



Appeal Decision

Site visit made on 12 June 2024

by P B Jarvis BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2024

APPEAL A

Appeal Ref: APP/U5360/W/23/3335961

54-62 Broadway Market, London E8 4QJ

- 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 A&R Group of Companies against the decision of the Council of the London Borough of Hackney.
 - The application Ref is 2021/2951.
 - The development is replacement of casement windows to single door for access to private amenity space; steel framed structure at rear elevation to provide private amenity space for each dwelling; 1100mm high steel balustrading, timber infill structure and composite decking material, all treated with fire proof treatment; obscure glass screens proposed between balconies separating dwellings to maintain privacy; installation of external extractor flue which serves no. 62 restaurant; replacement of existing rear casement window to no. 62 with large single bi-fold window (alterations to previously approved scheme ref: 2016/0092).
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APPEAL B

Appeal Ref: APP/U5360/W/23/3335962

54-62 Broadway Market, London E8 4QJ

- 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 A&R Group of Companies against the decision of the Council of the London Borough of Hackney.
 - The application Ref is 2021/2949.
 - The development is replacement of casement windows to single door for access to private amenity space; installation of external extractor flue which serves no. 62 restaurant; replacement of existing rear casement window to no. 62 with large single bi-fold window (alterations to previously approved scheme ref: 2016/0092).
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Decision

1. Appeal A is dismissed.
2. Appeal B is allowed and planning permission is granted for replacement of casement windows to single door for access to private amenity space; installation of external extractor flue which serves no. 62 restaurant; replacement of existing rear casement window to no. 62 with large single bi-fold window (alterations to previously approved scheme ref: 2016/0092) in accordance with application ref: 2021/2949 and subject to the following conditions:
 - 1) The works hereby permitted shall be in accordance with the following approved plans: 1:1250 site plan, 1:200 block plan, MGM200/PW01 (proposed basement floor plan), MGM200/PW02 Rev.A (proposed ground floor plan), MGM200/PW03 (proposed first floor plan), MGM200/PW04

(proposed second floor plan), MGM200/PW05 (proposed third floor plan), MGM200/PW06 (proposed roof plan), MGM200/PW07 (proposed front elevation), MGM200/PW08 (proposed rear elevation), MGM200/PW09 (proposed side elevation) and MGM200/PW10 (proposed side elevation).

- 2) Within three months of the date of this decision, a soot wash shall be applied to the new brickwork on the front parapet and rear elevation of the buildings.
- 3) Notwithstanding the reference to the use of uPVC on the approved plans the windows at first, second and third floor in the rear elevation of Number 54 Broadway Market shall be timber framed.

Procedural Matter

3. I have determined these appeals on the basis of the above descriptions and related plans noting that the majority of the works have already been carried out.

Main Issues

4. The main issues for both appeals are the effect on
 - the character and appearance of the area including the Broadway Conservation Area (CA), and
 - the living conditions of the occupiers of adjoining residential properties.

Reasons

5. The appeal site is located towards the northern end of Broadway Market. It comprises a row of five terraced buildings each originally of three storeys with basement to which a new mansard roof set back behind a parapet roof edge has been added. Numbers 54 and 56 are of Victorian age whereas 58, 60 and 62 are of later construction in a similar style. They are part of a terrace of similar height, age and style buildings with commercial uses on the ground floor and generally residential on the upper floors.
6. The extent of the CA, within which the appeal site lies, is shown on the Broadway Market Conservation Area Map which also identifies statutory and locally listed buildings and Buildings of Townscape Merit (BTMs). Numbers 54 and 56 are both BTMs. The conservation area encompasses all of Broadway Market itself and some residential streets to the north. The CA also includes the school to the rear (east) of the appeal site, the building on which is also a BTM. The significance of the area is derived from the architectural value of the mainly Victorian age terraced buildings along Broadway Market, many of which are noted as BTMs and the historical links to the street market. The well-preserved pairs of semi-detached residential properties along the roads to the north, the majority of which are listed buildings with the remainder also being BTMs, together with further individual listed buildings also contribute to the special historic character and significance of the wider conservation area.
7. Permission was granted in 2016 (the 2016 scheme) for, in summary, extensions to the rear of the appeal site to provide additional residential and commercial floorspace, roof extension to create additional third floor, external

alterations comprising raising of front parapet, introduction of Juliet balconies to the rear elevation and relocation of extraction flues¹.

