



Appeal Decision

Site visit made on 4 December 2024

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2025

Appeal Ref: APP/U5360/W/24/3350236

174 Victoria Park Road, Hackney, London E9 7HD

- 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 Robert Raths against the decision of the Council of the London Borough of Hackney.
 - The application reference is 2023/2949.
 - The development proposed is described as 'Retrospective Planning Application to regularise application ref: 2019/3411, including amendments to the approved rear extension, shopfront and skylights'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The submissions set out that planning permission¹ has previously been granted at the appeal site for alterations and extensions to both the retail unit and flat above, in 2019. This appeal relates to a subsequent application which sought to regularise certain works that had not been undertaken in accordance with the approved plans of this earlier permission. I have before me a set of existing elevations, the originally approved plans from 2019, plans approved under an application² to discharge condition 3 of the 2019 permission, a set of 'As Built' plans and a set of plans titled 'Retrospective Planning'. I have based my decision on the latter set of plans, which I understand are those on which the Council made its decision.
3. Since the appeal was lodged, a revised National Planning Policy Framework has been published (12 December 2024). This has not raised any new matters which are determinative to the outcome of this appeal.
4. The Council's Officer Report references the Victoria Park Conservation Area Appraisal and a Shopfront Design Guide. Copies of these documents have been requested from the Council, but not provided. I have therefore accessed these documents via the Council's website.

Main Issues

5. The main issues are the effect of the proposed development on a) the character and appearance of the Victoria Park Conservation Area (CA), and b) the living conditions of the occupiers of 176 Victoria Park Road, with regard to outlook.

¹ Reference 2019/3411

² Reference 2020/3604

Reasons

Character and Appearance

6. The appeal site comprises a mid-terraced property of brick construction over three floors, with further accommodation in the roof. The ground floor is in retail use, with the upper floors providing residential accommodation. This part of Victoria Park Road has a mix of commercial uses at street level. The wider terrace, along with the terrace opposite, has some architectural quality. These terraces share a consistency in design and form, as well as in the use of materials. A number of traditional features typical of the period of construction are visible to some properties but not all, including sash windows set in stone surrounds, some with decorative mouldings, decorative cornicing at eaves level, and traditionally designed timber shopfronts. The mix of commercial and residential uses provide the area with a vibrant character.
7. The appeal site lies within the Victoria Park CA. The Council's appraisal³ of the CA indicates that it has an interesting variety of buildings of high-quality dating from the 18th century to the 20th century. It recognises a general uniformity of buildings which provides a cohesive townscape, that is enhanced by open spaces. The terrace comprising the appeal site is identified on the Victoria Park Conservation Area Plan as a building of townscape merit, recognised for making a positive contribution to the character of the area, including through its form and architectural detail. Victoria Park Road is also recognised within the appraisal for the commercial activity that it provides, along with Lauriston Road, which contributes to the busy and vibrant character of Victoria Park Village. The appraisal identifies the loss of original detailing and inappropriate alterations such as large extensions as a threat to the CA.
8. The appeal scheme proposes external alterations to the front and the rear of the building. The Council raises no concerns with the dormer window now installed to the rear roof and having viewed this dormer window in the context of other large, flat roofed dormers to this elevation of the terrace, I have no reason to disagree. Further, the Council indicates that sliding sash windows with a two over two glazing pattern would be acceptable to the upper floors of the buildings frontage, as shown on the submitted plans. I noted at my site visit that windows to this effect have now been installed. They are consistent in style with those properties to either side of the road that retain traditional windows. I am satisfied that these elements of the development adequately preserve the appearance of the CA.
9. While the rooflights are large, I observed at my site visit that visibility of these rooflights is restricted by the width of the road, in combination with the height of the building, the slope of the roof, and the position of dividing walls where they project above the roof slope. Consequently, the appearance of the CA is not harmed.
10. The development has incorporated an additional storey to the rear extension at third floor level. In some respects, this extension is contrary to advice contained within the Councils SPD⁴ for residential extensions and alterations, which states that rear extensions should be at least one storey lower than

³ Victoria Park Conservation Area Appraisal November 2012.

⁴ Supplementary Planning Document Residential Extensions and Alterations, April 2009.

eaves height, and that the form and materials used should normally reflect those of the original building.

