



Appeal Decision

Site visit made on 27 February 2024

by G Rollings BA(Hons) MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th March 2024

Appeal Ref: APP/U5360/W/23/3332087

238 Morning Lane, London, E9 6RQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Alpesh Popat against London Borough of Hackney.
 - The application Ref is 2023/0685.
 - The development proposed is described as follows: "The planning application regards the building of 238 Morning Lane, which looks to improve the visual setting of the façade facing Morning Lane with an overhaul of the commercial premises at the ground floor of the property. Revised access to the rear of the premises via the walkway from Retreat Place will revise the existing garden structures to create a fit for purpose commercial space. The upper residential living accessed from Morning Lane is proposed to create a rear dormer roof extension to provide a new double bedroom."
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Decision

1. The appeal is allowed and planning permission is granted for renovation of the commercial premises at the ground floor of the property, revised access to the rear of the premises, and a rear dormer roof extension to provide a new double bedroom at 238 Morning Lane, London, E9 6RQ in accordance with the terms of the application, Ref 2023/0685, 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: 0002 rev. 00; 2000 rev. 00; 3000 rev. 00; 4000 rev. 00.
 - 3) Details of the materials to be used on the external surfaces of the building shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

Preliminary Matters and Main Issue

2. The description of development in the heading above was provided by the appellant. I have shortened the description in my decision.
3. The Council has not provided a statement of case, nor identified matters on which it would have assessed the application. However, its appeal evidence comprised a map of the Well Street Conservation Area in which the appeal site is located, and copies of adopted development plan policies relating to heritage and design. Correspondence between the appellant and the Council, provided

as evidence by the appellant, suggests that there was discussion between the parties on the design-related merits of the proposal.

4. Consequently, I have drawn the main issue in this appeal from this information. The main issue is the effect of the development on the character and appearance of the area.

Reasons

5. The proposal includes replacement of the existing shopfront and construction of a new rear dormer to accommodate new living space within a new second storey roof area bedroom, together with a revised layout of the residential accommodation at ground floor level. The proposed shopfront would replace an existing shopfront with shuttered space, with a similar design to others in the parade of which it is part. It would be in keeping with the character of the conservation area and would not harm its appearance.
6. To the rear, the proposed dormer would have limited visibility from elsewhere in the conservation area due to the narrow width of the private footway serving the rear of the parade, and the built-up nature of the area. It would have a similar appearance and proportions to existing roof dormers on neighbouring properties. At ground level, I observed during my visit that the improvement works appear to have commenced, and the design and materials used are appropriate.
7. The works would preserve the character and appearance of the Conservation Area. I therefore conclude that the development would not harm the character and appearance of the area and would not conflict with *Hackney Local Plan 2033* (2020) Policies LP1 and LP3, or Policies D3 and HC1 of *The London Plan* (2021). Together, these require development to make the best use of land, achieve a high design quality and preserve or enhance the character and appearance of conservation areas, amongst other considerations.

Other Matters

8. Submissions of support and objection were received from interested parties. I have considered the matter of objection but am of the opinion that the limited number of additional bed spaces provided by the development would not result in a significant increase in foot traffic along the footway at the rear of parade.

Conditions

9. The Council provided a list of conditions which I have considered I assessed in accordance with the tests set out in the Planning Practice Guidance¹. Condition 2 has been applied to provide certainty, and condition 3 to assist with the preservation of the conservation area's character and appearance.
10. The Council also requested the inclusion of conditions relating to the provision of a scheme for flood resilient and resistance construction and protection against surface water flood risk, waste management, cycle parking and the provision of nesting areas for birds. As no information has been provided by the Council to assist me in considering whether these are necessary, I am not convinced that they would pass the test of necessity. As such, I have declined to include them in my decision.

¹ PPG reference ID: 21a-003-20190723; revision date: 23 07 2019.

Conclusion

11. The proposed development would not conflict with the development plan and material considerations indicate that a decision should be made in accordance with the plan.
12. For the reasons given above the appeal should be allowed.

G Rollings

INSPECTOR