APPEAL A

Character and appearance

8. The description of the development relates to works at the rear of the buildings only and the appellant has confirmed that no changes are sought to the front elevation as approved. In respect of the front elevation, the plans are identical to those approved under the 2016 scheme with the exception that a note has been added stating 'facing brickwork to match existing; sootwash to be used to match colour of existing aged facing brickwork'. These details could be secured via a suitable condition on any permission granted.
9. The rear elevation of the building is not within the main 'public realm' but nevertheless visible from access roads to the rear of the site and from adjoining properties within the CA. The most visible change is the introduction of the steel framed structure with balustrading and associated elements to create a series of amenity areas for the flats at first, second and roof level. This is an incongruous addition to these buildings and is unsympathetic to the traditional appearance of the BTMs. Whilst numbers 58-62 are later buildings, they nevertheless reflect the general form and architectural composition of the older buildings in the attached terrace. The use of the flat-roofed area of the lower-level extension is less jarring albeit the railings do not appear sympathetic in appearance or design.
10. The 2016 scheme included a new rear elevation and fenestration across much of the rear elevation. The approved plans showed a variation to the window style for each property, reflecting what appeared to be the previously existing rear façade of each property (according to photographs provided by the Council) which included windows with single horizontal bar such as those now detailed within the modern part of the terrace and on number 56. However, in respect of number 54, the approved 2016 scheme shows rear windows with horizontal and vertical bars, reflecting the traditional rear windows of this BTM. The current appeal scheme shows uPVC windows without the vertical glazing bars which although similar to those within the remainder of the rear façade, result in an overly horizontal emphasis which are inappropriate and unsympathetic to this BTM. With regard to the single doors, these are not dissimilar in appearance to those approved as part of the 2016 scheme and reflect the proportions of other windows and are acceptable.
11. Unlike the 'proposed front elevation' plan there is no notation in respect of the brickwork on the rear elevation. However, given the different context of this part of the site which includes modern additions that looked to be finished in similar brickwork, a condition to require the application of sootwash would be sufficient to ensure a suitable appearance to the rear facade.
12. With regard to the new 'bi-fold' window for the ground restaurant at No. 62, this replaces a window that was of a different position and size approved under the 2016 scheme. The 'proposed' rear elevation plan shows that the new window is wider occupying a greater part of the elevation, but it is centrally

¹ Council reference: 2016/0092 granted 3 March 2016

positioned and does not look out of place in the context of the other windows at this ground floor level which are of varied size and position.

13. The external extractor flue installed to serve number 62 has added a further noticeable element to the rear elevation. However, in the context of both the site itself and the immediate environment of the site, within which there are a number of similar extractor flues, it does not look out of place nor does it result in an unacceptable level of 'clutter' within this environment.
14. I find that whilst some elements of the scheme would be acceptable, there are a number of elements that collectively result in a considerable level of harm to the character and appearance of the host buildings and the CA. In the context of paragraph 208 of the National Planning Policy Framework (the Framework) this leads to less than substantial harm to the significance of the designated heritage asset. In weighing this harm against the public benefits, I note that the scheme provides useful amenity areas for the upper-level flats which whilst primarily providing a private benefit for the occupants of those flats, nevertheless enhances the overall accommodation and their contribution to the housing provision within the area. The improvements to the commercial properties also add some limited economic benefits. However, the combined public benefits are insufficient to outweigh the harm identified.
15. Overall and having regard to the duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA), the works fail to preserve or enhance the character or appearance of the host buildings and the wider conservation area. This results in conflict with Policies LP3 and LP7 of the Hackney Local Plan LP33 2020 (HLP) and Policies D1, D8 and HC1 of The London Plan 2021 (LP) which seek high standards of architectural and urban design quality that respects local character and context and which preserves or enhances the character and appearance of the conservation area and significance of heritage assets.

