
Appeal Decision

Site visit made on 10 January 2023

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL

an Inspector appointed by the Secretary of State

Decision date: 16th February 2023

Appeal Reference: APP/U5360/W/22/3302794

82 Green Lanes, Hackney, London N16 9EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant 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 Charlton House against the decision of Hackney Council.
 - The application (reference 2021/3083, dated 15 October 2021) was refused by notice dated 19 January 2022.
 - The application sought planning permission for *"installation of new shopfront and erection of mansard roof extension and erection of single storey rear extension at first floor level; rear fenestration and elevational changes; installation of photovoltaic panels; general elevational repairs to existing building to include replacement bricks, windows and doors; and associated work"*, without complying with a condition attached to planning permission reference 2020/0260, dated 31 March 2020.
 - The conditions in dispute is Condition No. 2 which states: *"The development hereby permitted shall only be carried out and completed strictly in accordance with the submitted plans hereby approved and any subsequent approval of details"*.
 - The reason given for the condition is: *"To ensure that the development hereby permitted is carried out in full accordance with the plans hereby approved"*.
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Decision

1. The appeal is allowed and planning permission is granted for *"installation of new shopfront and erection of mansard roof extension and erection of single storey rear extension at first floor level; rear fenestration and elevational changes; installation of photovoltaic panels; general elevational repairs to existing building to include replacement bricks, windows and doors; and associated work"*, at 82 Green Lanes, Hackney, London N16 9EJ, in accordance with the terms of the application (reference 2021/3083, dated 15 October 2021).
2. Planning permission is granted without compliance with condition number 2 as previously imposed on planning permission reference 2020/0260, dated 31 March 2020 but subject to a revised condition number 2 as set out in the attached Schedule of Conditions. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning

permission, I have also imposed all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Main issue

3. The main issue to be determined in this appeal is the effect of the proposed development on the character and appearance of the host building and its surroundings.

Reasons

4. Green Lanes is located in a closely built up part of Hackney and is a busy road, the A105. In the vicinity of the appeal site, it also serves as a commercial hub, with shops and services as well as residential properties on the road frontages. It provides a bus route and is comfortably accessible on foot to the rail and Underground network.
5. The frontage buildings appear to have been developed primarily during the nineteenth century although there has been considerable change over the years. The site is not far from the Newington Green (North) Conservation Area, however.
6. Number 82 Green Lanes is a mid-terrace building with a main elevation on the street frontage. It appears that there is also a basement level. The buildings have two main storeys above a ground floor that usually contains a commercial or retail unit. In addition, many buildings have an attic storey behind a parapet on the main elevation. Number 82 appears to have a studio, rather than a shop, on the ground floor, while a flat occupies the second floor and the attic, which is contained within a "mansard" structure. This attic floor provides the living areas for the flat, with bedrooms and ancillary accommodation on the second floor (below).
7. It is now proposed that a flat roof outside the rear bedroom window on the second floor would be adapted to form an open terrace, with a high screen surrounding it.
8. The 'National Planning Policy Framework' emphasises the aim of "achieving well designed places" in the broadest sense (notably at Section 12), while making effective use of land and encouraging economic activity. It is aimed at achieving good design standards generally, by adding to the overall quality of the area and being visually attractive and sympathetic to local character and history, as well as protecting existing residential amenities and providing good standards of accommodation.
9. Local policies in the Development Plan have the same aims. Policies D3, D4 and HC1 of 'The London Plan' (dated 2021) are similarly concerned with design issues generally and with enhancing and protecting heritage assets (including conservation areas), in particular. Policies in 'Hackney Local Plan 2033 Strategic Planning' (which was adopted in July 2020) address broadly the same issues. In particular, Policy LP1 of the Local Plan is concerned with "Design Quality and Local Character", while Policy LP3 deals specifically with "Designated Heritage Assets".

