



Appeal Decision

Site visit made on 25 July 2024

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2024

Appeal Ref: APP/U5360/W/24/3339513

110 Dalston Lane, Hackney, London E8 1NG

- 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 Joel Stern against the decision of the Council of the London Borough of Hackney.
 - The application Ref is 2023/2789.
 - The development proposed is the removal of the pre-existing chimney stacks.
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Decision

1. The appeal is allowed and planning permission is granted for the removal of chimney breasts due to at 110 Dalston Lane, Hackney, London E8 1NG in accordance with the terms of the application, Ref 2023/2789, subject to the following condition which has been imposed in the interests of certainty:
 - 1) The development hereby permitted shall be carried out in accordance with drawing numbers: PR-L001, PR-E001 and PR-E002.

Preliminary Matters

2. I observed on my site visit that the development has been completed in accordance with the approved plans. I have therefore determined the appeal on the basis that retrospective permission is sought for the development which has already been implemented.
3. I have used the description of development as provided on the decision notice and the appellant's appeal form as it more accurately describes the proposal.

Main Issue

4. The main issue is whether the development has conserved or enhanced the character or appearance of the Graham Road and Mapledene Conservation Area.

Reasons

5. The appeal site is located within the Graham Road and Mapledene Conservation Area, a predominantly residential area that covers a reasonably large portion of the Borough. From the evidence before me, and from what I saw when I visited the site, the significance of the Conservation Area, in so far as it is relevant to this appeal, is derived from the value of the suburban development of Hackney, and the architectural styles and tastes of the time. It has an aesthetic value due to the appearance of the buildings that comprise the Conservation Area. No. 110 forms part of an attractive terrace of buildings. It's general appearance and design features, including the elaborate doorway, brick lintels and large

sash windows, means that the building contributes positively to the significance of the Conservation Area.

6. The development has involved the removal of two chimney stacks. The Council's Residential Extensions and Alterations SPD (2009) states that every effort should be made to retain features like chimney stacks. Meanwhile, the relevant Conservation Area appraisal sets out that such features should not be removed where they are visible from public spaces. The chimney stacks were an original design feature which contributed somewhat to the appearance of the building, and they would have been visible from the road. As such, while the overall character of No. 110 and the wider terrace remains, harm has occurred.
7. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. In this instance, due to the limited scale of the development, the harm is relatively localised. The proposal would have a negative effect on the significance of a designated heritage asset and would result in 'less than substantial harm'. In these circumstances, the National Planning Policy Framework (the Framework) requires that this harm must be weighed against public benefits. Great weight must be given to a designated heritage asset's conservation and any harm to its significance requires clear and convincing justification.
8. In this instance, the chimney stacks have been removed due to concerns about the integrity of the external wall of the house. Indeed, the appellant has provided a Structural Report which states that the deformation had been caused by the overloading of existing masonry. The proposed solution set out within the report was to provide reinforcement of the side elevation while it also clearly advised that the chimney stacks above be removed. The report sets out that taking these measures would help prevent any collapses and it does not provide any alternative courses of action. In my view, the need to limit the potential for future collapse does represent a public benefit on the basis that it would ameliorate a potential threat to the safety of pedestrians and road users. This is an issue that I must give very substantial weight to.
9. The development fails to preserve or enhance the character or appearance of the Conservation Area and would result in harm to its significance. However, I find that this harm is outweighed by the identified public benefits. As such, the requirements of the Act and the Framework have been met and the development conforms with Policies D3 and HC1 of the London Plan 2021, as well as Policies LP1 and LP3 of the Hackney Local Plan 2020. Taken together, these policies seek to preserve character and appearance, including by only allowing less than substantial harm to designated heritage assets where it would be outweighed by public benefits. The decision notice also quotes Policy LP2, however, as this covers living conditions, I do not consider it relevant to this appeal.
10. For the reasons given, the appeal is allowed.

C Butcher

INSPECTOR