



Appeal Decision

Site visit made on 2 December 2019

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th December 2019

Appeal Ref: APP/U5360/W/19/3236671

66-68 Kingsland Road, Hackney, London E2 8DP

- 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 Cassidy (OSEL Architecture) against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2018/4472, dated 3 December 2018, was refused by notice dated 6 March 2019.
 - The development proposed is demolition of the existing building and the construction of a seven storey building plus basement to provide retail (use class A1) at basement – first floor level and four self-contained dwellings (use class C3) comprising 3 x 1 bed and 1 x 3 bed units on the upper floors.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The first reason for refusal refers to the proposal resulting in the total loss of a designated heritage asset. It is clear from the evidence from both parties that whilst the appeal building is situated within a conservation area which is a designated heritage asset, it is not a listed building, and so the building itself is not a designated heritage asset. I have determined the appeal on this basis.
3. At appeal stage the appellant has submitted revised plans that show the lower floors being used for employment (use class B1) rather than retail (use class A1). No external alterations are proposed, as the alteration would only affect the use that can be made of the lower part of the building. The Council and third parties have had the opportunity to comment on these revised plans as part of the appeal process. Given the nature of the amendments proposed, in this case, I consider that no party would be prejudiced by my considering them as part of the appeal process. However, as set out below they are not material to my decision.

Main Issues

4. The main issues in the appeal are:
 - Whether or not the proposal would preserve or enhance the character and appearance of Kingsland Conservation Area; and
 - The effect of the proposal on the supply of employment floorspace having regard to its location within Kingsland Priority Employment Area.

Reasons

5. The appeal building is a 3 storey building (plus basement) whose lower floors are currently in retail use with residential on the upper floors. Although the original windows have been replaced with uPVC, the building is an attractive building with interesting architectural detailing including a bulls eye window feature at the top. The surrounding area contains a mix of commercial, industrial and residential uses with buildings ranging from 2 to 7 storeys in height.
6. Kingsland Conservation Area, in which the property is located, covers the ribbon of development along Kingsland Road, a former Roman road. Its significance lies, in part, in that it shows the different types and designs of buildings as the area has grown and evolved. The *Kingsland Conservation Area Appraisal (January 1998)* identifies the area surrounding the appeal site as the 'City Fringe' that contains an eclectic mix of buildings of varying architectural quality and history.
7. The buildings in the immediate vicinity of the appeal property are generally 5 storeys with roof extensions. They exhibit good architectural detailing and their scale and mass gives the area a dense urban grain and strong sense of enclosure. The substantial difference in height between them and the appeal property makes the appeal property stand out in the terrace and adds interest and character to the street scene. Its unusual character helps to demonstrate the evolution of development along the corridor and so contributes to the significance of the conservation area. As such, I consider that although, not locally listed, it makes a positive contribution to the character and appearance of the conservation area.
8. It is proposed to demolish the existing building and replace it with a 7 storey building with a basement. The upper two floors would be set back within a mansard roof, matching the surrounding buildings. The scale, massing and the design of the building would reflect, and be sympathetic to, other nearby buildings. In addition, the architectural detailing and materials would reflect and respond to the adjacent buildings.
9. Nevertheless, whilst I accept that the new building would be sensitive to its location in the conservation area, the appeal scheme would result in the total loss of a building that makes a positive contribution to the conservation area. The acceptability of the replacement building would not outweigh the harm that would be caused through the loss of the building.
10. Consequently, I consider that the proposal would fail to preserve, and would unacceptably harm, the character and appearance of Kingsland Conservation Area. Accordingly, it would conflict with Policies 7.4, 7.6 and 7.8 of *The London Plan (adopted March 2016)* (LP), Policies 24 and 25 of the *Hackney Core Strategy (adopted November 2010)* (CS) and Policies DM1 and DM28 of the *Hackney Development Management Local Plan (adopted July 2015)* (DMLP) which seek to ensure that development has a high quality of design which respects the historic and built environment.

Employment Land Supply

11. The appeal site is located within Kingsland Priority Employment Area (PEA) which is a focus for employment uses and development. Policy DM17 of the

DMLP indicates that B1, B2 and B8 uses are appropriate for development within PEAs but indicates that A Class, C1, C3 and D1 uses might be considered acceptable as long as the proposals comply with the requirements of Policies DM7, DM14, DM15 and DM16 of the DMLP. In addition, it states that C1 and C3 uses, as part of a mixed-use scheme, are acceptable as part of employment-led mixed-use developments where the majority of the floorspace is for commercial uses and where C1 and C3 uses are appropriate to the characteristics and functioning of the site and will not compromise the on-going operations of businesses in the area.

12. At present the building is in retail use at basement and ground floor levels (around 150 sqm) and has residential units on the upper floors (around 94 sqm). The proposed development would increase the amount of commercial floorspace to around 270 sqm and the amount of residential to around 230 sqm. As such, at present the building does not contain any employment (B class) uses. The scheme as first submitted was for the commercial floorspace to be for retail purposes, but the revised scheme submitted at appeal indicated that it would be B1 use. I note the appellant's arguments that retail uses create employment, but it is clear from the policies that in PEAs the focus is to be creating and retaining uses that fall within the B class and in particular B1 uses.
13. Whilst the increase in residential floorspace proposed is greater than the increase in the amount of commercial floorspace, overall the amount of commercial floorspace provided is still greater than the residential element. Given this, the majority of the floorspace would be for commercial uses rather than the scheme being residential-led.
14. Nevertheless, Policy DM14 of the DMLP indicates that redevelopment schemes must demonstrate that the maximum economically feasible amount of employment floorspace is provided. However, even if considering the revised proposal which indicates that the commercial floorspace proposed would be used for B1 use, no viability or other evidence has been provided to show that the amount of commercial floorspace proposed is the maximum that it is economically feasible to provide on the site. In the absence of this, I am not persuaded that the economic potential of the site is fully realised, in accordance with this policy.
15. The appellant has argued that as the site does not contain any employment floorspace at present, this policy is not applicable as it relates to the retention of employment land and floorspace. However, paragraph 4.7.5 of the supporting text says that as well as relating to redevelopment proposals on sites containing employment land and floorspace the policy relates to proposals within PEAs which need to satisfy both DM14 and DM17. As such, Policy DM14 relates to proposals in PEAs whether or not the site contains employment uses at present.
16. Therefore, I consider that the proposal would be detrimental to the supply of employment floorspace having regard to its location within Kingsland PEA. Thus, it would be contrary to Policies 4.1 and 4.2 of the LP, Policies 16 and 18 of the CS and Policies DM14 and DM17 of the DMLP which seek to support the growth of a strong economy by protecting existing employment land and floorspace as well as allocating new land for development and maximising the economic potential of sites.

Other Matters

17. A Unilateral Undertaking has been provided by the appellant to ensure that the development would be car-free and that it would comply with the Code of Considerate Contractors. However, as I am dismissing the appeal on other grounds I have not considered this further.

Conclusion

18. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR