



Appeal Decision

Site visit made on 4 July 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 September 2023

Appeal Ref: APP/U5360/W/20/3262495

Land between James Anderson Court and 199 Kingsland Road, London E2 8AN

- 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 William Hodgson against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2020/0814, dated 6 March 2020, was refused by notice dated 14 September 2020.
 - The development proposed is the construction of a part four-storey, part two storey and part one storey building containing three residential units.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have utilised the address provided on the decision notice and appeal form as this more accurately describes the appeal site location than the address provided on the application form.

Main Issues

3. The main issues are the effect of the proposed development on: (i) the character and appearance of the area, including in respect of trees and whether it would preserve or enhance the character and appearance of the Kingsland Conservation Area; and (ii) whether the proposed development would provide satisfactory conditions for future occupiers with regard to internal space, outlook, privacy and light.

Reasons

Character and Appearance

4. The appeal site is a broadly rectangular area of land that is situated in the Kingsland Conservation Area (CA) which is centred on Kingsland Road. The area contains a mix of uses, with a similar variation in the design of buildings, which utilise a range of different materials. The historic townscape however, has a strong rhythmic form, that arises from the proportions and fenestration of different groups of buildings. Kingsland Road is long and straight which provides for views along its length, including of street trees and trees to the frontages of properties. This gives the area a distinctly verdant character, which alongside the particular architectural form make a positive contribution to the CA.

5. A linear form of development is proposed, with the building extending up to 4 storeys in height. Although this would be taller than the three-storey terrace that it would adjoin, the top floor would be slightly set back. I was also able to see the presence of a four-storey building to the south of the appeal site and as such, I do not consider that this would unduly impinge on long distance views in the area.
6. The windows on the front elevation would broadly align with the windows on the adjoining terrace and only have a minimal projection past the front elevation of the terrace. This aspect of the scheme would not therefore appear obtrusive. However, despite the proposal having been revised from a previous application, it would have a large expanse of brickwork on the front elevation and this more solid form would not reflect the fenestration on the neighbouring terrace or some of the other buildings in the area.
7. Concerns have been raised regarding the impact on the roots of two nearby cherry trees. Whilst I note the close proximity of the proposal to them, there is an acknowledgment by the Council that suitably designed foundations could prevent root severance. This is a matter, had the scheme been otherwise acceptable, that could have been addressed by planning condition.
8. Nevertheless, I conclude that the proposal would have an unacceptable adverse effect on the character and appearance of the area and it would fail to preserve the character and appearance of the CA. As such, it would not comply with Policies LP1 and LP3 of the Hackney Local Plan 2033 (adopted 2020) (Local Plan), which seek, amongst other matters, for development to respond to local character and preserve or enhance the significance of the historic environment. It would also be contrary to Paragraphs 130 and 189 of the National Planning Policy Framework (Framework) which seek development that is sympathetic to local character and ensures that heritage assets are conserved in a manner appropriate to their significance. A number of London Plan policies are referenced in the decision notice, but I have not been provided with details of these.

Living Conditions

9. The flats on the upper floors would both not meet the Technical housing standards – nationally described space standards 2015 (National Standards) in terms of their overall internal floor areas. The two-bedroom flat that would occupy the second and third floors would also not provide a double bedroom, with the Council referencing other aspects of the internal layout that would not meet minimum space requirements. The shortfall in the size of the internal floor area would provide a poor standard of accommodation for future occupants.
10. Concerns have been raised by the Council regarding the size of windows to the flats on the upper floors, as well as the location of a tree to the side. As these windows are situated at a higher level, I do not consider that there would be poor levels of light within the rooms served by the windows.
11. The living room space within the ground floor flat would be served by a window that would also face the tree to the side. Given the large size and width of this window, and that this space would be served by a further window to the front elevation, the outlook from this room would not be unduly affected. The flank wall of the building at James Anderson Court is set back from Kingsland Road

and this would ensure that it does not unduly impinge on views from the living space to the proposed ground floor flat.

12. However, given the location of this window and those serving the bedrooms to the ground floor flat, these would be subject to overlooking at close quarters, from the Kingsland Road footway or the passageway to the side. Although short walls are indicated on the submitted plans, the height of these are not provided. Whilst these windows to the ground floor flat would provide passive surveillance to the side passageway, it would also result in harmful overlooking and this is not a matter which can be left to the discretion of a future occupier. The location of the outdoor amenity space, immediately adjacent to the side passageway would also result in harmful privacy impacts. Whilst a comparison is made by the appellant to neighbouring flats on the Harman Estate, I place little weight on this as the layout of amenity spaces to existing flats are not a standard for new development.
13. Given the above, I conclude that the appeal development would fail to provide satisfactory living conditions for future occupiers with regard to internal space and privacy. As such, it would be contrary to Policies LP2 and LP17 of the Local Plan, which seek, amongst other matters, for development to consider visual privacy and overlooking. It would also be contrary to the London Housing Design Guide and Paragraph 130 of the Framework, which seek, amongst other matters, a high standard of amenity for existing and future users. Reference has been made to The London Plan in the decision notice, but I have not been provided with details of the referenced policy.

Other Matters

14. The appellant refers to the proposal as self-build to be built by their ultimate occupiers that would provide affordable housing. The Framework glossary sets out that self-build and custom-build housing is '*Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. A legal definition, for the purpose of applying the Self-build and Custom Housebuilding Act 2015 (as amended), is contained in section 1(A1) and (A2) of that Act*'. In this case, there is no evidence of a group of individuals having submitted the application together as the application subject of this appeal has been submitted by one appellant. Although reference has been made to a condition that could provide control in relation to this matter, there is no planning obligation before me to secure the residential units as self-build housing, and as such, this is not a matter which weighs in favour of the proposal.
15. Other matters relating to refuse and cycle storage could be addressed, but these carry neutral weight as do the lack of neighbour objections.
16. The Council has raised concerns relating to the dwelling mix with reference to Local Plan Policy LP14. This does not however form part of the Council's reasons for refusal, and I have not been provided with a copy of this policy. As the proposal seeks to provide 1, 2 and 3 bedroom units, I do not consider the scheme would be unacceptable in this regard.
17. Reference has been made to a scheme at 169 Kingsland Road where larger trees are said to have not prevented a development. I have limited details of

that scheme and its relevance to the proposal before me. I have in any event, not found any harm in relation to trees arising from the proposed development.

18. Certain amendments are referenced by the appellant such as enlarging windows. This appeal follows the Council's determination, and I am required to determine the appeal accordingly, based on the scheme considered by the Council.

Conclusion

19. The proposed development would not accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this. I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR