



Appeal Decision

Site visit made on 12 August 2022

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14/09/2022

Appeal Ref: APP/M9584/W/22/3291122

43 White Post Lane, London E9 5EN

- 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 Schwartz Holdings against the decision of London Legacy Development Corporation.
 - The application Ref 21/00186/FUL, dated 16 April 2021, was refused by notice dated 21 July 2021.
 - The development proposed is the replacement of existing temporary shed with permanent single storey structure and change of use from Eg(iii) to E(b).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The development has been undertaken. I am therefore considering the appeal retrospectively.

Main Issues

3. The main issues are 1) whether or not the development preserves or enhances the character and appearance of the Fish Island and White Post Lane Conservation Area (FI&WPLCA), 2) the effect of the development on highway safety, and 3) the effect of the development on flood risk and the risk of flooding to the development.

Reasons

Character and appearance of the FI&WPLCA

4. The appeal site comprises a converted warehouse with courtyard, into which the building subject to the appeal has been erected. It is located on White Post Lane, adjacent to Hackney Wick Station. Although the site is adjacent to an access off White Post Lane it is accessed from Queen's Yard which contains a diverse range of uses and building styles around a large central courtyard.
5. The appeal site is located within the Fish Island and White Post Lane Conservation Area (FI&WPLCA) that is characterised by forming an historic area of industrial and commercial buildings and uses. There is a wide range of building styles in the area including various commercial, industrial and leisure uses. The character and appearance of the area is diverse and hugely varied. There is a clear rough and unassuming character to the area that is one of its positive features. I observed many of the properties have various outbuildings

and some of the leisure venues have outdoor seating areas with associated paraphernalia. The area has a curiously high level of graffiti and urban art which undoubtedly forms part of its character whether intended or not.

6. The building subject to the appeal is located in the courtyard of Everett House which is a locally listed building. The building and the courtyard are accessed from Queen's Yard and are not readily visible from long range views. The building is single storey with a flat roof and has a deep overhang. There is a sloping canopy roof fronting Queen's Yard beneath which is a solid metal roller shutter. The building is constructed from London stock brick and incorporates timber doors and windows.
7. The development includes the change of use from use class E(g)(iii) industrial processes to use class E(b) sale of food and drink for consumption (mostly) on the premises. The Council has raised no objection to the use, and I have no reason to form a different view. I have therefore confined my consideration to the building itself.
8. The building, forming an outbuilding within the curtilage of a larger former warehouse building, does not appear out of character in the area, where various ancillary buildings have evolved to become part of the wide range of building styles in the area. The building does not dominate the locally listed Everett House and sits comfortably within its courtyard.
9. The flat roof form is not overly prevalent in the surrounding area, however there are other examples, and the use of the sloping canopy facing the Queen's Yard frontage provides a satisfactory transition. The deep overhang of the roof is somewhat uncharacteristic of the area, however it is not prominent in the context and given the diverse variation of buildings in the area, it does not cause harm.
10. The building incorporates traditional materials that assist its amalgamation into the tight arrangement of buildings in the area. The use of solid metal roller shutters can in certain installations be inappropriate additions causing harm. In this case, and in the context of the appeal site, they do not appear at odds within the hardy industrial landscape.
11. For the reasons given above, the development does not cause harm, and thereby preserves, the character and appearance of the FI&WPLCA and the significance of the locally listed Everett House. The development therefore complies with Policies BN1, BN4 and BN17 of the London Legacy Development Corporation Local Plan (2020) and Policy HC1 of The London Plan (2021). Collectively, these policies require that development conserves or enhances heritage assets, be of a high standard of design, responding to their surrounding area.
12. The development also complies with the National Planning Policy Framework (2021) (the Framework) which requires, amongst other things, the conservation of heritage assets in a manner appropriate to their significance, and that when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Highway safety

13. The appeal site is accessed via Queen's Yard. There is no entry from the adjacent access onto White Post Lane, with this access being exit only. Signage indicates that Queen's Yard is private land, accessible to permit holders only.
14. The appeal site includes a yard space. I observed on my site visit that this was used for, amongst other things, outdoor seating and storage of cycles. It was not a typical service or delivery yard. The development has narrowed the access route to the yard area although it remains accessible by pedestrians, cyclists and small (car-size) vehicles.
15. The Council suggests that the development impacts on the access and servicing arrangements of the existing adjacent units as well as the new unit, which could result in harm to the safety of pedestrians in the area and unacceptable traffic conditions.
16. There is, however, no demonstrable evidence that the development exacerbates or worsens the existing situation. The development, and Everett House remain accessible from Queen's Yard, and it is not demonstrated that the development has an unacceptable impact on highway safety or produce residual cumulative impacts on the road network which are severe.
17. The access and servicing arrangements that remain are similar to many of the existing units in Queen's Yard and I consider that adequate access remains following the development that does not cause unacceptable impacts on pedestrian or highway safety.
18. The development therefore complies with Policies B1 and T4 of the London Legacy Development Corporation Local Plan (2020) which require, amongst other things, that developments contain adequate access and servicing, having no conflict with immediate uses, and be designed to include measures that will minimise its impact on the highway network.

Flood risk

19. Both parties confirm that the appeal site is located within Flood Zone 3. Footnote 55 of the Framework sets out that a site-specific flood risk assessment should be provided for all development within Flood Zone 3.
20. Although both parties identify that the area benefits from flood defences the presence of such defences do not mean that a development is 'safe', only that while the defence is maintained the risk is reduced.
21. There is no further assessment on flood risk before me. The Council outlined that as they found the development to be unacceptable on design grounds, they did not pursue the matter any further.
22. I therefore cannot be certain over the flood risk the development is exposed to, and what, if any, mitigation measures are needed. Nor can I be certain that the development does not increase flood risk in the area. In light of the lack of a site-specific flood risk assessment, as required, the development is contrary to the Framework.

Conclusion

23. Although I have found that the development preserves the character and appearance of the FI&WPLCA and does not cause an unacceptable impact on highway safety, I cannot be certain of the impact of, and on, flood risk.
24. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR