



Appeal Decision

Site visit made on 25 June 2024

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2024

Appeal Ref: APP/U5360/W/24/3336657

279a Kingsland Road, London E2 8AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Francisco Checa Romero of Checa Romero Architects against the decision of the Council of the London Borough of Hackney.
 - The application Ref is 2022/0925.
 - The development proposed is replacement of window and addition of new door on the front elevation; replacement of two existing windows with three windows and a door on the side elevation at upper ground floor level; extension of existing basement at lower ground floor level; installation of awning on front elevation.
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Decision

1. The appeal is dismissed insofar as it relates to replacement of two existing windows with three windows on the side elevation at upper ground floor level.
2. The appeal is allowed insofar as it relates to replacement of window and addition of new door on the front elevation; a door on the side elevation at upper ground floor level; extension of existing basement at lower ground floor level; installation of awning on front elevation and planning permission is granted for replacement of window and addition of new door on the front elevation; a door on the side elevation at upper ground floor level; extension of existing basement at lower ground floor level; installation of awning on front elevation at 279a Kingsland Road, London E2 8AS in accordance with the terms of the application Ref 2022/0925, so far as relevant to that part of the development hereby permitted subject to the conditions in the attached schedule.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the host building, with due regard to the Kingsland Conservation Area.

Reasons

4. The appeal site consists of a building of a traditional character, although the appellant indicates that it was constructed as recently as the 1980s. The upper elevations of the building are of an understated appearance and include traditional window designs as well as a mansard roof. The ground floor of the building is unsightly, with a modern glazed commercial window on one side of the front elevation, and a domestic scale window on the other. Although the latter is of a traditional design, the domestic appearance and scale of the window is an incongruous feature in this commercial frontage.

5. The appeal proposal includes the replacement of the domestic scale window on one side of the front elevation with a large, glazed window and doorway similar to those that currently exist at the site. Although this would result in the creation of a frontage of a modern character, the proposal would introduce a degree of symmetry to the main elevation and would lead to the removal of a window of an incongruous appearance. The removal of the incongruous window and the introduction of a window and entrance which complement extant features on the front elevation would therefore enhance the appearance of the building.
6. The Council refers to the lack of traditional features in this element of the proposal, including the absence of stall riser. However, the existing shop window on the site does not feature a stall riser and I saw that there were other shop fronts in the area which are also of modern designs that lack stall risers. Given these circumstances, the modern design of this element of the appeal proposal would not harm the character and appearance of the host building or the streetscape.
7. The proposal also includes 3 large windows extending along the side elevation of the building facing onto the lane of Mill Row. There are a number of shops and businesses in the area which include windows or other openings on the side elevations. However, the design and extent of the proposed 3 windows would be of a materially greater scale than the other properties I observed, including the property on the opposite side of Mill Row. Viewed within the context of the site and the wider area, the windows proposed to the side of the appeal site would detract from the primacy of the main frontage and would be an incongruous feature extending along the side lane.
8. I am mindful of the benefits arising from these side windows, including the provision of natural illumination for the building, particularly the basement, and the introduction of an active frontage onto the lane. However, similar benefits could also be provided by windows of a more suitable design, and the benefits arising from this element of the proposal therefore carry no more than limited weight.
9. The appeal site is within the Kingsland Conservation Area (CA) which is of a linear form following the alignment of Kingsland Road. Although the CA contains a mixture of uses, the street-level frontage of Kingsland Road is of a busy commercial character. The CA includes buildings of various periods, scales and character representative of the historic development of the area, and which contribute to its importance as a designated heritage asset. Even allowing for the traditional design of some shop fronts in the area, for the reasons stated previously the proposed front elevation would preserve the character and appearance of the CA. Indeed, the removal of a front window of an incongruous design and the introduction of an active frontage would enhance the character and appearance of the CA.
10. However, as set out previously, the 3 windows to the side would appear as incongruous features detracting from the primacy of the front elevation. Although there are windows to the side of other commercial buildings within the CA, they are not of a similar scale and design as this element of the proposal and do not establish a prevailing context for a building of this traditional appearance. The proposed windows to the side would therefore fail to preserve or enhance the character and appearance of the CA.