11. However, in public views from Shafton Road, this flat roof extension would be seen with other flat roof extensions of varying height along this terrace, including an existing extension up to eaves height, further west. The extension would sit below the dormer window, which has added volume to the roof slope, along with other existing dormers. The dark cladding would sit comfortably within a mix of existing materials to other rear extensions, which include render, some red brick and dark cladding similar to those used in this element of the appeal scheme. Given this context, along with the set back of the extension from the road and intervening trees, this aspect of the development does not appear overly dominant or obtrusive and it would adequately preserve the appearance of the CA.
12. The alterations to fenestration at the rear of the building would be larger in size than the original openings and the style and steel materials do not replicate the traditional design of such openings, which remain evident to other properties. However, as a result of the extension, which I have found to be acceptable, these alterations would be screened from public views along Shafton Road. As such, they would not result in any harm to the appearance of the CA.
13. Works to replace the shopfront have already been undertaken. However, the plans before me annotated as 'Existing Elevations', indicate a former shopfront of a traditional design and proportions, including a display window above a stallriser and two solid, four-panelled doors, with fanlights above, separated by columns. The 'Approved Plans' of the 2019 permission show a replacement shopfront to match this.
14. While a number of shopfronts along Victoria Park Road have retained their traditional style, some shopfronts in this area have been subject to interventions, not all of which have been sensitive to this traditional style. This has impacted detrimentally on the positive contribution these buildings make to the character and quality of this traditional shopping street, an issue that is recognised within the Councils Shopfront Design Guide⁵. Nevertheless, where more traditionally styled shopfronts have been retained, they make a positive contribution to the significance of the CA.
15. The appeal scheme has introduced a smooth and slimline steel framed shopfront, which is fully glazed. As a result, there is no stallriser. While the pattern of glazing attempts to replicate the proportions of a more traditional shopfront to an extent, overall, the replacement shopfront has a flat appearance, which lacks the articulation and detailing of more traditional shopfronts along the terrace. Consequently, it impacts negatively on the architectural quality of the building overall, and the positive contribution these traditional shopfronts make to the quality of this shopping street. While a film is proposed to replicate the stallriser, and mullions are proposed to the doors to replicate upper windows, these features would lack authenticity, further compromising the quality of the design. As such, the proposed replacement shopfront fails to preserve or enhance the appearance of the CA.

⁵ Shopfront Design Guide, Supplementary Planning Guidance, Hackney Environmental Services.

16. As required by the National Planning Policy Framework and policy LP3 of the Hackney Local Plan⁶, it is necessary to balance this harm against any public benefits. I will return to this matter later in my decision.

Living Conditions

17. The additional floor added to the rear extension of the host property extends along the western extent of a flat roof over a two-storey extension at 176 Victoria Park Road. The Council indicates that this flat roof is utilised as a terrace by the occupiers of this adjoining property, providing outdoor amenity space, albeit the roof contains no safety rail to its perimeter.
18. While the extension would project for the full depth of this terrace, to a height of approximately 2.15m, users of the terrace would retain an open and unrestricted outlook to the east and south. As such, while the extension would have some impact on users of the terrace, this impact would not result in an unacceptable sense of enclosure or a significant loss of outlook.
19. Therefore, the living conditions of the occupiers of No 176 would not be harmed unacceptably with regard to outlook. Consequently, there would be no conflict with HLP policies LP1 and LP2, or with policy D3 of the London Plan⁷ (LP), insofar as they require that development should be designed to ensure no significant adverse impacts on the amenity of neighbours.

