The Planning Inspectorate

Appeal Decisions

Inquiry Held on 22 and 23 September 2020
Site visit made on 24 September 2020

by J A Murray LLB (Hons), Dip.Plan Env, DMS, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 12 October 2020

Appeal A: APP/U5360/C/19/3241981
Land at 91 - 93 Kingsland High Street, Hackney, London, E8 2PB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Grocola Plc against an enforcement notice issued by the Council of the London Borough of Hackney.
- The enforcement notice, numbered 2019/0021/ENF, was issued on 23 October 2019.
- The breach of planning control as alleged in the notice is without planning permission the partial construction of two, two-storey, one-bedroom dwellings.
- The requirements of the notice are:
  (1) Remove the partially built mews houses from the site;
  (2) Make good all damage to the properties resulting from the removal of the unauthorised works and restore the relevant parts of the properties to the condition they were before the unauthorised mews houses were constructed;
  (3) Remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the property and its premises.
- The period for compliance with the requirements is three (3) months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Appeal B: APP/U5360/X/20/3244565
Land at 91 - 93 Kingsland High Street, Hackney, London, E8 2PB

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Grocola Plc against the decision of the Council of the London Borough of Hackney.
- The application Ref 2019/1652, dated 15 May 2019, was refused by notice dated 10 July 2019.
- The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is the commencement of development, namely the erection two, two-storey one-bedroom mews houses pursuant to planning permission Ref 2008/2603 dated 9 March 2009.

Appeal C: APP/U5360/W/20/3244566
Land at 91 - 93 Kingsland High Street, Hackney, London, E8 2PB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by Grocola Plc against the decision of the Council of the London

Borough of Hackney.
- The application Ref 2019/1249, dated 3 April 2019, sought approval of details pursuant to condition No 2 of a planning permission Ref 2008/2603, granted on 9 March 2009.
- The application was refused by notice dated 10 July 2019.
- The development proposed is the erection of two, two-storey one-bedroom mews houses.
- The details for which approval is sought are: details of the materials to be used on the building.

Decisions

1. Appeal A is allowed and the enforcement notice is quashed.

2. Appeal B is allowed and attached to this decision is a certificate of lawful use or development describing the existing operation which is considered to be lawful.

3. Appeal C is allowed and the details of the materials to be used in the erection of two, two-storey one-bedroom mews houses, which details were submitted with application Ref 2019/1249, dated 3 April 2019, in pursuance of condition No 2 attached to planning permission Ref 2008/2603, dated 9 March 2009, namely Smeed Dean yellow brick, are approved subject to the conditions set out in the schedule to this decision.

Procedural matters

4. Because of restrictions relating to the Covid-19 pandemic, I conducted a virtual inquiry, using Microsoft Teams, having first held a test event and pre-inquiry meeting on 16 September 2020. Along with the main parties, Lisa Shell participated in that Teams test event, having requested to speak at the inquiry.

5. In my pre-inquiry note, I drew attention to the fact that the Council's initial notification letter incorrectly described the breach of planning control, only referred to grounds (f) and (g) and did not mention appeals B and C. However, the Council confirmed that correct site notices had been displayed from 1 September 2020, a corrected notification letter was sent on 4 September and accurate details were publicised in the local press on 10 September. There was no suggestion that anyone had been prejudiced by the initial error and I am satisfied that is the case.

6. Following the close of the inquiry, I carried out a site inspection on 24 September 2020. The appellant's builder, Mr Glister, provided access to the appeal site, but I did not discuss the appeals further with him. As requested by Miss Shell, I also viewed the appeal site from the rear garden of 1A John Campbell Road. Miss Shell was not in attendance but left her rear gate open to facilitate access.

7. All witnesses gave evidence under oath or affirmation.

Appeal A

Ground (c)

8. To succeed on this ground, the appellant must prove on the balance of probability that the matters alleged in the notice do not constitute a breach of planning control. This will turn upon:

   (i) whether the development was lawfully commenced in accordance

with planning permission Ref 2008/2603 dated 9 March 2009 (the 2009 permission). In turn, that will depend on whether a material operation, as defined in s56(4) of the 1990 Act had begun to be carried out[1] by 9 March 2012; and if so

(ii) whether what has been built accords with the 2009 planning permission and, if not, I will need to determine whether there is:

(a) a substantial deviation from the approved plans, such that the entire development is without planning permission, or

(b) merely a breach of condition 4 of the 2009 permission requiring the development to be carried out strictly in accordance with the approved plans.