Living conditions

16. The provision of the rear steel structure with balustrading to provide a number of separate amenity areas for the occupiers of the upper-level flats has introduced some overlooking of both the area to the rear of the buildings on the appeal site as well as adjoining properties. The area to the rear of the appeal site is shown to provide a rear garden area albeit at the time of my site visit it did not appear to be being used as such though did provide some 'sitting out' areas for the existing occupiers. However, views of adjacent rear gardens are restricted by the size and relative position of the amenity areas and adjoining buildings and vegetation resulting in only limited views. In these circumstances, no unacceptable levels of overlooking have been introduced.
17. Concerns have been raised regarding the 'introduction of large opening windows to commercial properties'. However, it is only the replacement window to the rear of the restaurant at number 62 that is noticeably larger than that shown in the approved 2016 scheme. However, it is not significantly greater and, given the approved scheme, I do not consider that this would result in an unacceptable level of noise and disturbance.
18. I find that there would be no unacceptable harm to the living conditions of the occupiers of adjoining and nearby properties and the scheme thereby complies with HLP policies LP1 and LP2 and LP policies D4 and D14 which seek

development that is appropriate to its location and designed to ensure that there are no significant adverse impacts on the amenity of occupiers and neighbours.

Conclusions re: Appeal A

19. Therefore, I find that whilst this scheme is acceptable in respect of living conditions, it results in an unacceptable level of harm to the character and appearance of the host buildings and Broadway Market Conservation Area.

APPEAL B

Character and appearance

20. This scheme is similar to that under Appeal A but omits the rear steel framed structure and associated balustrading, timber infill, decking and obscure screens and instead includes 'Juliet' balconies to the door openings at all upper levels. In addition, the rear windows to number 54 include both the horizontal and vertical bars as in the 2016 scheme. As such, this appeal scheme includes appropriately designed windows to the rear of number 54 rather than the inappropriately designed ones that are currently in place. However, as with Appeal A, the plans refer to the use of uPVC windows which for this BTM would be unacceptable given that the original rear façade included the original windows. However, notwithstanding what is indicated on the plan, a condition could be imposed to ensure that timber frames are used.
21. Juliet balconies are a feature of the approved 2016 scheme albeit related to slightly wider openings and not at roof level. However, the introduction of doors and Juliet balconies of similar proportion at roof level does not detract from the overall appearance of the rear façade and individual balcony features such that these would not be out of place within the local area. My findings set out above in respect of the other elements, including the extractor flue and fenestration changes, also apply to this scheme and for those reasons these elements are also acceptable, subject to the imposition of conditions as noted.
22. I find that there would be no harm to the character and appearance of the host buildings or the wider conservation area. The scheme thus complies with HLP policies LP1 and LP3 and LP policies D3, D4 and HC1. The duty under the LBCA is satisfied.

Living conditions

23. For the reasons set out above I find that the introduction of a larger window to the commercial property at number 62 would not result in an unacceptable level of noise and disturbance and therefore no significant adverse impact on the living conditions of adjoining and nearby occupiers would result. It thus accords with HLP policy LP2 and LP policy D14.

Conclusions re: Appeal B

24. Overall, I find that this scheme would be acceptable. With regard to conditions, given that the development sought has been partly implemented through alterations to the fenestration and the installation of the extractor flue, the standard time limit condition for implementation is not necessary. However, conditions to refer to the approved plans, with clarity regarding the use of timber for the windows to number 54 are necessary in the interests of

clarity and the character and visual amenity of the buildings and wider area respectively.

25. The Council has also expressed concern regarding the appearance of the brickwork. The appellant has clarified that new London stock bricks have been used leading to a noticeable difference in their appearance to the existing older, aged brickwork. This is most noticeable on the front façade of the building where the new parapet has been added. As noted above, the submitted plans do not differ from those approved under the 2016 scheme, except that a note regarding matching materials and the application of a sootwash has been added. Whilst the Council contends that the application of a sootwash would not be sufficient to render the front parapet sufficiently 'matching' the condition suggested above to require compliance with the approved plans would, in turn, require matching materials. This would enable consideration to be given to any further action needed to ensure compliance, should that be necessary and reasonable. With regard to the rear elevation, given my comments above, the application of the sootwash would be sufficient to ensure an acceptable appearance. A condition to require the sootwash application to be carried out within a reasonable time is therefore necessary.

Overall Conclusions

26. For the reasons set out above, I conclude that Appeal A should be dismissed but that Appeal B should be allowed and planning permission granted.

P B Jarvis

INSPECTOR