



Appeal Decision

Site visit made on 4 November 2020

by **J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 15 December 2020

Appeal Ref: APP/E5900/W/19/3241252

Flat 1, 214 Cambridge Heath Road, London E2 9NQ

- 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 Rory Logsdail against the decision of the London Borough of Tower Hamlets.
- The application Ref PA/19/01350, dated 26 June 2019, was refused by notice dated 23 August 2019.
- The development proposed is a roof conversion and installation of 4No. rooflights, and a single storey 3rd floor roof extension.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Reasons for Refusal in the Council's Decision Notice cited the Tower Hamlets Core Strategy 2010 (CS) Policy SP10 and Policies DM24 and DM27 of the Managing Development Document 2013 (MDD). During the appeal process, the Tower Hamlets Local Plan 2031 (LP) was adopted by the Council on 15 January 2020, superseding the policies of the CS and MDD. The Council has supplied copies of the relevant policies of the LP against which this decision is to be assessed and has commented that this change in policy does not alter any of the elements of the reasons for refusal.¹ The applicant has also had the opportunity to comment upon the adopted LP.²
3. I acknowledge that the applicant disagrees with the consideration of the adopted LP and has requested that I only base my decision on the superseded documents. However, as the courts have confirmed³, I have a legal duty to make my decision on the basis of the development plan which is in place at the time of the appeal decision. I have therefore made my decision on this basis and have only referred to the adopted policies of the LP in this decision.

Main Issues

4. The main issues are the effect of the proposed development upon:
 - the character and appearance of the locality, including the appeal building and the Hackney Road Conservation Area (CA); and
 - the living conditions of the existing neighbouring occupiers at Cambridge Court with regard to privacy, overlooking, and sense of enclosure.

¹ Email sent from Planning Inspectorate to Council 09/11/2020, response received 12/11/2020

² Email sent from Planning Inspectorate to applicant 09/11/2020, response received 13/11/2020

³ Cheshire East BC v SSCLG [20 March 2013]

Reasons

Character and appearance of the locality, including the appeal building and the Hackney Road CA.

5. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA), in respect of development affecting conservation areas, states that special attention shall be paid to the desirability of preserving or enhancing the character and/or appearance of the area.
6. The appeal site is the former entrance block and remaining building which was once part of the former Bethnal Green Infirmary/hospital, and has since been converted into apartments. The building is 6 bays wide and three storeys tall with main entrance to the third bay with a forward projecting tower which rises to four storeys. The building is of traditional construction and is constructed with London stock brick with decorative stone dressings around fenestration, with large chimney stacks and contrasting red decorative ridge tiles to the roof. To the rear of the building is a three storey flat roof extension with parapet which sits below the eaves of the main building and is subservient to it and allows elements of the roof form to dominate such as the chimneys, pitched roof and decorative ridge tiles.
7. The appeal building has an imposing presence within the street scene and is not only important for its design and positive contribution to the character and appearance of the conservation area, but the building itself would appear to be locally significant and represents the remaining component of a key historic use for the local area in the form of a hospital. As such, I disagree with the applicant that the appeal site is not a building of any historical value, and agree with the comments made within the Planning Officer report that the building does exhibit local interest and is a positive contribution to the area. The Council comments that the building is worthy as consideration as a non-designated heritage asset. In such cases the Council or heritage consultant would make a judgement of the merits of the building based upon a set of criteria adopted by the Council, however such information does not accompany the appeal documents. As such I have only considered the building as a positive contributory element to the character and appearance of the CA.
8. Whilst I acknowledge the applicant's comments that roof extensions are a common element of the conservation area, in this particular case on this building, there are no roof extensions similar to the proposal. The only alterations to the building as a whole have been the changing from the existing flat roof to a roof terrace, not additional construction in the form of an extension as proposed. The proposed extension would increase the height of part of the rear component to four storeys, with the extension protruding above the eaves of the front component of the building. The proposed extension would have a rectilinear form with flat roof which would distract and detract from the rear facade where the rear extension appears to have been designed at a lower height to ensure subservience. The additional clutter caused by the railings above the flat roof extension and the proposed rooflights which take up much of the roof plane would exacerbate the poor form and appearance of the extension which would be a discordant addition when experienced within this context.

