



Appeal Decisions

Site visit made on 12 July 2019

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal Ref: APP/U5360/W/19/3224537
343 Mare Street, Hackney, London E8 1HY

- 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 1707 Properties Ltd against the decision of the Council of the London Borough of Hackney.
 - The application Ref: 2018/3967, dated 31 October 2018, was refused by notice dated 4 January 2019.
 - The development proposed is described as 'change of use of first, second and third floors from office (A2) use to residential (C3) use and erection of a roof extension to create 1x1-bed and 1x2-bed self-contained flats and associated external alterations including replacement of windows'.
-

Decision

1. The appeal is allowed and planning permission is granted for a change of use of first, second and third floors from office (A2) use to residential (C3) use and erection of a roof extension to create 1x1-bed and 1x2-bed self-contained flats and associated external alterations including replacement of windows at 343 Mare Street, Hackney, London E8 1HY in accordance with the terms of the application, Ref: 2018/3967, dated 31 October 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: O/S Map 1011-000; 0081_L10; 0081_L11; 0081_L12; 0081_L13; 0081_L14; 0081_L15; 0081_E12; 0081_E11; 0081_E10.
 - 3) No development above third floor level shall take place until details of materials and samples to be used in the construction of the external surfaces of the mansard roof structure shall have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and samples.
 - 4) No dwelling shall be occupied until details of cycle storage including type of stand, detailed design, quantity of stand and location, shall have been submitted to and approved in writing by the local planning authority.

Application for costs

2. An application for costs was made by 1707 Properties Ltd against the Council of the London Borough of Hackney. This application is the subject of a separate Decision.

Procedural Issue

3. An extant permission¹ was granted by the Council for a change of use of first, second and third floors from office (A2) use to residential (C3 use) and the erection of a mansard roof extension to create 2x1 bedroom flats, associated external alterations including replacement windows and the insertion of a door within the rear elevation. I shall have regard to this matter as a material consideration.

Main Issues

4. The main issues are the effect of the proposal on the host building, the Clapton Square Conservation Area and the setting of nearby listed buildings.

Reasons

Heritage Assets

5. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBA), requires the decision maker in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. Section 72(1) of the LBA requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
6. The National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Furthermore, whilst there is no statutory protection for the setting of conservation areas, paragraph 194 of the Framework requires that consideration be given to any harm to or loss of significance of a designated asset, which includes conservation areas, from development within its setting.

Host building and conservation area

7. The host building is a substantial four storey building within the Clapton Square Conservation Area (CA), positioned within a continuous frontage of built form towards the end of Mare Street with its junction with Amhurst Road. Buildings along this part of Mare Street generally lack any uniformity in terms of their scale, height and composition, however, the Conservation Area Appraisal (CAA) recognises that these differing forms and styles make a positive contribution to the character and appearance of the CA.

¹ Ref: 2017/0245

8. Planning permission¹ was granted by the Council for the approved development which is evidence that the Council supports a significant proportion of the proposed development. However, whilst a contemporary roof addition is not considered by the Council to be unacceptable in principle, the area of dispute between the parties relates to the position of the proposed roof extension in close proximity to the front elevation.
9. The proposal would introduce a contemporary style roof extension for the full width of the host building, albeit set back from the external face of the parapet wall by approximately 900mm. Despite being set back from the front elevation, this increase in bulk would appear as an additional storey which would be clearly visible from a number of public vantage points given the prominent position of the host building.
10. However, examples of mansard roof structures are not uncommon within the CA, with a similar roof structure being present on the adjoining building. In addition, given piecemeal accretive development within the CA, there is little cohesion in the streetscape and as such, the diverse range of building heights and roof profiles would integrate the proposed development into the varied built form which the CAA recognises as being an important architectural strength of the area. Therefore, I do not consider that the proposal would appear out of keeping or unduly bulky and dominant within the streetscene. Moreover, it would add to the range and variety of built form and, overall, it would not detract from the integrity of the host building being a 'Building of Townscape Merit'. Therefore, I find there would be no harmful effect on the character of the host building and the proposal would preserve the character of the CA. Therefore, the proposal would accord with Policies 7.4, 7.6 and 7.8 of the London Plan (2016)(LP), Policies 24 and 25 of the London Borough of Hackney Local Development Framework Core Strategy(2010)(CS) and Policy DM1 of the Hackney Local Plan Development Management Local Plan (2015)(DMLP). Among other things these policies require high quality development that complements local character and is of a sympathetic form, scale, materials and architectural detail.

Listed buildings

11. The host building lies within close proximity of a number of listed buildings, in particular, as cited by the Council in their reason for refusal, the Grade I listed St Augustine's Tower (LB). Its significance is derived from its architectural form constructed in Kentish Ragstone with diagonal buttresses and high plinth together with its historical significance as part of the former Church of St Augustine. The setting of this historical building is somewhat compromised by the fact that three of its sides are close to modern built form, although there is an open aspect to its rear, where the LB is mostly visible in views from St. John at Hackney Church Gardens (the Gardens), subject to intervening vegetation. In addition, oblique views towards the LB are available from both directions along Mare Street.
12. Given that the proposed roof addition is a reasonably large zinc clad and glass structure, the eye would be naturally drawn towards it when approaching the LB from the Gardens. Similarly, this would be the case, albeit to a lesser extent given the oblique nature of views when travelling from either direction along Mare Street. As such, the proposal would be readily visible and compete with some views of the LB thus harming its setting.

13. Accordingly, it follows that the proposed development would fail to preserve the setting of St Augustine's Tower. Thus, the proposal would conflict with LP Policies 7.4 and 7.8, CS Policy 25 and DMLP Policy DM28. Among other things, these policies seek to ensure developments are of high quality design that integrate with and make a positive contribution to the historic environment to ensure that the significance of heritage assets is preserved or enhanced.
14. The harm identified would amount to "less than substantial harm" and accordingly paragraph 196 of the Framework provides for a balancing exercise to be undertaken between "less than substantial harm" to the designated heritage asset and the public benefits of the proposal. The appellant has drawn my attention to the proposal ensuring the long-term use of the upper floors of the host building and its future maintenance. However, I consider these benefits to be modest in nature. Whilst the proposal would provide two additional dwellings within the roofspace, this would represent only a modest contribution to housing supply. Furthermore, albeit accessibly located, any environmental benefit would be minor. Accordingly, I find that there would be little public benefit to outweigh the identified harm.

Other Matters

15. Notwithstanding that the proposal conflicts with the development plan, I am required to have regard to the extant planning permission and the fall-back position. The approved scheme is notably similar to the proposal and as such it would be open to the appellant to continue to construct that permission. There is no evidence before me that the appellant would fail to implement the approved scheme. Given the similarities between the approved and proposed schemes, I find that it is more than likely that the appellant would implement the approved scheme and accordingly, I find this represents a valid fall-back position and is a material consideration to which I attach significant weight.
16. When comparing the visual impact of the proposal to the approved scheme, the proposal is positioned a similar distance from the front façade of the host building and the height of the proposed mansard roof stands approximately 1 metre lower than the top of the party wall of the approved scheme. As such, whilst the proposal incorporates a contemporary design of mansard roof, its scale is more subservient to the host building than the approved scheme and thus I find that the proposal would be no more visually intrusive than the development permitted by the extant permission.
17. Overall, despite the proposal being in conflict with the development plan, in particular the provisions of LP Policies 7.4 and 7.8, CS Policy 25 and DMLP Policy DM28 the conflict caused by the proposal would have a similar impact as the approved scheme. However, given the material considerations in this case, a decision otherwise than in accordance with the development plan is justified in this instance, which would be no more harmful overall than the extant planning permission.

Conditions

18. The Council have suggested a number of conditions and I have considered these against the advice in the Framework and Planning Practice Guidance. As a result, I have amended some of these for consistency or clarity.

19. In addition to the standard time limit, a condition specifying the approved plans is necessary as this provides clarity.
20. I have imposed a condition specifying external materials of the proposed roof structure. This is necessary to safeguard the character and appearance of the surrounding area.
21. A condition regarding cycle storage is necessary in order to promote sustainable transport choices.

Conclusion

22. For the reasons given above, I conclude that the appeal should be allowed and the planning permission granted in accordance with the conditions.

E Brownless

INSPECTOR