



Appeal Decision

Site visit made on 10 July 2024

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2024

Appeal Ref: APP/U5360/W/24/3337996

240B Kingsland Road, London E2 8AX

- 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 under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Will Nustedt (NGE) against the Council of the London Borough of Hackney.
 - The application Ref is 2023/1466.
 - The application sought planning permission for the erection of a single-storey conservatory at basement level without complying with a condition attached to planning permission Ref 2023/0690, dated 31 May 2023.
 - The condition in dispute is No 1 which states that: *The development hereby permitted shall only be carried out and completed strictly in accordance with the submitted plans hereby approved and any subsequent approval of details.*
 - The reason given for the condition is: *To ensure that the development hereby permitted is carried out in full accordance with the plans hereby approved.*
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Will Nustedt (NGE) against the Council of the London Borough of Hackney. This application is the subject of a separate Decision.

Preliminary Matters

3. As the appeal property is located in a conservation area, I have had regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in determining this appeal.

Background and Main Issue

4. Planning permission was granted for the erection of a single-storey conservatory at basement level at the rear of the appeal property, overlooking the Regent's Canal, subject to a number of conditions.
5. The decision notice granting planning permission listed the approved drawings for the proposed development and Condition 1 required the development to be undertaken in accordance with these drawings.

6. The appellant sought permission to vary Condition 1 so as to allow a wider conservatory to be erected. The Council notified the appellant that following validation, the proposal should be determined by 21 August 2023, unless a time extension were to be agreed between the parties.
7. Following various requests for information, and without agreeing to an extension of time, the appellant lodged an appeal against the failure of the Council to determine the proposal within the prescribed period on 1 February 2024.
8. The appeal property is located within the Kingsland Conservation Area (KCA) and the Council has subsequently advised that had they made a decision on the proposed development within the prescribed time, planning permission would have been refused due to the adverse effect on the character and appearance of the host building and on the KCA.
9. Consequently, the main issue is the effect of the proposal on the significance of the KCA.

Reasons

10. From the limited evidence provided by the parties and my observations of the area, the significance of the KCA, insofar as it relates to this appeal, stems from the historical development along Kingsland Road, the diverse range of buildings to be found here and their visual relationship to the nearby streets and spaces, and to the Regent's Canal.
11. The appeal property is contained within a contemporary, mixed-use building on Kingsland Road, to the south of the bridge over the Regent's Canal. It occupies part of the ground and lower ground floor levels, including an entrance on Kingsland Road and private outdoor space on the southern bank of the canal.
12. The proposed development would entail the erection of a single-storey mono-pitch roofed conservatory on the private outdoor space at lower ground floor level, overlooking the canal.
13. The proposal would be the same height and depth, and of a very similar design to a conservatory that was granted planning permission on 31 May 2023¹. However, it would be some 1.15 metres wider than the approved conservatory, extending towards the boundary with Kingsland Road, and projecting beyond the rendered part of the building.
14. However, the submitted drawings² are not accurate with regard to the existing building boundaries: the street level entrance to the building is separated from the outdoor amenity space at lower ground level by vertical metal railings, whilst the submitted drawings show this to be a wall.
15. Furthermore, the north elevation drawing is inconsistent with the west elevation/cross section drawing in terms of the height of the proposed extension above street level.
16. Nevertheless, I am satisfied that whilst the proposed conservatory would not be visually prominent, it would still be visible from the eastern footpath of Kingsland Road, through the metal railings by the entrance to the property,

¹ LPA Ref. 2023/0690

² Dated 13.06.2023

and the additional wooden slats and artificial vegetation attached to the railings.

17. The proposed conservatory would be largely screened in views from the Kingsland Road bridge, from Dunston Road across the canal, and from the canal towpath, by the deciduous trees next to the canal. However in late autumn, winter and early spring, it would be readily visible from these locations.
18. Whilst the proposal would be somewhat similar in appearance to the approved conservatory, the projection beyond the rendered part of the building would be visually awkward, and noticeable for much of the year. Furthermore, I am not satisfied that the projection would not also be visible above street level by the entrance to the property, where it would have an odd appearance that would be detrimental to the streetscene.
19. The proposal would, therefore, adversely affect the character and appearance of the KCA, causing less than substantial harm to its significance. Whilst this harm would be towards the lower end of the spectrum, any harm to a designated heritage asset should be afforded considerable weight.
20. No public benefits of the proposal that would outweigh this harm have been suggested and I consider the erection of the conservatory would be overwhelmingly a private benefit for the appellant.
21. For these reasons, the proposed development would detract from the significance of the KCA and there are no public benefits that would outweigh this harm. It would, insofar as relevant, conflict with Policy D3 (optimising site capacity through the design-led approach) of the Spatial Development Strategy for Greater London 2021, with Policies LP1 (design quality and local character) and LP3 (designated heritage assets) of the Hackney Local Plan 2033 (HLP), and with the National Planning Policy Framework December 2023.
22. The Council has not provided a copy of Policy LP33 of the HLP or the Residential Extensions and Alterations Supplementary Planning Document 2009, which it references in its evidence. Consequently, I can find no conflict with them.

Conclusion

23. For the reasons given above, I conclude the appeal is dismissed.

Andrew Parkin

INSPECTOR