Reasons

9. Condition 1 of the 2009 permission effectively required commencement of the development by 9 March 2012. Other conditions required various details to be submitted to and approved by the Council before commencement. These included condition 2, concerning details and samples of materials.

10. A Statement of Common Ground (SOCG) records the parties' agreement that any material operation to commence development prior to 9 March 2012 would have been in breach of condition 2 of the 2009 permission. However, it is also agreed this does not matter because, even assuming condition 2 was a true condition precedent, an application to discharge it was made on 5 March 2012. That application was then approved by the Council on 9 August 2012 and this would be sufficient in accordance with *F G Whitley & Sons v SSW and Clwyd CC* [1992] JPL 856.

11. Section 56(4) of the 1990 Act states that a "material operation" means:

"*(a) any work of construction in the course of the erection of a building;*

[(aa) any work of demolition of a building;]

(b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;

(c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b);

(d) any operation in the course of laying out or constructing a road or part of a road;

(e) any change in the use of any land which constitutes material development."

12. In his evidence Mr Glister, said he was appointed as the appellant's building contractor on 20 January 2012 and he described the work carried out on site after that. His proof indicated that certain works had commenced on

[1] At the start of the inquiry, I indicated that the issue was whether a material operation "was carried out by 9 March 2012." Having regard to Mr Du Feu's closing submissions, I have altered this wording, to follow more precisely the wording of s56(2) of the 1990 Act.

23 February 2012 but, in oral evidence, Mr Glister corrected this to 28 February 2012, by reference to his contemporaneous diary entry for that date. Mr Batchelor accepted during cross examination that most of the works described by Mr Glister were not capable of being material operations as defined, namely:

- "Clearing of rubbish from the site";
- "Disconnecting the exterior lights and supply";
- "Removing existing gates and lock", followed by "replace gates and add new lock";
- "Cover holes in ply wood"; and
- "Facilitate examination of holes and trench by District Surveyor…"

13. Mr Glister also referred to the "demolition of roof and walls of the right hand side garage." However, in oral evidence in chief, Mr Glister explained that this merely involved removal of ply, plastic and a tarpaulin which had been draped between the flat roof to the rear of the club at No 91 Kingsland High Street and the beam across the old garage on the southern part of the appeal site. When cross-examined, Mr Glister accepted that this was just part of the process of clearing rubbish from the site and Mr Batchelor conceded that this would not constitute a material operation.

14. However, Mr Glister's proof also refers to "digging of trial holes and excavation of foundation trench to 1.4m deep as per proposed trial pit plan." The digging of a foundation trench would clearly be a material operation within s56(4)(b). However, by reference to photographs taken on 16 April 2012, Mr Glister accepted in cross-examination that the trench was probably not dug before that date, in other words, not until after the 2009 permission would have expired.

15. Mr Glister also described the cutting away of a section of vent pipe to insert a camera to check for blockages and to expose the existing drain under the fire escape landing, to check its condition. This is referenced in his diary entry for 29 February 2020. I am not persuaded by Mr Du Feu's submission that these things were works of construction in the course of the erection of a building or integral to the process of laying pipes to the new development, so as to come within s56(4)(a) or (c). That submission stretches the ordinary meaning of the words of the section beyond breaking point.

16. This leaves the "digging of trial holes". Mr Glister's proof includes this in the list of works carried out "from 28 February 2012 onwards." However, his diary entry specifically for 28 February says, "Dig trial foundation…1.4m deep." Mr Glister said trial holes were dug on the instructions of the appellant's architect, to check that the soil conditions were suitable for the soundproof foundation design and to examine the foundations of existing walls. The position of 5 trial pits (TP1 – 5) are indicated on a plan. When recalled to deal with this point, Mr Glister said unequivocally that his diary entry for 28 February 2012 related to the digging of all the trial pits, including TP2 and TP4 adjacent to the northern site boundary, and not just TP1, 3 and 5, for which there are photographs.

