediation is implemented. Any significant evidence of contamination encountered during the course of the development shall be notified to the Local Planning Authority and Contaminated Land Officer within 5 working days. All development shall cease in the affected area. Any additional or unforeseen contamination shall be dealt with as agreed, in writing, with the Local Planning Authority.
- 7) Prior to the first occupation of the development hereby approved a minimum of 2 Swift nesting bricks and/or boxes shall be provided at or close to eaves level of the development hereby approved. The bricks/boxes shall be retained thereafter in perpetuity.