



Appeal Decision

Site visit made on 15 May 2024

By Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13TH June 2024

Appeal Ref: APP/U5360/D/24/3339632

38 Southborough Road, Hackney, London E9 7EF

- 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 Mark Reed against the decision of The London Borough of Hackney Council.
 - The application Ref 2023/2634, dated 16 November 2023, was refused by notice dated 15 January 2024.
 - The development proposed is the installation of an existing AC unit and proposed alterations to include a wooden casing to conceal and insulate AC unit.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. In relation to the air conditioning unit installed on the rear roof of the lower ground floor of the appeal dwelling, the planning application is retrospective, and I have considered the appeal accordingly.

Main Issue

3. The main issues are the effect of the proposal on:
 - The character and appearance of the appeal dwelling and that of the local area, with reference to the Victoria Park Conservation Area (the CA); and
 - The living conditions of neighbouring residential occupiers.

Reasons

4. The appeal dwelling is a three storey palisaded mid terrace house with raised ground floor and two storey rear outrigger and lower ground floor extension. To the rear there is a good sized rear garden, with a detached annex at its far end. It is located in an area of similar properties and the street has a cohesive streetscape. This contributes to the verdant and quality townscape that has developed with and around the park, and which provides its setting and forms part of the CA. The appeal dwelling is identified as a building of townscape merit in the Victoria Park Conservation Area Appraisal (the VPCAA) and contributes to the significance of the CA.
5. In line with the duty imposed on me by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have given considerable

importance and weight to the desirability of preserving or enhancing the character or appearance of the CA.

6. The appeal relates to an application for an air conditioning unit (AC unit) that has already been installed on the rear flat roof of the ground floor of the appeal dwelling and is attached to the flank wall of the rear outrigger. The existing AC unit currently appears as an incongruous addition to the appeal dwelling that is visible in views from the rear garden of the appeal dwelling and neighbouring houses and their gardens. For this reason, the AC unit also appears as obtrusive within the context of the local streetscape and would be detrimental to the character and appearance of the local area, diminishing the contribution that this affords to the significance of the CA, thereby failing to preserve its character and appearance. Further, given the proximity of the AC unit to the neighbouring property at 36 Southborough Road, I have no reason to doubt that the noise effect of the AC unit results in noise disturbance to the extent reported.
7. The proposal would add a timber casing that would cover the existing AC unit. This is intended to provide a visual screen and sound attenuation. However, no details have been provided of the proposed screen that would demonstrate its appearance or its acoustic performance in attenuating the sound generated by the AC unit when in use.
8. The appellant has made reference to other AC Units in the local area. These would have been considered on their own individual merits and I have done likewise in my consideration of the appeal proposal. I have, therefore, only afforded these limited weight in my considerations.
9. For these reasons, find that the development as proposed would result in significant harm to the character and appearance of the appeal dwelling and the local area and significant harm to the living conditions of neighbouring residential occupiers, although the harm to the character and appearance of the CA would be less than substantial.
10. Paragraph 43 of the National Planning Policy Framework (2023) (the Framework) states that the right information is crucial to good decision-making. I find, however, that, for the reasons given above, the information provided by the appellant with their application to illustrate and explain the proposal is not sufficient on its own to allow the appeal. In accordance with the paragraph 55 of the Framework I have, therefore, considered whether an otherwise unacceptable development could be made acceptable through the use of conditions.
11. Whilst it would be possible to acoustically enclose the AC unit to ensure that the AC unit would meet accepted standards in terms of background noise, it may not be possible to do this using a timber enclosure of the type envisaged but not specified by the appellant. As such, I have not been provided with information that would allow me to be satisfied that the AC unit could be screened in a manner that would acceptably ameliorate the noise nuisance identified, and also acceptably visually screen the AC unit to mitigate the harm identified to the character and appearance of the appeal dwelling, that of the local area and the CA.
12. Therefore, I am unable to establish that a condition would be necessarily precise in order to make an otherwise unacceptable development acceptable.

Under these circumstances any condition would not meet one of the 'six tests' for conditions set out in paragraph 56 of the Framework and the PPG¹. I do not, therefore, consider that conditions requiring the submission of details of the proposed screen could be applied to a permission for the proposal to make it acceptable.

13. Consequently, I find that the proposal does not accord with Policies LP1, LP2, LP3 and LP58 of the Hackney Local Plan (2020), Policies D3, D14 and HC1 of the London Plan (2021) and Sections 12 and 16 of the Framework, these collectively seek to ensure that development is of high design quality, integrates with the local area, having due regard to the importance of preserving or enhancing heritage assets and conserve their significance and provided acceptable levels of noise impact on neighbouring occupiers.

Planning Balance and Conclusion

14. I must give considerable importance and weight to the effect on the significance of the CA, in addition, I have given substantial weight to the effect on the living conditions of neighbouring residential occupiers and moderate weight to the effects on the character and appearance of the appeal property and local streetscape. As there are no public benefits of the proposal that outweigh the harm I have identified, the proposal conflicts with the development plan as a whole, and with the heritage aims of the Framework.
15. For these reasons, I conclude that the appeal should be dismissed.

Victor Callister

INSPECTOR

¹ Planning Practice Guidance ID 21a-003-20190723