



Appeal Decision

Site visit made on 1 August 2017

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 09 August 2017

Appeal Ref: APP/U5360/W/17/3174115
30 Walsingham Road, London E5 8NF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Stuart Brumfitt against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2017/0606, dated 14 February 2017, was refused by notice dated 12 April 2017.
 - The development proposed is erection of a single storey ground floor side/rear extension with new roof terrace and patio door at first floor level.
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Decision

1. The appeal is dismissed.

Main Issues

2. The representations confirm that in 2016 planning permission was granted for a flat roofed single storey extension, similar to that now at appeal. I saw on the appeal site inspection that an extension has been built, although works to the rear elevation were to be completed. The Council's reasons for refusal of planning permission relate only to the proposed roof terrace. Against this background the main issues are the effect of the roof terrace on:
 - the living conditions of the occupiers of the first floor flat and the occupiers of the neighbouring dwellings;
 - the character and appearance of the host residential property and its surroundings.

Policy

3. The most relevant development plan policies on design and amenity for assessing the proposal are Policy 24 of the Hackney Core Strategy 2010 (the CS) and Policies DM1 and DM2 of the Hackney Development Management Local Plan 2015 (the DMLP). The Supplementary Planning Document (the SPD) Residential Extensions and Alterations sets out the issues and principles associated with balconies and terraces. These local policies are consistent with London Plan Policies 7.4 Local Character and Policy 7.6 Architecture, also part of the development plan. Similarly a core planning principle of the National Planning Policy Framework (the Framework) is always to seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Reasons

4. 30 Walsingham Road is a two storey mid-terrace property that is sub-divided into two flats. The proposed roof terrace would have a total area of around 3.5 square metres and be accessible from the kitchen of the first floor flat. The intention is to enclose the terrace with a timber screen and to install planter boxes on each side. The appellant states that the privacy screens would be louvred so as to allow light and air to penetrate through and to reduce the perceived mass of the volumes.
5. The neighbouring property number 28 has a ground floor extension, with a monopitch roof, to a similar depth as the extension that has been built recently on the appeal site. The neighbouring property number 32 retains its traditional form, with the principal terrace building having a lower two storey rear outrigger across part of the width of the plot.

Living conditions

6. The roof terrace would provide a useable area of external amenity space for the occupiers of the first floor flat, albeit the area would be below 5 square metres indicated in the Greater London Supplementary Planning Guidance. An advantage would be its south facing aspect, bearing in mind the living/dining room is at the front of the flat and faces north. The addition would assist in providing an increased sense of space within the small kitchen. Overall and bearing in mind the small area, the terrace would improve the amenity for the occupiers of the flat to some degree.
7. Being a single fronted terrace property the plot width is quite narrow and the adjoining dwellings are in close proximity. It is also important to bear in mind that the roof terrace would be a permanent addition. The appellant's description of its use as 'a contemplative space' may not be how it would be used in the future by different occupiers. I note that the current occupier of the ground floor flat has no objection and the appellant reports that the occupiers of numbers 28 and 34 have responded favourably to the proposal. However, this positive response does not necessarily demonstrate that the proposal would have an acceptable impact for the lifetime of its use. Nevertheless I recognise that the small size would restrict the amount and type of any activity and numbers of users and hence the potential level of impact.
8. The roof terrace would be adjacent to the common boundary of number 28 very close to an upper floor window. The proposed timber side screen and the planter would reduce significantly the possibility of direct overlooking of living accommodation, although the neighbours may well perceive a loss of privacy. A lower timber screen along the width of the terrace would allow a standing person to have a view obliquely towards the garden of number 28. This form of overlooking from an open terrace would be somewhat more intrusive than from a person inside the flat looking through an upper floor window.
9. The single storey extension has been designed with four roof lights, two of which would be directly to the front and at a slightly lower level than the base of the roof terrace. Angling the louvres at 45 degrees probably would be sufficient to prevent overlooking into the ground flat. The rear garden would not have the same level of privacy with the addition of the terrace.

10. As to the effect on number 32, there would be increased separation distance compared to number 28. Nevertheless, and despite the proposed side screen, the occupiers would be likely to experience some loss of privacy and at the least have a perception of overlooking of the amenity space immediately adjacent to living accommodation.
11. In the quieter conditions at the rear of the properties there is the potential for noise disturbance from conversation, music and so on at an elevated level outside the building envelope. To impose any planning conditions on the use of a domestic roof terrace would be impracticable and unreasonable because to do so would seriously impact on the benefit of the permission.
12. In conclusion, the incorporation of a roof terrace on the extension would be beneficial to the occupier of the first floor flat but would result in adverse impacts on the amenity of neighbouring occupiers. The merit of the proposal is outweighed by the harm. The SPD indicates the terrace is not acceptable. The proposed terrace fails to comply with Policy DM2 of the DMLP.

Character and appearance

13. The roof terrace is a small scale structure at the rear and less visually sensitive elevation of the property. The main visual expression would be the means of enclosure. The proposed addition also has required a flat roof to the extension but I will focus on the Council's concern which relates to the effect on the host building and neighbouring residential terrace.
14. In the immediate vicinity of the site the rear of the adjoining terrace has been subject to alterations and extensions. Nevertheless, the original rhythm and building form of the Victorian terrace remains evident. The roof terrace would be an atypical addition at first floor and the timber screens would be at odds with the surrounding building materials at that level. It would not comply with the principle set out in the SPD requiring a roof terrace to relate to the architectural conventions of the existing building. For these reasons the introduction of the terrace would be a disruptive element that would detract from the character and appearance of the building and its immediate surroundings. The proposed roof terrace is not in accordance with criteria in Policy DM1 of the DMLP.

Conclusions

15. The proposal, by the inclusion of the roof terrace, would not deliver high quality design because of the adverse impact on neighbours' living conditions and the incompatibility with the building and residential terrace. The improvement to the amenity of the first floor flat does not outweigh the harm. The proposal fails to comply with the development plan and a core planning principle of the Framework.
16. A split decision in favour of the extension alone would not be appropriate in view of the presentation of the proposal as a whole on the submitted plans.
17. For the reasons given above the appeal should be dismissed.

Diane Lewis

Inspector