17. Mr Glister explained that TP5 was dug "slightly off the foundations" for the new development and TP1 and 3 were dug along the southern boundary wall with No 89 Kingsland High Street, to examine the foundations of that wall. So, TP1 and 3 were also not dug on the line of the foundations for the new building, as shown on drawing 237/P9/B. I am satisfied that the digging of TP1, 3 and 5 did not begin the digging of a trench which was to contain the foundations, or part of the foundations, of a building.

18. However, Mr Glister confirmed that TP2 and TP4 were dug exactly on the line of the foundations for the new building. He also said they had to underpin the party wall with No 95, as part of the development's foundations.

19. In closing for the Council, Mr Atkinson suggested that Mr Glister began tidying up the site on 28 February 2012 and the trial holes were probably not dug until late March or April. However, Mr Glister's clear statement that all the trial holes were dug on 28 February 2012 was not challenged in cross-examination by him. Whilst Lisa Shell initially questioned whether TP2 and 4 were dug, later she graciously said that as she had been told they were, that was probably enough and all she needed to know.

20. Although Mrs Clark was not involved with the appeal site until February 2019, by reference to the Council's computer records, she was able to say that Council officers visited the appeal site on 17 February, 21 March and 16 April 2012. Each time they concluded that no works had commenced. However, whilst that simple conclusion is recorded, there is little evidence of what the officers actually saw.

21. There are no photographs from the 17 February visit and the officers did not contact the site owners. Mrs Clark accepted there is no indication that they even gained access to the site.

22. There is a photograph from the 21 March visit, but this just shows the west wall of the property fronting Gillett Place, with its closed gates and roller shutter doors. Again, the officers did not contact the owners, there is no indication that they gained access to the site and nothing to explain the basis for their conclusion that works had not commenced.

23. It is clear the officers did enter the site when they visited on 16 April 2012, because there are 2 photographs. However, these do not show the whole site and they do not show the area where TP2 and TP4 would have been dug. Again, the owners were not contacted and, following that visit, the "Case Closure Note" simply stated: "A site inspection on 16th April 2012 has not revealed any works being commenced on site. Planning permission 2008/2603 expired on the 9th March 2012, however, as no works have started on site, there is no breach of planning control occurring."

24. I accept Mrs Clark's evidence that the officers involved were experienced and qualified and, "from time to time", they would have had to assess whether development had commenced. However, the evidence and submissions in this case alone indicate that the question of whether a material operation has been carried out can be a matter for debate. The officers would not necessarily have taken photographs, or made notes of, things which they personally regarded as immaterial. They were not available to explain the basis of their bald conclusions and there were no contemporaneous site notes. All witnesses, including Mr Glister, were advised that lying on oath could result in prosecution

and/or a challenge to my decision, if it were based on false information. There is nothing sufficient to displace Mr Glister's straightforward, precise, unambiguous and otherwise unchallenged evidence on oath that TP2 and TP4 were dug on 28 February 2012. I accept, on the balance of probability, that they were.

25. It remains to be determined whether, when TP2 and TP4 were dug on 28 February 2012, that was enough to begin, in terms of s56(2) of the 1990 Act, the carrying out of a material operation.

26. Having regard to the evidence, I accept Mr Atkinson's submission that the trial holes were dug to determine the depth and extent of existing foundations and to check the soil suitability. However, in *Commercial Land Ltd v SSTLGR* [2003] JPL 358, the court held that the subjective intentions of the developer are not relevant; an objective conclusion must be formed as to the function of the works. As a matter of fact, TP2 and TP4 were dug on the line of the proposed foundations. The digging of those holes therefore began the process of digging a trench which was to contain the foundations, or part of the foundations of the building, as described in s56(4)(b). TP2 and TP4 performed that function, even though that was not the motivation for digging them at the time.

27. I accept that TP2 and TP4 only related to a relatively small part of the foundations but, having regard to the Court of Appeal judgements in *Thayer v SSE* [1992] JPL 264 and *Malvern Hills District Council v SSE* [1983] 46 P.C.R. 58, the test to be applied is not the "quantum" of the work involved but whether that work was "related to the planning permission involved." In *Malvern* Hills, the court said, "very little need be done to satisfy" the equivalent of s56 at the time, and this is "a benevolent section which aims at avoiding hardship to a developer who is genuinely undertaking the development." The work involved in digging TP2 and 4 was related to the 2009 permission and, in my judgement, it was more than de minimis.

