



Appeal Decision

Site visit made on 25 May 2022

by G J Fort BA PGDip LLM MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 June 2022

Appeal Ref: APP/U5360/W/21/3288044

23 Lower Clapton Road, Hackney, London E5 0NS

- 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 Dan Nation against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2021/0742, dated 26 February 2021, was refused by notice dated 27 August 2021.
 - The development proposed is the extension of the shop floor on ground floor of the grocery shop into the existing back yard.
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Decision

1. The appeal is allowed and planning permission is granted for the extension of the shop floor on ground floor of the grocery shop into the existing back yard at 23 Lower Clapton Road, Hackney, London E5 0NS in accordance with the terms of the application, Ref 2021/0742 dated 26 February 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; 211_GA_PLAN_01; 221_GA_SECTION_01; 222_GA_SECTION_01; 231_GA_ELEVATION_01 (dated 01/02/2021); 231_GA_ELEVATION_01 (dated 26/08/2021).
 - 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan no. 231_GA_ELEVATION_01 (dated 26/08/2021).

Procedural Matters

2. The appellant submitted revised drawings of the proposal alongside their other appeal documents, which were not before the Council when it made its decision on the planning application. The drawings show a materially altered proposal, involving a single-storey extension which would not cover the full depth of the host property's yard.
3. Advice contained in the Planning Inspectorate's 'Procedural Guide – Planning Appeals – England' (at Annex M) makes it clear that if an applicant thinks that amending their application proposals will overcome a local planning authority's objection they should normally make a fresh planning application. Moreover, the appeal process should not be used to evolve a scheme and it is important

that what is considered by an Inspector is essentially what was considered by the local planning authority and on which interested people's views were sought. There are no overriding reasons in this case which would justify a deviation from these principles, and I have accordingly considered the appeal scheme on the merits of the plans which were before the Council when it made its decision, and on which interested parties' views have been sought.

4. Two plans with the same reference number (231_GA_ELEVATION_01) have been submitted along with the appeal and both appear to have been before the Council when it made its decision. One of them (dated 1 February 2021) is a drawing showing a section of the proposed extension; another (dated 26 August 2021) shows its elevations. I have considered the appeal on the basis of these plans, and where necessary in this decision they are identified by both their reference and the date of their issue, in the interests of certainty.

Main Issues

5. The main issues in this appeal are the proposed development's effects on the significance of the host locally listed building, and whether it would preserve the character and appearance of the Clapton Square Conservation Area.

Reasons

6. The appeal property is part of a three-storey terrace with commercial uses at its ground floor. Faced in brick, with a rendered parapet, the upper storeys of the terrace, with their regular fenestration pattern and depth of reveals create a restrained sense of rhythm. Single-storey projections of a consistent depth at the front of the terrace include shopfronts, with some historic details such as pilasters remaining in evidence. These aspects of the appeal building's host terrace are characteristic of the materials palette and architectural detailing of the wider Clapton Square Conservation Area within which it is situated and form the principal elements of its significance as a locally listed (or non-designated) heritage asset. Taken together these details are elements of the character and appearance of the Conservation Area which are of particular relevance to the current appeal.
7. The host terrace is immediately adjacent to Kings Hall Leisure Centre, a Grade II Listed Building, which features an impressive three storey with attic principal elevation, fronting Lower Clapton Road in the free renaissance style, which the Listing Description identifies as 'handsome'. It is from this architecturally refined street-facing element, and from the surviving internal elements relating to the baths that the special interest of the Leisure Centre principally derives. These features also contribute to the Listed Building's significance in terms of its embodiment of late Victorian civic concern for the promotion of cleanliness and fitness.
8. In a sharp contrast to the formal street-fronting, and thus public-facing elements of the appeal building's host terrace, its rear aspect is of a functional and on the whole humdrum appearance, particularly at the ground floor level, and shows clear signs of considerable incremental alteration, including within the rear yard of the appeal building itself. These accretions include not only free-standing structures, such as the 'bunker' in the yard of the appeal property, but also extensions of varying scales and depths. Tall boundary, rear and flank walls are also present, and create a sense of enclosure to the alleyway to the rear of the terrace, which is accessed via a lockable gate. A

variety of facing materials are also present in structures and other accretions at this lower level of the terrace.

