



Appeal Decisions

Site visit made on 13 November 2024

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th November 2024

Appeal A Ref: APP/U5360/C/23/3321877

246 Dalston Lane, London E8 1JG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act). The appeal is made by Mr Malcom Stern against an enforcement notice issued by the Council of the London Borough of Hackney.
- The notice was issued on 5 April 2023.
- The breach of planning control as alleged in the notice is 'Without planning permission, Installation of metal railings on the flank elevation of the Property'.
- The requirements of the notice are: 1. Remove the metal railings on the flank elevation of the Property. 2. Make good all damage to the Property resulting from the removal of the unauthorised works as listed above; 3. Upon completion of the above steps, remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the property and its premises.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) of the Act.

Appeal B Ref: APP/U5360/H/23/3321393

Appeal C Ref: APP/U5360/Z/23/3317987

246 Dalston Lane, London E8 1JG

- The appeals are made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) (the Regulations) against refusals to grant express consent.
- The appeals are made by Mr Malcom Stern (Appeal B) and Mr A Stern (Appeal C) against the decision of the Council of the London Borough of Hackney.
- The application Refs are 2023/0115 (Appeal B) and 2022/2640 (Appeal C).
- The advertisement proposed in Appeal B is a non-illuminated advertising hoarding measuring 3m x 1.8m on the eastern facade of the building.
- The advertisement proposed in Appeal C is a non-illuminated advertising hoarding measuring 6m x 4.7m on the eastern facade of the building.

Decisions

Appeal A

1. The appeal is dismissed and the enforcement notice is upheld.

Appeals B and C

2. The appeals are dismissed.

Appeal A: The Enforcement Notice, Ground (f)

3. To succeed under this ground of appeal the appellant would need to show that the steps required to be taken by the notice exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused.

4. The notice requires the metal railings to be removed and the property to be returned to its former condition, as it was before the breach took place. The purpose of the notice is therefore to remedy the breach, rather than injury to amenity. There are no lesser steps or obvious alternatives which would remedy the breach with less cost or disruption, and the steps required to be taken are not excessive to achieve the purpose of the notice.
5. The appeal under ground (f) therefore fails and I conclude that Appeal A should not succeed. I shall uphold the enforcement notice.

Appeals B and C

6. The main issue is the effect the proposed advertisements would have on amenity, with particular regard to the character and appearance of the Clapton Square Conservation Area (CA).
7. The site is an historic three storey end of terrace building with commercial use at ground floor level and residential use above, located within the CA. It is designated as a building of townscape merit¹, and has a shopfront with modest fascia signage at ground floor level, and mouldings around windows at first and second floor levels on its front elevation. Decorative cornices project from the front and a small part of the side elevation, between ground and first floor levels and above second floor level. Its east elevation flank wall is finished in render and facing brickwork, which complements the more ornate finishes to the front elevation.
8. Further historic three storey residential properties of similar style line the southern side of Dalston Lane, to the east of the site. They are set back from the road, which allows clear views of much of the eastern façade of the site from along Dalston Lane.
9. To the northern side of Dalston Lane, opposite the site, tall contemporary buildings are set back from the highway, with commercial uses at ground floor level. Modestly sized advertisements accompany those commercial uses, which are generally confined to ground floor level.
10. There is a busy highway junction to the west of the site which is lined with commercial uses and their signage. Most of that signage is also largely restricted to ground floor level. The obvious exception is a large advertisement spread over first and second floor levels on the corner of 181 Dalston Lane. This advertisement does not, however, have any great influence over the visual amenity of the site and its immediate surroundings due to its distance from the site.
11. The advertisement in Appeal B would be significantly smaller than that proposed in Appeal C, but it would remain entirely at odds with the pleasant and understated historic appearance of the site and the adjacent building at 248-250 Dalston Lane. Moreover, it would fail to relate sympathetically to low-level business uses in the locality and would be an unattractive feature close to adjacent residential buildings.
12. Neither of the proposed advertisements would sit comfortably in their surroundings due to their sizes and high-level positioning close to neighbouring dwellings, and both would have a harmful effect on visual

¹ In the Council's Clapton Square Conservation Area Appraisal (2007)

amenity. Therefore, although the advertisements could potentially support the local shopping area, they would not enhance the visual appearance of the flank wall, and they would fail to preserve or enhance the character or appearance of the CA.

13. I have not been referred to any problems with graffiti at the site, and the heights of the proposed advertisements lead me to doubt they would be an effective deterrent in this regard.
14. It is not suggested that the advertisements would have a harmful effect on public safety, and I see no reasons to find differently. This lack of harm is not, however, a benefit weighing in their favour.
15. The findings of another Inspector² relating to an advertisement a significant distance from the site are of little relevance in this instance. The fact that another advertisement was found acceptable in that case does not lead me to find the advertisements in this case would not harm amenity due to the specific circumstances of the site, outlined above.
16. In accordance with the Regulations, I have taken account of the provisions of the development plan so far as they are material, although they have not by themselves been decisive. The advertisements would conflict with Policies LP1, LP3, LP4 and LP7 of the Hackney Local Plan 2033 (2020). These seek to achieve high quality design which responds to local character and preserves or enhances the significance of the historic environment, amongst other things.
17. For the reasons set out above the advertisements would cause harm to amenity. Appeals B and C are therefore dismissed.

Overall Conclusion

18. The appeals fail and the enforcement notice is upheld.

L Douglas

INSPECTOR

² APP/U5360/Z/22/3293705