28. For all the reasons given, **I conclude in relation to issue (i)** that, on the balance of probability, the development was lawfully commenced in accordance with the 2009 permission, because a material operation, as defined in s56(4) of the 1990 Act had begun to be carried out before 9 March 2012.

29. Nevertheless, ground (c) is that the matters alleged do not constitute a breach of planning control. Notwithstanding that the development was lawfully commenced, there is no dispute that there were subsequent deviations from the approved plans and details. In terms of **issue (ii)(a)**, what has been built so far deviates from the approved plans and details in that:

    (i) the rear (east) elevation only steps in once, rather than twice, as shown on the approved ground floor layout plan 237/P6/B;

    (ii) the front (west) brick elevation has been constructed in line with the front boundary of the site and the garage next door, rather than set in a little behind timber mullions, as shown on the approved plans 237/P6/B and 237/P8/B; and

    (iii) the exterior walls have been faced with Smeed Dean yellow brick, rather than the red Birtley Borrowdale blend bricks approved on 9 August 2012 under Ref 2012/0753, referred to on drawing 237/107 and described in the submitted manufacturer's details.

30. Given my decision on appeal C, item (iii) above is not an issue. In relation to items (i) and (ii), Mrs Clark said in her proof that what has been built differs from the approved development and does not benefit from planning permission; the differences being "notable", rather than de minimis. For the appellant, Mr Batchelor describes those differences as "minor", such that they could be regularised as non-material changes via an application pursuant to s96A of the 1990 Act. Whether or not that is so, I am satisfied as a matter of fact and degree that the discrepancies set out in (i) and (ii) above are not substantial enough to mean that the development as a whole is without planning permission.

31. Accordingly, the matters alleged in the notice as drafted do not constitute a breach of planning control in the terms alleged; that is to say, the partial construction of the dwellings was not without planning permission. Nevertheless, their partial construction otherwise than in strict accordance with the approved plans is in breach of condition 4 of the 2009 permission. It is therefore a breach of planning control.

32. Whilst the appellant is entitled to succeed on ground (c), I must consider whether I can, and should, exercise my discretion under s176(1) of the 1990 Act to correct the allegation to refer to a breach of condition and make consequential variations to the requirements, rather than quashing it. The Council would prefer me to amend the notice and indeed, for discussion purposes, I tabled suggestions as to how this might be done.

33. I can only exercise the power to correct and vary the notice if this would cause no injustice to either party. I acknowledge that, if the Council had to issue a new notice, this would result in further delay and there is some local interest in this matter being resolved quickly, to remove a vacant site and the problems associated with that.

34. However, it is also clear that the Council resolved to take enforcement action on the basis that the development did not have the benefit of a planning permission, which it believed expired in 2012. The Council did not consider the expediency of enforcement action in response to what I have found to be less than substantial deviations from approved plans. This would have involved a rather different assessment.

35. When asked to identify any planning harm arising from the departures from the approved plans, Mrs Clark was hesitant. She mentioned the fact that the reasons for issuing the notice, as stated on the notice itself, include poor design, but beyond the issue of the choice of bricks, Mrs Clark did not elaborate on that. When re-examined, she added that the unauthorised change to the rear wall would make one of the dwellings slightly smaller, when it is already small, and indeed Miss Shell echoed this. However, I heard no evidence to demonstrate that this would result in unacceptable harm. I make no attempt to judge these issues; they are matters for the Council.

36. The appellant contends that it would be more appropriate to quash the enforcement notice and allow the Council to consider the question of whether to enforce against the deviations from the plans, or seek to regularise the position through a further application, or even to take "a hybrid approach." I am conscious that, had the appellant company been served with an enforcement notice merely alleging a breach of condition, namely the failure to build in strict accordance with the approved plans, it may have chosen to

appeal on ground (a), to seek retrospective planning permission. In that event, the planning merits of the as built scheme could have been considered. If I correct and uphold the notice, there will have been no opportunity for such consideration. I acknowledge that the appellant could have appealed against the existing notice on ground (a), but it may have chosen not to because it was confident the notice would be quashed on ground (c).

37. For the reasons given, I cannot correct and vary the notice without causing injustice to the appellant.

Conclusion on appeal A

38. The appeal succeeds on ground (c) and the notice will be quashed. Grounds (f) and (g) do not therefore fall to be considered.

Appeal B

39. The issue in this appeal is whether the Council's refusal of an LDC is well-founded. The onus of proof, on the balance of probability, falls on the appellant and the relevant factors are the same as set out under appeal A ground (c), issue (i).

40. For the reasons given in relation to appeal A, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the commencement of development, namely the erection two, two-storey one-bedroom mews houses pursuant to the 2009 permission, was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Appeal C

Main Issue

41. The main issue is the effect of the external materials (Smeed Dean yellow brick) on the character and appearance of the area, which lies within the Dalston Conservation Area (CA).

Reasons

42. Under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The National Planning Policy Framework (the Framework) requires me to consider the significance of the CA as a heritage asset and the degree of any harm to that significance. Whether that harm is substantial or less than substantial, great weight should be given to conserving the significance of the CA. Policy 7.8 of The London Plan (LP), March 2016, Policy DM28 of the Hackney Development Local Plan (DLP), adopted 2015 and Policy 24 of the Hackney Local Development Framework Core Strategy (CS), adopted 2010, are all consistent with this.

43. The CA was designated in 2016 and I have had regard to the February 2016 Dalston Conservation Area Appraisal (CAA). The CA is centred on Kingsland High Street, formerly the Old North Road, which is part of one of the oldest roads in Britain, the Roman Ermine Street. The CAA describes the cohesive mid-Victorian to Edwardian shopping street, Kingsland High Street itself, but also refers to another element of the CA, namely the mix of

residential, retail and factory/warehouse buildings on the back streets located to the west of Kingsland High Street, including Gillett Square. The appeal site lies in this general area, along Gillett Place, to the rear of 4-storey terraces fronting Kingsland High Street.

44. The appeal site is not within any of the "important views" identified on the CA map. However, the site is visible along Gillett Place from Gillett Square, which the CAA says is the only public space in the CA. From my own site inspection, I am satisfied that Mrs Clark's description of Gillett Square as a "spacious public meeting place which is in use as a busy community area" is accurate. As such, this is not an unimportant public vantage point.

45. Buildings on the section of Kingsland High Street to the east of the appeal site are predominantly of brick construction, but there is variety in the colour of bricks used, including yellow stock bricks. Buildings on and adjacent to Gillett Square have a wide variety of external finishes, including yellow stock brick, modern yellow brick, glazed red brick, white render and cladding systems, including metal cladding.

46. However, in public views from Gillett Square, the appeal site is part of the curtilages of 4-storey terraced buildings fronting Kingsland High Street and the appeal buildings will be seen against the rear elevations of those terraces and the imposing flank and rear elevations of the Rio Cinema. Despite the existence of some render, these elevations are characterised predominantly by London stock brick and, in his proof, the Council's Conservation Officer, Mr Dyer, explains that this was the principal building material for houses in London from 1700 to 1840. He further describes how London stock bricks are fairly irregular in shape, rough in texture and have a great variation in quality and colour, including "pock marks" from the firing process.

47. I also note Mr Dyer's evidence that the previous wall on this site, fronting Gillet Place, featured good quality stock bricks. They were primarily in a buff yellow colour, ranging from dark to lighter, with many featuring red and pink undertones and there was considerable variation in the tone and texture of the brick. This is borne out by photographic evidence.

48. Although the Council's decision notice indicates that the Smeed Dean yellow bricks used by the appellant thus far are not "of high enough quality", Mr Dyer explained in oral evidence that the durability of the bricks is not in doubt; the concern relates to their appearance. He said the chosen bricks are jarringly uniform and a sort of "sandcastle yellow", in contrast to the varied red, brown, purple and pinkish tones of London stock bricks. From my inspection of the walls constructed so far, that is a fair description of the bricks' colour and uniformity, even though they also have black pock marks. Mr Dyer acknowledged that the neighbouring London stock bricks will have weathered and changed in colour over time but said they would never have been as uniform as the Smeed Dean yellows, and he stressed the importance of variation in tone and depth.

49. Albeit that the use of Birtley Borrowdale blend bricks was approved before the CA was designated, they are not London stock bricks. Nevertheless, Mr Dyer said, although they would not have replicated traditional stock bricks, they would have been better than the yellow bricks used, having a more varied colour. I accept that, having regard to the manufacturer's details provided.

50. The appeal development would only be glimpsed from the public vantage points on Gillett Square, via a gated alleyway and, in its partially completed state, it is not prominent. However, when complete, it would be the only 2-storey addition on this side of Gillett Place and the use of uncharacteristic, Smeed Dean yellow bricks, would render it incongruous and obtrusive. Accordingly, the development would detract from the appearance of the buildings behind it, albeit that the harm to the significance of the CA as a whole would be less than substantial.

51. However, Mr Dyer indicated that there are ways of toning down the bricks, using a stain or colour/soot wash. I accept that this would not alter the actual texture or shape of the Smeed Dean yellow bricks. Nevertheless, particularly when viewed from the public vantage points on Gillett Square, such treatment would alter their apparent colour and texture. I am satisfied that this would be likely to introduce tonal variations sufficiently close to those of the traditional London Stock bricks seen nearby. Treated in this way, the completed appeal building would not appear incongruous in its setting. It would cause no harm to the character and appearance of the CA and would be no less acceptable than if the approved Birtley Borrowdale blend bricks were used.

52. In order to safeguard the character and appearance of the CA, it is necessary to impose conditions requiring the application of a stain or soot wash, to be approved by the Council. I tabled a suggested form of wording for discussion at the inquiry, but I have taken account of comments made during that discussion. Although development has commenced, enforceability can be ensured by preventing further works until the stain is approved.

53. My suggested condition included a requirement for the stain to be applied to the existing brickwork within 2 months of approval. However, this was to cater for the eventuality that the enforcement notice was upheld with corrections and variations. Given that the Council will now have to consider what if any alterations to require, it would be inappropriate to demand the application of a stain in the meantime.

Conclusion on appeal C

54. For the reasons given, I conclude that, subject to the imposition of the conditions discussed above, the use of Smeed Dean yellow brick will not harm the character and appearance of the area, which lies within the Dalston Conservation Area (CA). The development will therefore comply with LP Policy 7.8, DLP Policy DM28, CS Policy 24 and the Framework and the appeal should be allowed.

J A Murray

INSPECTOR

SCHEDULE

These are the conditions referred to in the formal decision on appeal C Ref APP/U5360/W/20/3244566 above:

1) No further works to construct the two permitted mews houses shall be carried out until details of a stain to be applied to the Smeed Dean yellow bricks in order to match as closely as possible the tone of London Stock bricks has been submitted to and approved in writing by the local planning authority or by the Secretary of State on appeal. The details to be submitted shall include a sample panel of Smeed Dean yellow bricks with the stain applied.

2) The development shall be carried out using the stain approved under condition 1 and this shall include applying the approved stain to the existing brickwork.

APPEARANCES

FOR THE APPELLANT: Ben Du Feu of counsel

He called	Michael Symons
	David Glister
	Mark Batchelor BSc (Hons), MSc, MRTPI

FOR THE LOCAL PLANNING AUTHORITY: Giles Atkinson of counsel

He called	Martha Clark BA MA MRTPI
	Adam Dyer MSc BA (Hons)

INTERESTED PERSONS:

Lisa Shell

DOCUMENTS SUBMITTED DURING THE INQUIRY

1 Foundation plan – drawing No 12012/02 Rev P1
2 Closing submissions for the Council
3 Closing submissions for the appellant

The Planning Inspectorate

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 3 April 2019 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and hatched in black on the plan attached to this certificate, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The development was lawfully commenced in accordance with planning permission Ref 2008/2603 dated 9 March 2009, because a material operation, as defined in s56(4) of the 1990 Act, had begun to be carried out before 9 March 2012.

Signed

J A Murray

Inspector

Date: 12 October 2020
Reference: APP/U5360/X/20/3244565

First Schedule

The commencement of development, namely the erection two, two-storey one-bedroom mews houses pursuant to planning permission Ref 2008/2603 dated 9 March 2009

Second Schedule

Land at 91 - 93 Kingsland High Street, Hackney, London, E8 2PB

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule were lawful, on the certified date and, thus, were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The Planning Inspectorate

Plan

This is the plan referred to in the Lawful Development Certificate dated: 12 October 2020

by J A Murray LLB (Hons), Dip.Plan Env, DMS, Solicitor

Land at: 91 - 93 Kingsland High Street, Hackney, London, E8 2PB

Reference: APP/U5360/X/20/3244565

Scale: DO NOT SCALE