



Appeal Decision

Site visit made on 19 April 2023

by Rory MacLeod BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2023

Appeal Ref: APP/U5360/W/22/3310506

283A Kingsland Road, London, E2 8AS

- 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 Hande Sezgin against the decision of London Borough of Hackney.
 - The application Ref 2022/1119, dated 4 May 2022, was refused by notice dated 12 August 2022.
 - The development proposed is the installation of 2 openable pergolas on the rooftop terrace of the premises.
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Decision

1. The appeal is allowed, and planning permission is granted for the installation of 2 openable pergolas on the rooftop terrace of the premises at 283a Kingsland Road, London, E2 8AS in accordance with the terms of the application, Ref 2022/1119, dated 4 May 2022, 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: P100, P101, P102, P103, P104, P105, P106, P107 and P108.

Preliminary Matters

2. Planning permission has been refused but allowed on appeal for the continued use of the terrace floor as a seating area including installation of metal balustrade for safety reasons (ref.s 2020/3475 & APP/U5360/W/22/3269292).

Main Issue

3. The main issue is the effect of the development on the character and appearance of the host building, neighbouring locally listed buildings and surrounding conservation areas.

Reasons

4. The appeal property presents as a single storey café with a roof terrace to the western side of Kingsland Road, but it also has a lower floor which is apparent on its northern side facing the Regents Park Canal. A 2-storey locally listed building, 238 Kingsland Road (no.238), wraps around the site to the south and west. To the north, the Kingsland Road Bridge over the canal is also locally listed. The site is within the Regent's Canal Conservation Area (RCCA) and also within the Kingsland Conservation Area (KCA).

5. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires in respect of any land in a conservation area that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
6. The RCCA is linear, from east to west. Its significance derives from a well-used public open space along the canal, as an important environmental landscape and from the heritage of surviving industrial buildings and structures. The KCA is also linear, from south to north, and comprises several distinct zones showing the history of development along the corridor. The significance of the Canal Zone, which includes the appeal site, is the diversity of employment uses and buildings several of which reflect its industrial heritage.
7. The KCA Appraisal expressly refers to no. 283 as "*a mid 19th Century two storey cottage with first floor windows as half dormers set into the roof*". There are sash windows to the front divided by mini-Doric columns and a corbelled eaves cornice runs around the building below a hipped slate roof. Appreciation of these features from Kingsland Road has been diminished by the painting of murals over the frontage and walls wrapping around the appeal building, but the original brickwork and corbelled eaves can still be seen from the canal.
8. The roof terrace has a split level with the smaller lower section closest to the canal. Separate pergolas are proposed reflecting the changes in level. The top of the larger upper pergola would partly obscure the corbelled eaves on the return and rear walls, but these features would still be visible above and to the side of the lower pergola. At the time of my visit, visibility of these features was already obscured by the array of tables and chairs, plant pots, a bicycle pinned to the railings and mixed coverings, a perspex roof to the upper deck and a large umbrella over the lower deck. The proposed pergolas would provide a more orderly enclosure for the roof terrace that would align with the strong eaves line to the frontage to no.283.
9. The simple rectilinear framing of the terrace would complement the appeal building's square-shaped profile when viewed from the canal. The narrow black painted uprights would blend in with the balustrading around the terrace and the railings over the Kingsland Road bridge. The proposal would respect the character and appearance of the host building and the locally listed bridge.
10. There would be only very limited harm to the appearance of no.283 as a locally listed building through the obscuring of features. This would result in less than substantial harm to the significance of the conservation areas. Paragraph 202 of the National Planning Policy Framework (the Framework) requires such harm to be weighed against the public benefits of the proposal, whilst Paragraph 203 in relation to non-designated heritage assets requires a balanced judgement to be applied to the scale of any harm.
11. The use of the roof terrace in association with the ground floor café is lawful but is subject to the vagaries of the weather. A roof covering would provide shelter for customers when it rains and shade in strong sunshine; it would also prevent rainwater running down through the loft hatch that provides access to the roof. The roof terrace provides a viewpoint from which the open aspects of the canal and this part of the RCCA can be appreciated. The proposal would assist in securing the optimum viable use of the premises. The public benefits would clearly outweigh any harm to the significance of the heritage assets.

12. As such there would not be conflict with Policies LP1, LP3 and LP4 of the Hackney Local Plan 2023 (adopted 2020) (HLP) which collectively require development to be of high design that complements historic character, and respects designated and non-designated heritage assets in a similar way to the requirements of the Framework. The proposal would be compatible with Policies D3, D4 and HC1 of the London Plan (2021) which advocate a design-led approach to optimising site capacity and for proposals to be sympathetic to the significance of heritage assets and their surroundings.

Other Matters

13. Representations against the proposal were submitted at the application stage on the grounds of disturbance for neighbours and pedestrians. But the proposal does not involve a change of use or an expansion of the existing lawful use.

Conditions

14. Conditions are necessary to limit the lifespan of the planning permission and to list the approved plans in the interests of certainty. The Council has not suggested any other conditions in the event of the appeal being allowed.

Conclusion

15. The proposal would have an acceptable effect on the character and appearance of the host building, neighbouring locally listed buildings and surrounding conservation areas. For the reasons given the appeal should succeed.

Rory MacLeod

INSPECTOR

