



Appeal Decision

Site visit made on 9 June 2021

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 20 July 2021

Appeal Ref: APP/K5030/W/20/3248486

8-10 Half Moon Court, Barbican, London EC1A 7HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr P Jooste against the City of London Council.
- The application Ref 19/01264/FULL is dated 2 December 2019.
- The application sought planning permission for the change of use at basement, ground and first floor levels from offices (Class B1) to residential (Class C3) (360sq.m). Erection of additional 2nd, 3rd and 4th floors for residential use (Class C3) (643sq.m). The proposal would create nine residential units, without complying with conditions attached to planning permission Ref 09/00800/FULL, dated 18 February 2010.
- The conditions in dispute are Nos 2 and 9 which state that:
 - 2. Before any works thereby affected are begun the following details shall be submitted to and approved in writing by the Local Planning Authority and all development pursuant to this permission shall be carried out in accordance with the approved details:*
 - (a) the front entrance doors, louvres and projecting canopy.
 - (b) alterations to existing windows.
 - (c) zinc cladding to 4th and 5th floor roof.
 - (d) circular dormers.
 - (e) balcony and roof terrace balustrades.
 - (f) samples of proposed new brickwork and zinc cladding.
 - 9. The development shall not be carried out other than in accordance with the following approved drawings and particulars or as approved under the conditions of this planning permission: Site Plan, 8HMC/P/002, 003, 004, 005, 006, 007, 008, 009, 010A, 011, 012, 013, 014.*
- The reasons given for the conditions are:
 - 2. To ensure that the Local Planning Authority may be satisfied with the detail of the proposed development and to ensure a satisfactory external appearance in accordance with the following policies of the Unitary Development Plan 2002: ENV6.*
 - 9. To ensure that the development of this site is in complete compliance with details and particulars which have been approved by the Local Planning Authority.*

Decision

1. The appeal is dismissed, and planning permission is refused.

Preliminary Matters

2. Since the application was made and the appeal lodged, The London Plan 2021 (London Plan) has been published and forms part of the development plan for the purposes of determining this appeal. The main parties have had the opportunity to comment on this change and no parties' interests will have been

prejudiced by my taking it into account. The reason for Condition 2 references the former Unitary Development Plan. Since that condition was imposed the City of London Local Plan, 2015 (Local Plan) now forms part of the development plan and I have determined the appeal on that basis.

Background and Main Issue

3. Planning permission was granted in 2010 to add additional floors to the existing three storey building to one of six storeys, including basement, and create nine dwellings (the approved scheme). The masonry front of the new second floor of that scheme would be of similar appearance to those below. A new third floor would be set back behind a parapet and terrace with a fourth floor above set within a zinc roof curving away from the front elevation, punctuated by three circular dormer windows.
4. The appeal proposal seeks to amend that scheme by way of varying conditions that specify the approved drawings and requiring details of features and finishes to be approved. The revised drawings which the appeal proposal seeks to substitute show the façade of the fourth floor as a vertical continuation of the third, both faced with zinc cladding, and terminating with a flat roof.
5. The Council did not make a decision on the application. However, they have indicated that had they done so they would have refused permission. The reason for this is that they consider the scheme would increase the overall bulk and dominance of what they term the roof extension, leading to a visually dominant extension incompatible with the appearance of the building and context, and consequently the Conservation Area.
6. Therefore, the main issue raised by this appeal is the effect that varying conditions 2 and 9 would have on the character and appearance of Smithfield Conservation Area (CA) with particular reference to the effect of the design and detailing of the proposed fourth floor of the building.

Reasons

7. The Council's CA Character Summary SPD¹ (the SPD) attributes its character to the physical fabric and street pattern which has evolved over almost 1000 years and in turn reflects a much longer history. The CA's incremental development is evident through the diversity of built forms and uses that reflect the development of its ecclesiastical, commercial and medical institutions and activities, creating a townscape enriched by open spaces and trees with great contrasts in scale between different areas and uses. It goes on to note numerous unlisted buildings of a high architectural and townscape quality from different periods. These features contribute to the CA's significance as a designated heritage asset.
8. The appeal building is situated at the end of a short court. It has a brick front elevation with large arched windows giving it the appearance of the warehouses which form a distinctive part of nearby streets in this part of the CA. The appeal building is not listed. Despite the Council considering it to be an 'un-designated' heritage asset, there is no documenting or supporting evidence to confirm the building as a non-designated heritage asset, including along the lines advocated in the Planning Practice Guidance for the

¹ City of London Smithfield Conservation Area -Character Summary & Management Strategy Supplementary Planning Document, 2012.

identification of such assets. As such I have not considered the building to be a non-designated heritage asset.