10. The guidance contained within the 'Residential Extensions and Alterations' Supplementary Planning Document (which was approved in April 2009) is also relevant but does not carry the same weight as the adopted policies in the Development Plan.
11. The property at 82 Green Lanes was the subject of a project that included various works for which planning permission was granted on March 2020 (under reference 2020/0260). This permission was implemented and the project has been substantially completed. Now, however, it is proposed that the approved scheme should be modified, by creating a small outdoor terrace on an existing flat roof, outside the existing window that serves the rear bedroom on the second floor of the building. The window would be adapted to provide access to the terrace and the new terrace itself would be enclosed by a "frosted glazing privacy screen", 1.8 metres in height above the terrace.
12. The existing rear elevation of this part of the terrace is architecturally undistinguished and has undergone changes in the past. The new terrace and privacy screen would amount to a relatively minor feature on the elevation and, although a frosted glass screen would not be characteristic of the historic style, the proposal would not cause any material harm to the appearance or character of the host building or its surroundings. Nor would it have a material impact on any nearby conservation area.
13. The proposed terrace would be close to a terrace on a similar flat roof at number 84, which looks over the flat roofs of much lower buildings (behind the terrace that faces Green Lanes) and, further away, across rear gardens of other properties in side roads. Similarly, a new terrace at number 82 would not have an undue impact on neighbours' privacy in principle. Even so, in this case the erection of a privacy screen would remove overlooking as an issue (although this matter has been addressed in the submissions).
14. Evidently, the appeal site lies within an established urban area, which is "sustainable" in planning terms, and the proposed terrace would be a useful (if very minor) addition to the accommodation at 82 Green Lanes. I am not persuaded that the proposal would be unduly intrusive or incongruous and I have concluded that the project would not be in conflict with the Development Plan, in principle. In short, I am persuaded that the scheme before me can properly be permitted and, although I have considered all the matters that have been raised in the representations, I have found nothing to cause me to alter my decision.
15. I have, however, also considered the need for conditions. Planning permission is granted without compliance with condition number 2 as previously imposed, but I have imposed a new condition number 2, which has the effect of adding the new drawings of the terrace, access door and privacy screen to those drawings that were previously approved.
16. Condition number 1 is no longer relevant, since the planning permission has obviously been implemented. On the other hand, I have reimposed all the remaining conditions that were attached to the original planning permission, as explained above, and I concur with the reasons for imposing them that were given by the local planning authority.

17. For the avoidance of doubt, however, I should make it clear in the context of condition number 3 that the proposed “frosted glazing privacy screen” cannot match existing materials, since there is no relevant frosted glass on the rear elevation of the building.

Roger C. Shrimplin

INSPECTOR

SCHEDULE OF CONDITIONS

2. The development hereby permitted shall only be carried out and completed strictly in accordance with the submitted plans hereby approved and any subsequent approval of details; and as varied (in respect of the proposed new terrace, access door and privacy screen) by the following approved drawings:
 - drawing number 840.030 (Location and Block Plan);
 - drawing number 840.140A (Proposed Second Floor Plan & Rear Elevation);
 - drawing number 840.141A (Proposed Section A-A);
 - drawing number 840.142A (Proposed Side Elevation from No. 80);
 - drawing number 840.143A (Proposed Side Elevation from No. 84).
3. All new external finishes in respect of all the works hereby approved (and any other incidental works to be carried out in this connection) shall match the existing building in respect of materials used, detailed execution and finished appearance.
4. Prior to the first occupation of the development hereby approved a minimum of two Swift nesting bricks and/or boxes shall be provided at or close to eaves level of the development hereby approved. The bricks/boxes shall be retained thereafter in perpetuity.
5. All non-Combined Heat and Power space and hot water fossil fuel (or equivalent hydrocarbon based fuel) boilers associated with the development must achieve dry NOx emission levels equivalent to or less than 40 mg/kWh.
6. Except on day(s) of collection, all refuse and waste shall be stored in sealed containers within the building.