



Appeal Decision

Site visit made on 22 January 2024

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2024

Appeal Ref: APP/U5360/D/23/3330566

42 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 A. Augustin against the decision of the Council of the London Borough of Hackney.
 - The application Ref: 2023/1394 dated 20 June 2023, was refused by notice dated 21 August 2023.
 - The development proposed is described as roller shutter door on rear boundary wall.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. At the time of my site visit, I saw that the roller shutter was in situ. I also note that the application has been submitted retrospectively, I have dealt with the appeal on this basis.
3. Since the determination of the application the National Planning Policy Framework has been superseded by the National Planning Policy Framework (2023) (the Framework). However, in relation to this appeal the aims of both sets of policies are similar. No party would be prejudiced or caused any injustice by me proceeding with the appeal in light of this change in policy.

Main Issue

4. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The site is within the St Marks Conservation Area. In accordance with the statutory duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990; I am required to have special regard to the effect of the proposed development on the character or appearance of the area.
6. Paragraph 205 of the Framework states that great weight should be given to the conservation of a designated heritage asset when considering the impact of a proposal on such an asset. This is irrespective of the level of harm.
7. The appeal site comprises a terraced three storey property within a predominantly residential area. The Conservation Area Appraisal, St. Marks

- (2008) (the CAA) identified the appeal site as a building of townscape merit. The CAA confirms that these are usually well detailed examples of mainly late 19th century houses or commercial premises which retain their original detailing. As such, they make a positive contribution to the character and appearance of the Conservation Area.
8. The CAA highlights that the Conservation Area comprises a predominantly residential area centred around St. Mark's Church. The main streets of Colvestone Crescent, Sandringham Road and St Marks Rise are spacious and wide, lined with attractive and architecturally interesting houses and villas built in the 1860s and '70s.
 9. The CAA also emphasises that St Mark's Conservation Area is notable for the excellent survival of high quality middle-class Victorian housing. It is evident that houses and villas are of architectural merit, both in their overall design and in their architectural detailing which add to the significance of the area.
 10. I observed during my site visit that rear boundary treatments are predominantly brick walls and timber fencing. The appellant contends that the development is located within a backland part of the conservation area which has an industrial character, I disagree.
 11. Although the solid black metal roller shutter door is located to the rear of the site, the development appears stark and at odds with the other residential boundary treatments in the area. The elevated height of the shutters adjacent domestic brick walls is intrusive and unsympathetic to the area.
 12. A similar roller shutter is located near the appeal site. The Council have confirmed that the nearby shutter does not benefit from planning approval and has been referred to the enforcement team for investigation. I therefore give this limited weight. Notwithstanding this roller shutters are not common feature in the area.
 13. Whilst the Council consider that the development would lead to less than substantial harm to the significance of the conservation area as outlined in their planning officer report, I disagree. The significance, identified above, of the conservation area would not be harmed, however this does not mean that the development does not adversely affect the character and appearance of the conservation area.
 14. I conclude that the proposed development would fail to preserve or enhance the character and appearance of the conservation area. There is conflict with Policies LP1 and LP3 of the Hackney Local Plan 2033 (2020); and Policies D4 and HC1 of the London Plan 2021 which seeks amongst other things to ensure development are of a high standard, responding to local character and context and preserves or enhances the character and appearance of the conservation area.

Other Matters

15. The appellant has highlighted that the proposed development is required due to the personal circumstances of the occupants including to mitigate anti-social behaviour issues. I have had regard to the comments raised. I have not been provided with demonstrable evidence to confirm that an alternative development could not be provided to meet the needs of the occupants.

Nonetheless whilst I have sympathy with the Appellant's reasons for the proposal, they do not outweigh the harm that this development creates.

16. The appellant has drawn my attention to sites within the area to demonstrate that roller shutters are throughout the conservation area. I have not been provided with substantive information to confirm the roller shutters benefit from planning permission or are lawful. However, I do note that one example is the roller shutter near the appeal site referenced in the main issue and one example is on a commercial building which is contextually different.
17. The photograph provided for Alvington Crescent does not appear to show a roller shutter, and therefore is not comparable. I also do not find the metal cycle stores comparable to the appeal proposal. Notwithstanding this each development must be considered on its individual merits, and I have reached my conclusion based on the individual merit of the appeal proposal.

Conclusion

18. For the above reasons I conclude that this appeal should be dismissed.

C Pipe

INSPECTOR