Other Considerations

20. Those plans previously approved by the Council, under an application to discharge condition 3 of the 2019 permission have been provided. This condition was specifically worded, requiring samples of cladding materials, the position of windows to be replaced, elevations and cross sections of each window typology, glazing and glazing bars, and the position of windows within the masonry. Those plans pertaining to the discharge of condition 3 show a fully glazed shopfront and door, which differs considerably from the traditional style shopfront shown on the approved plans of the 2019 permission. I understand from the submission documents that the shopfront as installed is subject to investigation by the Council's Enforcement Team, and a request has been made that the shopfront is implemented in accordance with the 2019 permission.
21. From the evidence before me, there is a lack of clarity with regards to the plans approved under the discharge of condition 3 of the 2019 permission. There is no Lawful Development Certificate confirming that these plans provide a lawful position. These circumstances cast considerable doubt on the weight that can be afforded to the plans discharged under Condition 3 as a fallback position, which fail to preserve the appearance of the CA in my view.
22. However, even if this was a lawful position, the amendments comprised in the appeal scheme would result in further harm to the CA. The introduction of full height doors would not reflect the typical proportions of door openings along Victoria Park Road, the addition of a mullion to the residential door would be a poor replica of the look of an upper window, and the application of a mosaic to the glazing would be a poor-quality replica of a traditional stallriser.

⁶ Hackney A Place For Everyone, Hackney Local Plan 2033, July 2020

⁷ The London Plan, December 2020, The Spatial Development Strategy for Greater London

23. I will return to these other considerations in my heritage and planning balance.

Other Matters

24. The appellant advises that the host property is not listed, it is within flood zone 1, and that it is well connected by bus services. These are neutral matters that do not weigh for or against the appeal scheme.
25. Railings have been fitted to part of the flat roof at the rear of the host property, as indicated on the appeal plans. The appellant's Statement of Case indicates that this would allow access from the double doors at first floor level for maintenance purposes only, suggesting that no change of use of the external roof for residential amenity purposes is intended. Had I been minded to allow the appeal, I would have sought clarification from the main parties on this matter. However, as I am dismissing the appeal for other reasons, it has not been necessary for me to consider this further.

Heritage and Planning Balance

26. Paragraph 212 of the National Planning Policy Framework (the Framework) states that great weight should be given to a heritage asset's conservation (the more important the asset, the greater the weight should be), irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. For the reasons set out above, I have found harm to the CA. In the context of the Framework, I find this harm to be less than substantial, but nevertheless of considerable importance and weight.
27. As noted above, it is necessary to balance this harm against any public benefits. Reference is made to certain elements of the shopfront design, namely the doors, providing operational benefits for the business, which requires the bringing in and out of large equipment, such as pianos. Further benefits relate to privacy for residential occupiers. The appellant suggests that the refurbishment will bring the premises back into productive use, retaining an active frontage, and adding to the vitality and viability of the local area. It is also suggested that the use of high-quality materials and sustainable building techniques would minimise energy use and carbon emissions. However, there is little substantive evidence before me demonstrating that the same or similar benefits could not be achieved by a shopfront design that did not result in harm to the appearance of the CA.
28. There is agreement between the main parties that the thermal performance and natural ventilation of the subject building is improved by the replacement windows. The dormer window and extensions would provide greater functionality for this residential unit, providing a higher standard of accommodation not just for existing occupiers, but future ones also. Overall, these benefits attract modest weight in favour of the appeal scheme.
29. Whilst I have found that the rear dormer window, front and rear window alterations to the upper floors, rooflights, and rear extension would preserve the appearance of the CA, and that the rear extension would not harm the living conditions of occupiers of No 176, that element of the development comprising the shopfront, would fail to preserve or enhance the appearance of the CA. The public benefits of the development are small, and they do not

outweigh the great weight that should be given to a heritage asset's conservation.

30. The appeal scheme would therefore conflict with HLP policies LP1, LP2 and LP3, and LP policies D3, D4 and HC1, which collectively and amongst other matters, require the highest architectural design quality that pays attention to detail, is compatible with the townscape and responds to local character and distinctiveness, conserves or enhances the significance of heritage assets, and requires that scheme quality is not adversely affected by later decisions on construction, materials, landscaping details or minor alterations to layout or form of the development.
31. Consequently, there would be conflict with the development plan when taken as a whole. I am required to determine the proposed development in accordance with the development plan unless material considerations indicate otherwise.
32. While I have considered those plans approved under the discharge of condition 3 of the 2019 permission, for the reasons set out above, there is a lack of clarity relating to these plans. This limits the weight I can give to this matter in the overall planning balance, and in any event, I have found that the appeal scheme would result in further harm. These other considerations do not therefore lead me to conclude that a decision should be made other than in accordance with the development plan.

Conclusion

33. For the reasons given above the appeal should be dismissed.

S Brook

INSPECTOR