9. Nevertheless, it has some merit with the appellant's Heritage Statement noting its plain but attractive external appearance and the characteristics of the particular building are described in the SPD. It makes a positive contribution to the significance of the CA by virtue of its architecture, façade materials, age, historical associations with local commerce, its height and scale, and as a component of the CA's varied townscape.
10. The approved scheme would extend the building vertically but in doing so would create a clear hierarchy of diminishing scale and prominence displayed in the frontages of new floors. This would be expressed by the third floor being set back from the more solid front elevation below. The fourth floor would be set within a curved frontage with dormers, resembling a roof, and would take on the appearance of a recessive and more incidental element, diminishing again in prominence and importance compared to the floor below. This configuration would retain a scale and proportion which would preserve the significance of the CA.
11. The appeal proposal would create a third and fourth floor in a single vertical block when viewed from the front. Although set back from the façade, its height and unbroken mass would appear as an overly large and dominant feature relative to the proportions of the masonry frontage below. Even though the lower third floor frontage may be concealed to varying degrees by the parapet and particular ground level vantage points, the fourth floor frontage above would clearly appear as a full part of the upper elevation rather than a roof feature. Whilst its overall height or number of floors would not necessarily be at odds with other buildings within the CA nearby, including its immediate neighbour, its expression as a single, two storey element would detract from the townscape and character of the CA.
12. This would be apparent not only from Half Moon Court itself but also from views from Bartholomew Close and from the end of the walkway running to the rear of buildings on Bartholomew Close. The large tree to the front of the building would only have a very limited effect in interrupting views of the upper floors. Although other buildings of warehouse appearance in the CA might be of similar heights or number of stories, typically they display predominantly consistent masonry façades, with those that have elements at a higher level largely reading as much more incidental and smaller features within the overall proportions of those host buildings and consequently the CA's townscape.
13. The appeal proposal would not display the compact, domestic scale with similarly compact storeys that the SPD identifies as a feature of buildings in the vicinity. It may visually integrate with the third floor façade on its own but would not when the façade of the building is considered as a whole. I note that the City of London Conservation Area Advisory Committee (CAC) considered that the proposal would be detrimental to the CA.
14. Although the appeal seeks to vary conditions on the approved scheme, the appellant points to several other material amendments to it which have been granted permission. In particular, a permission in 2020 varied conditions to permit a fourth floor fronted by a 75° steeply sloping roof plane in place of the curved shape, and with larger, square dormers.

15. Nevertheless, the slope of the frontage and expression of windows as dormers, however limited their projection, would retain an appearance clearly different to that of the floor below, including how it would catch the light and still give the impression of a roof. This effect would be bolstered by the deep projecting gutter arrangement overhanging the third floor windows and frontage. This previous scheme, does not therefore, lead me to consider that the proposal would be similar in its detailed effects nor that the appeal proposal would be acceptable.
16. Although the change would be relatively minor in scope, the effect on the building and consequently the CA would be much more marked. I have paid special attention to the desirability of preserving or enhancing the character and appearance of the CA and in doing so find that the development would harm those attributes and hence its significance. This harm carries considerable importance and weight. Given that it relates to one building and a part of the townscape which contributes to the CA's significance, this harm would be considered as less than substantial as set out in the National Planning Policy Framework (the Framework).
17. The appellant's Heritage Statement concludes that the effect of the scheme would be neutral. However, my findings above lead me to a different conclusion and I note that in their final comments the appellant also notes that any harm would be less than substantial.
18. These are circumstances where the Framework requires that harm is weighed against the public benefits of the proposal. The development would provide nine dwellings and enable the re-use of an historic building which would be public benefits. The appellant also points to the building having remained as what they term a 'development opportunity' since work commenced around ten years ago. If the scheme would enable the development to be delivered, this too would be a benefit.
19. Restrictions in headroom on the approved scheme are cited as a reason for the proposed change and I can appreciate that this could have some effect on the desirability of the upper dwelling which in turn may have a limited knock on effect on confidence to bring the approved scheme forward. However, there is no substantive evidence that other 'fallback' schemes have the same limitations or cannot be delivered. Overall, the public benefits would be no more than moderate and consequently would not outweigh the considerable harm the development would cause.
20. The development would be contrary to Local Plan Policies CS10, DM 10.1, CS12, DM 12.1 and DM 12.2. Together, and amongst other criteria, these require development to: preserve and enhance the distinctive character of conservation areas; be of a high standard of design and architectural detail, with elevations that have an appropriate depth and quality of modelling, and; display a detailed design appropriate to the character of the City, and the setting and amenities of surrounding buildings and spaces.
21. The Council have also pointed to conflict with London Plan Policy D4. This Policy sets criteria to ensure good design is delivered but is framed in terms of the approaches to analysis, scrutiny and review of proposals and subsequent mechanisms for maintaining quality. I have not been presented with information on how this particular scheme was developed or considered, other than noting the CAC comments. Although the development cannot be

considered as good design, neither is there any evidence to suggest that there would be any conflict with this particular part of the development plan given the policy's wording. However, this is a neutral consideration and does not alter my findings that the proposal would conflict with the development plan as a whole.

22. The development would not accord with draft Policies S8, DE2, S11 and HE1 of the emerging City Plan 2036 promoting good design and heritage conservation. This Plan is at the stage that the Council are considering consultation responses. Bearing in mind the approach in the Framework regarding the stage of preparation and extent to which there may be unresolved objections, I agree with the Council that they carry limited weight, as does any conflict with its policies. Nevertheless, this is not a consideration that would diminish the weight given to the conflict with the adopted development plan in force.

Other Matters

23. The appeal building lies at the boundary of the CA beyond which are the tall rear elevations of buildings on Aldersgate Street. There is already a notable difference between the heights and appearance of buildings within the CA at Half Moon Court and those outside the CA in the vicinity. The appellant points out that permission has recently been granted for what they consider to be a very significant further increase in height and mass of one of the buildings which adjoin the site and which the Council advise would be a 'ground plus nine storey building'.
24. However, the harm I have identified would be related to the detailing and appearance of the front of the appeal building within its CA context, and the wider context outside the CA or to the rear of the building has little bearing on the particular issues considered above. So whilst the implementation of that proposal would increase the difference in height, such a change in the setting of the CA would not alter the harm that the proposed detailing of the front elevation of the appeal building would cause.

Conclusion

25. For the above reasons, the proposal would harm the significance of the CA, contrary to the development plan taken as a whole, in which circumstances conditions 2 and 9 remain necessary. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. The appeal is therefore dismissed, and planning permission refused.

Geoff Underwood

INSPECTOR