



Appeal Decision

Site visit made on 25 February 2020

by Colin Cresswell BSc (Hons) MA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 April 2020

Appeal Ref: APP/U5360/W/19/3238461
13A, Derby Road, Hackney, London E9 7JP

- 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 ABK Properties Ltd against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2019/1144, dated 26 March 2019, was refused by notice dated 21 June 2019.
 - The development proposed is "Refurbishment, extension; Roof & Basement Courtyard, & conversion of existing warehouse premises (B8 Use Class) into 1 No. Private residential House (C3 Use Class). With associated landscaping works, bicycle parking & waste storage".
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Decision

1. The appeal is allowed and planning permission is granted for "Refurbishment, extension; Roof & Basement Courtyard, & conversion of existing warehouse premises (B8 Use Class) into 1 No. Private residential House (C3 Use Class). With associated landscaping works, bicycle parking & waste storage" at 13A, Derby Road, Hackney, London E9 7JP in accordance with the terms of the application Ref 2019/1144, dated 26 March 2019 subject to the conditions set out in the Schedule at the end of this Decision.

Main Issues

2. The main issues in this case are:
 - whether the development would provide an appropriate mix of housing.
 - the effect of the proposal on the living conditions of neighbouring occupiers, having particular regard to outlook and privacy.

Reasons

Housing Mix

3. It is proposed to convert the warehouse into a single, family sized dwelling containing 4 bedrooms. Considering the relatively large size of the building, this would represent an unusually low-density form of residential development for the area. Indeed, the proposal would fall well short of the density range specified in Table 3.2 of the London Plan¹.

¹ The London Plan, Mayor of London, March 2016.

4. However, I am conscious that the warehouse is tightly surrounded by other development, including properties in Victoria Park Road. It is also situated within the Victoria Park Conservation Area, the significance of which is partly derived from the historic buildings in the area and the architectural interest this brings. Hence, there are clearly some constraints that need to be overcome if the warehouse is to be converted into residential use.
5. Various proposals have been put forward in the past to develop the warehouse into multiple units of accommodation, including an application² to convert the building into 8 self-contained units. This was refused for a number of reasons, including overlooking of neighbouring properties in Victoria Park Road and poor levels of natural light and outlook within the proposed units. Further concerns were raised regarding the effect on the Conservation Area.
6. I have also been referred to pre-application advice³ which was sought for an alternative scheme of 7 units. Although the potential to overlook properties in Victoria Park Road was minimised, the Council indicated that the units would provide substandard living space with some not benefitting from adequate light or outlook. It was also considered that there would be potential for mutual overlooking between units from within the proposed lightwell. The advice says that the warehouse makes a positive contribution to the Conservation Area and a 'lighter touch' conversion would be preferred.
7. The planning history of the site therefore suggests that it is difficult to convert the warehouse into multiple units of accommodation whilst maintaining the key architectural features of the building. This corresponds with my own observations of the site and surroundings. Despite its size, the warehouse has relatively few large windows. In order to provide light and outlook for multiple units of accommodation it seems to me that the external appearance of the building would need to be changed quite substantially. Furthermore, the close proximity of surrounding dwellings (particularly in Victoria Park Road) limits where any new windows could be positioned.
8. The proposed development would maintain many of the building's architectural features and would thereby preserve the significance of the Conservation Area in this location. In addition, Policy 19 of the Core Strategy⁴ acknowledges a need for new family accommodation in Hackney (defined as 3 beds or larger). Indeed, housing of this size is one component of the overall dwelling mix sought by Policy DM22 of the Local Plan⁵. In this respect, the proposal would also be compliant with Policy 3.8 of the London Plan which seeks to provide a range of housing choices based on local needs.
9. I recognise that Policy DM22 indicates that only 33% of market housing should have 3 or more beds, thereby indicating that the majority of new housing should be for smaller units. However, taking into account the physical constraints of this site, the conversion of the building into a single dwelling rather than multiple units is justifiable in this case.
10. For the reasons given above, the overall objectives of development plan would be met. I therefore conclude on this issue that the development would provide an appropriate mix of housing.

² Council Ref: 2017/4656

³ Council Ref: 2018/1574/PA

⁴ Hackney Local Development Framework Core Strategy, Adopted November 2010.

⁵ Hackney Development Management Local Plan, Adopted July 2015.

Living conditions

11. The north elevation of the proposed dwelling would feature extensive glazing. This would face towards the rear of properties in Victoria Park Road. However, as the ground floor and first floor windows would face the northern flank wall of the proposed atrium, there would not be a direct line of sight towards the rear windows of properties in Victoria Park Road and so there would be no opportunity for mutual overlooking.
12. Although the second floor windows in the north elevation would be more elevated, a condition requiring these to be fixed shut and obscure glazed would ensure privacy is maintained. Such a condition could also prevent installation of the Juliette balconies shown on the plans. As the second floor would be served by other windows, this part of the proposed dwelling would maintain acceptable outlook and daylight levels.
13. The proposed flat roof on the ground floor (to be covered in grass) would not be accessible from inside the proposed dwelling. Nonetheless, a condition could be imposed to prevent its use as an amenity area in the future. The massing of the proposed extension to the building would be very similar to the existing structure which is to be demolished. As such, there would be no harm to the outlook of neighbouring properties.
14. I therefore conclude on this issue that, subject to conditions, the proposal would have an acceptable effect on the living conditions of neighbouring occupiers. There would be no conflict with Policy DM2 of the Local Plan and Policies 7.4 and 7.6 of the London Plan insofar as they relate to the protection of residential amenity.

