



Appeal Decision

Site visit made on 18 October 2022

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2022

Appeal Ref: APP/U5360/W/22/3298126

99-101 Lower Clapton Road, Hackney, London E5 0NP

- 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 Deepak Kumar against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2021/2013, dated 21 June 2021, was refused by notice dated 21 February 2022.
 - The development proposed is the retrospective change of use from A1 to A3 and installation of new shopfront together, roller shutter and awning together with the erection of a rear storage shed.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken both the address and description in the banner heading above from the Council's notice of decision, as this accurately describes the appeal site and concisely describes the proposals the subject of this appeal. I note reference is made on the application forms to proposed signage, however that is not for consideration on this appeal.
3. The description in the banner heading above relates to a change of use from use class A1 to A3. I note the Council has stated that permission is not required for this change of use, as both uses now form part of Class E. I agree with this, and the appeal has been determined on this basis.
4. The new shop fronts have been installed and the storage building has been erected. Although, I note further changes are proposed to these new shop fronts. The appeal has been determined on this basis.

Main Issue

5. The main issue is the effect of the proposals upon the character and appearance of the Clapton Square Conservation Area (the CA).

Reasons

6. S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires when determining proposals in conservation areas that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. At paragraph 197, the National Planning Policy Framework (the Framework), sets out matters which should be considered, including sustaining and enhancing the significance of heritage

assets and the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 199 states that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

7. This busy shopping area on Lower Clapton Road forms part of one of three distinct areas within the CA, with this part mainly comprising shopping areas. The immediate area contains a variety of different shop fronts, with the rear sides of the buildings mostly having rear yards enclosed by brick walls or extensions. Clapton Square Conservation Area Appraisal (CSCAA) 2007 regards the terraced buildings the subject of the appeal to be of townscape merit. Furthermore, the CSCAA includes a photograph of the appeal buildings, highlighting that they are buildings purposefully designed with shop units. The CSCAA encourages the replacement of poor quality shop fronts on Lower Clapton Road, due to their poor detailing and modern materials such as aluminium, highlighting them to be both weaknesses and threats to the CA. It further states that rear extensions should be broadly in keeping with host buildings and use appropriate materials, citing brick as the predominant material.

New shop fronts

8. No's 99-101 Lower Clapton Road are 2 ground floor shop units with accommodation above. The shops are accessed from the front. The Council has provided a photograph of the previous traditional timber shopfronts, featuring a centralised recessed door, stall risers, mullions and a transom bar.
9. The new shop fronts both feature a large glazed flush front, set within an aluminium frame, fixed to either side of the pilasters. An extendable canvas awning above each shop window has been included along with new aluminium fascias. The lefthand side unit is in a bright purple colour and the righthand side unit is in darker colours, they both have perforated shutters. Further changes are proposed to align the fascia's, increase the height of the stallrisers, hide the awning fixings, and paint the areas above the fascias in a matching colour.
10. The new shop fronts are not sized to match the height of these purposefully constructed shop units that extend just below the cill height of the first floor windows. Neither the lining up the new fascia's or the painting of the area above them would off-set this inappropriate size for the new shop fronts. Moreover, the use of aluminium along with the boxy detail of design and fixings further exacerbates the inappropriate form of the new shop fronts. This is not helped by the stark colouring of the lefthand unit. The sectional drawing shows the altered stallrisers to be behind the existing glazed areas, not respecting their traditional form.
11. Whilst the CSCAA prefers a traditional shop front, it does state a well designed modern good quality alternative may be acceptable. I do not find these new modern shop fronts to be well designed or good quality. I also find the harm from views of these new shopfronts is not just from close-up but also from other viewpoints of the appeal site on Lower Clapton Road.
12. It is acknowledged that there are different designs of shopfronts in the street scene, although I am unaware of the circumstances that led to their presence

and this therefore reduces the weight that can be given to them in the assessment of the appeal scheme.

New Outbuilding

13. The new outbuilding is located alongside a rear passageway, with pedestrian access to it from Clapton Passage. The structure is clad in white sheeted material. It sits alongside a brick wall and the mainly rear brick elevations and outshoots from the buildings fronting Lower Clapton Road. The side elevation of the building is visible from Clapton Passage, and I saw this was a busy area.
14. Whilst the new outbuilding is located to the rear of the buildings, its side elevation is nevertheless visible from Clapton Passage. Its light-coloured appearance along with its flat roof, introduces an alien feature that does not respect the appearance or materials on surrounding buildings and walls. Its appearance does not preserve or enhance the character of the CA and introduces a discordant feature.
15. I note the appellant's comment that a previously overgrown area has been cleared and the new outbuilding could be Permitted Development, if within the curtilage of a domestic garden. However, the outbuilding is not in such a location and the proposal must be assessed on its own merits. I do not find these arguments or the use of the building for cycle storage to outweigh the harm identified above or the conflict with the development plan. In addition, whilst it may be the case that that outbuilding could be demountable, I note the storage unit has been there since June 2021 and is the subject of this appeal, furthermore it did not look temporary and included guttering.
16. In view of the above, I find the new shop fronts and proposed alterations together with the new outbuilding, do not preserve or enhance the character or appearance of the CA, contrary to the requirements of the Act. Furthermore, the scheme is also contrary to Policy HC1 of The London Plan - The Spatial Development Strategy for Greater London, adopted March 2021, and Policies LP1 and LP3 of the Hackney Local Plan 2033 adopted July 2020, and paragraph 189 of the Framework, which collectively require good quality design appropriate to the local area, and the conservation of the heritage asset.
17. In addition, I also find the proposed new shop fronts to be inconsistent with the objectives of the CSCAA, and the requirements of the SFSPG, that seek to ensure high quality and appropriately designed shop fronts that respect the character and appearance of the area.
18. The Council has referred to the proposal being contrary to the Residential Extensions and Alterations (REA) SPD 2009. Whilst the REA discourages new outbuildings within Conservation Areas, the REA is aimed at private dwellings and not directly relevant to mixed use/flatted storage uses such as this.

Balance

19. I have found the proposed new shop fronts and outbuilding fail to preserve or enhance the character and appearance of the CA. I give this harm considerable importance and weight in the planning balance of this appeal.
20. I find the harm to the CA to constitute less than substantial harm owing to its effect being localised. Although, this does not equate to a less than substantial planning objection, especially where the statutory tests are not met. Paragraph

202 of the Framework requires public benefits to outweigh such harm. In this case the refurbishment of these retail units and the provision of storage, do provide some public benefits, as they facilitate economic activity and encourage sustainable travel. However, the proposals are not the only way to achieve these objectives. I therefore find these public benefits to be limited, and not to outweigh the harm identified above to the significance of the designated heritage asset. Accordingly, there is conflict with the heritage protection policies of the Framework.

Conclusion

21. I conclude the proposed shop fronts and outbuilding would fail to preserve or enhance the character or appearance of the CA, contrary to the requirements of the Act, the requirements and objectives of the development plan taken as a whole, and the Framework. I therefore dismiss the appeal.

A Hunter

INSPECTOR