9. I acknowledge the examples of other roof extensions permitted by the Council in the local area⁴ submitted with the intention of demonstrating that these approvals are similar to the considerations of the appeal site and which would merit a similar determination of approval. The applicant has not demonstrated how each of the examples are similar, however reviewing these permissions, in the majority of cases presented they involve residential dwelling extensions or shop top extensions. It is unclear whether these sites are also within conservation areas or are considered to be positive contributory elements to the CA. The extension to No.206 Cambridge Heath Road is an extension to a relatively modern building which does not appear to be within a conservation area or have positive influence towards the CA. Whilst two permissions for other flats within the same building have been granted consent to have roof lights, these rooflights are not of the substantial size as proposed under the appeal scheme. I do not consider that these examples represent analogous determinations to the appeal site and therefore they are not persuasive in providing justification for the proposed scheme.
10. It would appear from the applicant's comments that as the proposed extension would not be able to be seen from the front of the property that it cannot be harmful to the visual amenities of the conservation area. However, the duty with regards to conservation areas as stated within the PLBCA is not limited to what can be visually appreciated within the street scene. In this particular case, the extension would impact negatively on how the building is appreciated within the CA, which consists of a number of historic buildings which are largely authentic with regard to their design and historic form and function.
11. The proposal would not integrate well with the existing building and have a discordant impact on the historic building with an extension that would be problematic in relation to the architectural authenticity and integrity of the building. Consequently, the scheme would not reinforce the qualities of local character and distinctiveness and would be harmful to the character and appearance of the conservation area. This would be contrary to LP Policies S.DH1 (which sets a number of design principles such as ensuring the architectural language through scale, composition and articulation of building form enhances immediate and wider surroundings) and Policy S.DH3 (which seeks to preserve and where appropriate, enhance designated and non-designated heritage assets in a manner appropriate to their significance). There would also be conflict with London Plan 2016 Policies 7.4 (which seeks development to have regard to the local character of an area); Policy 7.6 (which seeks architecture that is high quality which is appropriate to its context); and Policy 7.8 (which seeks that development should conserve the significance of London's heritage assets).
12. Although serious, the harm to the CA in this case would be 'less than substantial,' within the meaning of the term in paragraph 196 of the National Planning Policy Framework (The Framework). Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 196 requires that, where a

⁴ Tower Hamlets Planning Ref: PA/13/00541/A1 206-210 Cambridge Heath Road granted 04/06/2013; PA/18/01688/A1 514 Roman Road, granted 21/09/18; PA/18/01705/NC 42 Chisenhale Road, granted 11/10/18; PA/18/01337/NC 39 Lyal Road, granted 26/10/18; PA/17/00958/NC 235 Bethnal Green Road, granted 05/07/20; PA/15/02344/NC 214 Cambridge Heath Road, granted 15/10/15; PA/15/00099/NC 214 Cambridge Heath Road, granted 18/03/15.

proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal.

13. I note that the benefits of the scheme would be private with the proposal delivering larger residential accommodation as well as resulting in short term employment opportunities in the construction of the extension; and the best use of urban land which is promoted by the Framework. However, these public benefits would not outweigh the harm to the CA. The scheme therefore conflicts with the Framework, which directs, at paragraph 193, 'that great weight should be given to the asset's conservation ... irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance'.
14. In conclusion on this matter, I consider the proposed development would cause unacceptable harm to the significance of the CA. It has not been shown that public benefits would outweigh this harm and so the proposal would conflict with the development plan, including the London Plan.

Living conditions of the existing neighbouring occupiers at Cambridge Court as a result of outlook, and sense of enclosure.

15. The main contention with regards to living conditions results from a loss of daylight, privacy and sense of enclosure caused by the proposed extension towards the neighbouring Cambridge Court which is located to the north of the appeal building and separated by a small laneway for vehicular access. Cambridge Court is four storeys tall and has a mansard roof with dormer windows and accommodation within the roof space. Whilst a daylight assessment has not been submitted with the appeal documents, the current level of light to Cambridge Court appears poor due to the small separation distance and similar height between both buildings.
16. The proposed extension would increase the height of the brick wall to the rear of the appeal site with terrace above, but would include a separation distance of approximately 10 metres according to the information before me. Given the highly urbanised environment, and the setback of the extension and terrace from Cambridge Court, in this particular case I do not believe that the proposed scheme would result in detrimental living conditions as a result of loss of light, enclosure and loss of outlook as there would be an acceptable separation distance between the extension and the adjacent windows of Cambridge Court. Given the layout of the proposed extension, the line of sight from the terrace to the windows of Cambridge Court would be restricted by the parapet wall of the appeal site along the boundary to the laneway. And whilst there may be the possibility of overlooking from acute angles, I do not believe this would be of an adversely detrimental level.
17. In conclusion of this matter, the proposal would not result in harmful impact arising from loss of daylight and sunlight and it would therefore be compliant with Policy S.DH1 of the LP and Policy D.DH8 which seeks to ensure that development does not result in unacceptable material deterioration of living conditions. The proposed scheme would also be compliant with London Plan policy 7.6 which seeks that new development should not cause unacceptable harm to the amenity of surrounding land and buildings.

Conclusion

18. I have found in the appellant's favour with regards to a main issue that the development would not result in an unacceptable detriment to living conditions of the neighbouring Cambridge Court. However, this is insufficient to outweigh the material harm which would result in relation to the effect on the character and appearance of the locality, the appeal building and the CA. The proposal would therefore be contrary to the development plan when considered as a whole.
19. For the reasons given above, I conclude that the appeal be dismissed.

J Somers

INSPECTOR