Conclusion and Conditions

15. The appeal is therefore allowed. In the interests of clarity, standard conditions requiring the development to be carried out in accordance with the plans and within a time limit have been imposed.
16. To protect the character and appearance of the area, a condition is imposed requiring further details of materials. There are also conditions requiring further details of landscaping and the proposed green roof, including a management plan. For the protection of highway safety there are conditions requiring a traffic management plan, further details of the access road and details regarding cycle storage. Also for safety there are conditions requiring assessments of flood risk and contamination, with appropriate mitigation. To protect air quality there is a condition controlling NOx emissions. To protect wildlife there is also a requirement for nesting boxes. Conditions are also imposed requiring fixed shut, obscure glazed windows on the north elevation facing neighbouring housing and there is a condition preventing the grassed roof from being used as a terrace or amenity area. These conditions are imposed to protect the privacy of neighbouring occupiers.

C Cresswell

INSPECTOR

(Schedule of Conditions attached)

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 0324-03-1050, 0324-03-1055, 0324-03-1075, 0324-03-1100, 0324-03-1101, 0324-03-1102, 0324-03-1105, 0324-03-1200 Rev 02, 0324-03-1201 Rev 01, 0324-03-1202 Rev 01, 0324-03-1203 Rev 02, 0324-03-1204 Rev 01, 0324-03-1205 Rev 01, 0324-03-1280, 0324-03-1400 Rev 01, 0324-03-1401 Rev 01, 0324-03-1402 Rev 01, 0324-03-1403 Rev 01, 0324-03-1410 Rev 01, 0324-03-1411 Rev 01, 0324-03-1412 Rev 01, 0324-03-1413 Rev 01.
- 3) Details, including samples and/or commercial specifications, of external materials to be used on the building, boundary walls and ground surfaces shall be submitted to and approved by the Local Planning Authority in writing before the development proceeds beyond ground level. The details shall include balcony treatments, rainwater goods and obscure glazing, where appropriate. The development shall not be carried out otherwise than in accordance with the details thus approved. The submitted details shall include bricks, and not brick slips.
- 4) Prior to the first occupation of the development hereby approved a minimum of two Bat/Swift nesting boxes shall be provided at or close to eaves level of the development hereby approved. The boxes shall be retained thereafter in perpetuity.
- 5) The development shall not commence until the following have been submitted to and approved in writing by the Local Planning Authority:
 - a) an assessment to consider and identify the potential flood risks (existing and post-development), especially surface water at this site.
 - b) a scheme of flood mitigation measures undertaken in accordance with BS 8582:2013 "Surface Water Management for Development Sites" which shall include, inter alia, details of mitigation measures against the risk of surface water flooding, flood resistance and resilience measures to speed up recovery after flooding.

The scheme shall subsequently be implemented in accordance with the approved details before the development is completed and shall thereafter be retained and maintained, unless otherwise agreed in writing by the Local Planning Authority.
- 6) Prior to superstructure works, the applicant shall submit, and have approved in writing by the Local Planning Authority, a detailed layout, a full specifications and a detailed management and maintenance plan of the green roof (with a substrate depth of between 80 and 150mm, not including the vegetative mat) and the permeable paving. The development shall not be carried out otherwise than in accordance with the details thus approved and shall be fully implemented before the premises are first occupied.

- 7) No development shall occur until a Construction Logistics and Traffic Management Plan (CLTMP) has been submitted to and approved in writing by the Local Planning Authority in conjunction with Transport for London and the Council's Traffic and Transport Team. The CLTMP shall include a full construction traffic impact assessment, details of the construction traffic route and a construction traffic management plan to include details of the following:
- (a) loading and unloading of plant and materials;
 - (b) storage of plant and materials;
 - (c) programme of works (including measures for traffic management); and
 - (d) provision of boundary hoarding behind any visibility zones.

The construction should thereafter take place in accordance with the measures identified within the approved documents.

- 8) 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.
- 9) 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 development proceeds beyond ground level. The development shall not be carried out otherwise than in accordance with the details thus approved. The development shall be retained in accordance with the approved details;
- Details of the access road and the ramps proposed for it.
- 10) 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.
- 11) Prior to the occupation of the development, the results and conclusions of a soil sampling and analyses exercise will be provided to the satisfaction and written approval of the Planning Authority. Before occupation written and signed confirmation of whether any evidence of significant contamination was encountered during the course of the development will be provided to the Planning Authority by the on-site manager/developer. Any significant evidence of contamination encountered during the course of the development shall be immediately notified to the Local Planning Authority. All development shall cease in the affected area. Any additional or unforeseen contamination shall be dealt with as agreed with the Local Planning Authority. Where development

has ceased in the affected area, it shall only recommence upon written notification of the Local Planning Authority.

- 12) 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 any work is commenced. The development shall not be carried out otherwise than in accordance with the details thus approved which shall be implemented in full prior to the first occupation/use of the development.

a) Details of cycle storage for 2 cycles for the unit, including details of stand type, location and means of enclosure.

- 13) The flat areas of roofing hereby approved shall not be used as a terrace or amenity area.
- 14) Windows on the north elevation at second floor level shall be fixed shut and obscure glazed to a height of 1.8 metres above the finished floor level. No Juliette balconies, or any other any balconies or terraces, shall be installed at these windows.