



Appeal Decision

Site visit made on 31 May 2023

by D Cleary MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2023

Appeal Ref: APP/U5360/D/23/3319874

28 St Marks Rise, Hackney, London E8 2NL

- 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 Maqsood Zaman against the decision of the Council of the London Borough of Hackney.
 - The application Ref: 2022/3107, dated 23 December 2022, was refused by notice dated 07 March 2023.
 - The development is for the windows/door replacement, installation of one additional A/C unit and all associated works
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have amended the description of development in the banner above from that which is contained within the application and appeal forms to remove superfluous elements which are not acts of development.
3. I have also amended the address in the banner from that which is on the application form to remove repetition.
4. On my site visit I observed that the development has been carried out and was complete. The submitted plans accurately reflect the development which has taken place and I have considered the appeal on this basis.

Main Issues

5. The main issues are:
 - Whether the development preserves or enhances the character and appearance of the St Mark's Conservation Area; and,
 - the effect of the development on the living conditions of the occupants of nearby properties, with particular regard to noise and disturbance.

Reasons

Character and Appearance

6. The appeal site is located within the St Mark's Conservation Area (SMCA) where there is a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of that area, and great

weight should be given to the heritage assets conservation. The St Mark's Conservation Area Appraisal (2008)¹ (the "SMCAA") provides a general description of the SMCA as a "*cohesive mid-Victorian speculative estate of exceptional quality*" where "*many of the large houses and villas are of architectural merit, both in their overall design and in their architectural detailing*". I agree with this assessment of significance and, on my site visit, I observed elements of consistency and uniformity in the overall architectural design and detail across the Conservation Area.

7. The appeal relates to a mid-terraced three-storey dwelling. The dwelling is sited within a group of 4 dwellings which have a strong uniformed architectural rhythm and appearance. The grouping is characterised by timber framed ground floor sash bay-windows which are set within decorative casements, adjacent to a recessed doorway, with single pane fanlight. First and second floors comprise vertically aligned timber framed sash windows. The group of four terraced properties have strong vertical emphasis and uniformed rhythm.
8. The adjacent end-terraced unit, at the junction with Alvington Crescent, has been significantly altered with non-traditional commercial shop front at ground floor and rendered elevations to its upper floors. Notwithstanding this, the appeal dwelling and terraced row contribute positively towards the character and appearance of the SMCA, and are identified as "Buildings of Townscape Merit" within the SMCAA².
9. The appeal proposals are for the retention of replacement UPVC windows and doors, and two air conditioning units to the front elevation. The framework of the window openings is noticeably bulky than the narrower framed sash windows prevalent throughout the Conservation Area. The proportions of the glazing panes, both horizontally and vertically, do not replicate of those within the terrace group. Further, the enclosure of the recessed entrance door is a further change that is inconsistent with the traditional design of the building, and disrupts the regularity of the openings at ground floor level. I consider that the use of UPVC, and their anthracite grey colour, add further prominence to the openings.
10. I find that the replacement openings jarringly contrast with the original design approach of the building, resulting in attention being drawn to their incongruity. Further, the uniformity and visual rhythm of the grouping to have been unduly eroded by the replacement openings. I acknowledge that the pre-existing openings did not mirror those of the adjacent terrace. However, from the evidence before me, these appeared to be more subtle and proportionally sympathetic to those now installed.
11. I have had regard to other examples of openings cited by the appellant. Of those the example at 1 St Mark's Rise, and 5 Abersham Road appear to fall outside the boundary of the SMCA. The examples at 2 Abersham Road and 15A St Mark's Rise relate to non-traditional buildings. While the windows at 30 St Mark's Rise appear well proportioned and replicate the traditional design. As such, I do not find the examples cited to be directly comparable to the proposal before me. I have also had regard to the examples of shutters to openings within the SMCA but do not consider these to be directly comparable to the

¹ Paragraph 4.2

² Conservation Area Boundary & Article 4 Direction Plan (Page 41)

new enclosed doorway that has been installed. In any event, I have considered the effect of the new openings on the SMCA on its merits and consequently the other examples cited do not alter my view.

12. The air conditioning units are sited to the front elevation between the ground floor and first floor openings. The air conditioning units are bulky and have a stark and pronounced appearance against the buff bricked backdrop of the dwelling. I find that these are prominent and alien features of an industrial character which are an unwelcome contrast with the traditional residential character and appearance of the dwelling.
13. In reaching this view I have had regard to the pre-existing condition, which included a single air-conditioning unit positioned above the front door. While I note that this may have been larger than one of the air conditioning units now installed, I find that the two units occupy more of the front elevation, while the two separate units add visual clutter to the front elevation. In any event, I have considered the effect of the development on its merits.
14. For the above reasons, I consider that the development fails to preserve or enhance the character and appearance of the SMCA. In National Planning Policy Framework 2021 (the Framework) terms, the level of harm to the significance of heritage assets is less than substantial. Therefore, the proposals are contrary to Policies D3, D4, and HC1 of The London Plan 2021 (LP), and Policies LP1, LP3 and LP4 of the Hackney Local Plan 2033 (LP33) which require, amongst other things, that development be of good design, and that regard must be had to preserving and enhancing heritage assets.

Living Conditions

15. The nature of air conditioning units is that they generate noise, and vibrations and therefore have the potential to cause disturbance. The air conditioning units are sited on the front elevation, close to the first-floor windows of the adjacent buildings.
16. I have been provided with technical specification of the air conditioning units and that the installed units have a sound pressure level of 51dB(A). However, I have no compelling information, by way of a site-specific noise report, as to whether this sound pressure level, taking into consideration the ambient background noise levels, along with the cumulative effect of both installations, results in satisfactory living conditions within the nearest noise sensitive locations. Furthermore, I have not been provided with any technical information to demonstrate that the new air conditioning units cause less noise and disturbance to that which existed previously. Therefore, I can afford very limited weight to the pre-existing condition in this regard.
17. For the above reasons, I cannot be satisfied that the development does not have an unacceptable effect on the living conditions of the occupants of nearby properties with particular regard to noise and disturbance. Therefore, on the evidence before me in this particular case the proposals are contrary to Policy D14 of the LP, and Policy LP2 of the LP33 which, amongst other things, requires development to have regard to the living conditions of neighbours.

Other Matters

18. The case has been made that the new windows offer a more energy efficient dwelling than the pre-existing condition and would be in compliance with other policies of the Development Plan, including those which promote sustainable design. I do not have details of the pre-existing, or indeed the new, energy performance of the building. Nonetheless, conserving heritage assets is an important dimension to delivering sustainable development and I have found that the appeal proposals cause unacceptable harm in this regard. The limited weight that I can attach to energy efficiency credentials of the development would be insufficient to outweigh the harm that I have identified.

Conclusion

19. For the above reasons, the development conflicts with the Development Plan, and there are no material considerations, including the Framework, which indicate that a decision should be made other than in accordance with the development plan. Therefore, the appeal is dismissed.

D Cleary

INSPECTOR