11. The appeal site is located diagonally opposite the Grade II Listed Haggerston Branch Library, which is a handsome building in a decorative Italianate style. It was originally built as a house before being adapted for use as a library, which was the second established by donations from John Passmore Edwards. The building is of both architectural and historic significance, and these factors contribute to its importance as a designated heritage asset. The alterations to the front of the appeal site would be viewed within the context of this Listed Building. However, even allowing for the modern appearance of this element of the proposal, for the reasons stated previously it would not appear out of context for the area and would improve the appearance of the host building. I have concluded that the windows to the side would be harmful to character and appearance, including in respect of the CA. But due to their location facing onto a side street and the offset location of the appeal site, the form and extent of the side windows would not be apparent in views of the Listed Building. I therefore conclude that the proposal would preserve the setting of this Listed Building.
12. A door is also proposed to the side, but this is of a minor nature and would not be harmful to character and appearance, including that of the CA and the setting of the Listed Building.
13. Notwithstanding my conclusions in respect of other elements of the proposal, the proposed 3 windows on the side elevation would lead to significant harm to the character and appearance of the host building and the area, and would fail to preserve or enhance the character and appearance of the CA. Although the harm to the CA would be less than substantial, there are no public benefits from this element of the scheme that would outweigh that harm.
14. The proposal as a whole would therefore be contrary to the design, character and heritage requirements of Policies D4 and HC1 of the London Plan 2021; and Policies LP1 and LP3 of the Hackney Local Plan 2020.
15. The proposed replacement of window and addition of new door on the front elevation would not comply with the advice of the Council's Shopfront Design Guide (SDG) in respect of the design of traditional shopfronts. But for the reasons stated previously, including the context of the original building, this does not weigh against the appeal proposal. However, the 3 proposed windows on the side elevation would conflict with the advice of the SDG regarding the context of the site, and this adds to my concerns on this element of the proposal.

Other Matters

16. Comments from third parties have referred to the use class of the appeal site. However, there are other methods available to determine the lawfulness of the use of the site and this matter does not fall within the scope of this planning appeal. I also note that the Council has not raised concerns regarding the use class of the site, and there is no evidence before me in respect of substantive action being taken on this matter. I have therefore considered this appeal on the basis of the submitted evidence and the Council's decision.
17. Concern has also been expressed in relation to the effect of the basement excavations on the structure of the building. However, this is a matter that would be addressed as part of a Building Regulations application and does not fall within the remit of this planning appeal. Similarly, queries regarding the

internal layout of the site do not fall within the scope of this planning appeal and may be addressed by other processes such as Building Regulations and Environmental Health requirements.

Conditions

18. The Council and consultees have suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance. As a result, I have amended some of the conditions for clarity and accuracy.
19. In addition to the standard 3 year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans in the interests of certainty.
20. I have also imposed a condition requiring the provision of further details of the proposed windows, doors and awning in the interests of certainty, and to ensure that the external appearance of the building is satisfactory and does not detract from the character and visual amenity of the area. For the avoidance of doubt, the details to be submitted in relation to windows and doors relate to minor matters of clarification rather than the imposition of a shop front design that varies from that proposed.
21. A condition in respect of flooding issues is necessary to ensure that risks to occupants, property and other receptors are minimised. The submission of a Construction Method Statement is necessary in the interests of the living conditions of residents, highway safety and environmental impact. Details in respect of these conditions should be submitted to and approved by the local planning authority at the pre-commencement stage as they relate to matters which need to be established before the commencement of building operations.
22. The Council has also suggested a condition requiring the provision of swift nesting bricks and/or boxes at or close to eaves level of the development. However, I am not persuaded that this condition is necessary or relates to the development to be permitted, including the consideration that the proposed development does not extend to the eaves of the building.

Conclusion

23. I have concluded that the 3 proposed windows on the side elevation would lead to significant harm to the character and appearance of the host building, and would fail to preserve or enhance the character and appearance of the CA.
24. However, I have also concluded that the other elements of the proposal would not lead to material harm, and in some aspects would be of benefit to the character and appearance of the area. The relevant elements of the proposal are clearly severable, and I shall therefore issue a split decision to dismiss the appeal in respect of the 3 proposed windows on the side elevation, but allow the appeal in respect of the other elements of the proposal.
25. For the reasons given above the appeal should be allowed in part and dismissed in part.

David Cross

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos SI 704/050, SI 704/060, SI 704/150, SI 704/250, SI 704/350, SI 704/400, SI 704/401, and SI 704/402.
- 3) Detailed drawings/full particulars of the proposed development showing the details set out below must be submitted to and approved by the Local Planning Authority, in writing, before relevant work is commenced. The development shall not be carried out otherwise than in accordance with the details thus approved.
 - a) Details of windows to scale of 1:20 including materials
 - b) Details of doors
 - c) Details of awning
- 4) No development shall commence, other than works of demolition, until a report (including intrusive investigation/trial pit and monitoring where necessary) demonstrating that the basement development will not increase the potential for groundwater flooding to itself or to the surrounding area during and post construction has been submitted to the Local Planning Authority (LPA) for approval. Where groundwater is identified as a potential risk, details of appropriate controls including flood resilience and/or resistance measures shall be submitted to the LPA for approval and the approved measures incorporated before the basement is occupied. The basement shall be constructed and completed in accordance with the approved plans in line with BS 8102:2009 code of practice for "protection of below ground structures against water from the ground".
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for the:
 - (a) Parking of vehicles of site operatives and visitors;
 - (b) Loading and unloading of plant and materials (including those resulting from demolition and excavation);
 - (c) Storage of plant and materials used in constructing the development;
 - (d) Erection and maintenance of security hoarding; and
 - (e) Delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

End of Schedule