9. Whilst I note the Council's view that some of the extensions and other structures present to the rear of the terrace could be 'unlawful' I have been supplied with no substantiated evidence on this matter. I am also mindful of that the Council consider some of these changes to be 'historic'. However, whatever their provenance, the result of these accretions and changes over time is that the rear aspect lacks the comparatively more refined aesthetic of the terrace's street-facing elevations.
10. The appeal scheme would see the development of a single-storey element to the rear of the property, which would extend its shop floor to the existing back wall of the yard. The existing single-storey 'bunker', and a small porch-like projection offering access to a WC at the rear of the host building would be removed to make way for the proposed development. Towards the rear, the proposed extension would be stepped in from the existing stairway to the residential property in No 23's upper floors and would thus not extend across the full breadth of the rear yard.
11. Although a marked amount of the rear yard would be built over as a result of the appeal scheme, some space would remain close to the stairway and the fire door of the proposed extension immediately adjacent to the access to the alleyway. It is also of note that the existing rear aspect and plot of the host property includes the single-storey elements that I have described above, both of which would be removed to make way for the proposed extension. Moreover, the terrace's variety of rearward projections, structures and substantial boundary treatments offers no prevailing or readily visible pattern in terms of yard space from which the proposed development would deviate. Accordingly, taking these considerations together leads me to the view that the proposed development would not impart a congested or cramped appearance to the plot.
12. The restricted access to the rear alleyway and its narrow width taken together with the presence of tall intervening structures, including the boundary wall of the Leisure Centre's service yard and the three-storey building at the end of the terrace facing Clapton Square, mean that publicly available views of the proposed development would be very limited. Critically, in views of the rear alleyway from which the proposed development could be glimpsed, it would be seen alongside other incremental alterations at the lower level of the terrace, and the tall flank and boundary walls which enclose the alleyway for much of its length. Within this context the proposed development would not appear as either a bulky, incongruous, or dominant presence. Moreover, the proposed development would not be inter-visible to any significant degree with the street-facing elements of the locally listed building. As a result, the proposed development would not erode, compete with, or detract from the character and appearance of its host building.
13. Elements of the Leisure Centre that are immediately inter-visible with the rear yard of the appeal site are themselves of a functional character and relate to what the Listing Description identifies as its 'lesser' elevations. Consequently, any limited available views encompassing elements of the appeal scheme and the Leisure Centre would relate principally to this more functional aspect of the Listed Building. Due to this immediate context, the proposed development

would not be an intrusive feature and would not therefore detract from the special character of the Leisure Centre. It therefore follows that the appeal scheme would preserve the setting of the Listed Building and cause no harm to its significance.

14. Accordingly, these considerations lead me to the conclusion on the main issues that the proposed development would avoid harm to the significance of its host locally listed building and would preserve the character and appearance of the Clapton Square Conservation Area. For these reasons, the proposed development would not conflict with Policies LP1, LP3 or LP4 of the Hackney Local Plan (adopted July 2020); or Policies D3 and HC1 of the London Plan: The Spatial Development Strategy for London (published March 2021); or the National Planning Policy Framework (the Framework). Taken together, and amongst other things, these policies seek to ensure that heritage assets are conserved in a manner appropriate to their significance and that developments respond to the existing character and context of a place.

Conditions

15. The Framework sets out (at paragraph 56) that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. I have considered the conditions suggested by the Council on this basis. In the interests of certainty, and to ensure that the finished development accords with what is permitted, I have attached a condition which refers to the approved plans. Details of the materials and finishes are included on the approved plans, and the proposed finishes would not be a discordant contrast to the those used in the host building, and immediate surroundings. Consequently, a condition requiring the use of materials which match the host building is not necessary in this case. Nevertheless, I have attached a condition which requires the materials depicted in the plans to be used in the facing of the completed development.
16. The existing yard is covered by hard surfacing and structures, and the proposed development would be relatively modest in terms of its overall size. Furthermore, beyond the appeal property's location in an area at risk of surface water flooding, I have been supplied with no specific evidence relating to any purported deficiencies of the proposed or existing drainage arrangements at the site. Neither has the Council provided the text of any development plan policies which require the deployment of sustainable drainage measures in relation to single-storey extensions. Consequently, I am not persuaded that the imposition of the suggested condition requiring implementation of sustainable drainage measures is necessary in this case.

Conclusion

17. The appeal scheme would accord with the development plan insofar as the policies that have been drawn to my attention are concerned. Accordingly, for the reasons set out above, and taking into account all other matters raised, I conclude that the appeal should succeed.

G J Fort

INSPECTOR