



Appeal Decision

Site visit made on 26 March 2018

by Diane Fleming BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 April 2018

Appeal Ref: APP/Y5420/C/17/3180307
56 Rosebery Road, London N10 2LJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Dr John Briffa against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The enforcement notice was issued on 12 June 2017.
 - The breach of planning control as alleged in the notice is described as an 'Unauthorised roof terrace'.
 - The requirements of the notice are 1. Remove all of the decking, balustrades and privacy screens in their entirety. 2. Remove all resultant debris.
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matters

2. The Council's reasons for issuing the notice refer to policies from Haringey's Unitary Development Plan and the Haringey Local Plan adopted in 2013. These have now been replaced since the appeal was submitted. Haringey's Local Plan Strategic Policies (LP) and the Development Management Development Plan Document (DMDPD) were both adopted in June 2017. The substance of the policies referred to in the notice has not changed from the content of the latest adopted policies and therefore the appellant will not be prejudiced by my consideration of them in reaching my decision.
3. At the time when the notice was issued, the roof terrace was enclosed on two sides with screening. At the time of my site visit I saw that one screen had been removed and the other was only partially attached. However, it is the appearance of the roof terrace at the time when the notice was issued that is the appeal before me now.

The ground (a) appeal and the deemed planning application

Main Issues

4. The main issues are the effect of the development on i) the living conditions of neighbouring occupiers, having regard to privacy; and ii) the Muswell Hill

Conservation Area (CA), having regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.

Reasons

Living conditions

6. The appeal concerns a mid-terrace property. At the rear there is an attic storey over part of a two storey rear projection, which is paired with No 54. The attic storey window looks over the remaining part of the rear projection, which has a flat roof. A roof terrace has been created on the flat roof by the addition of decking and a timber balustrade around the edge. The appellant has added a willow screen adjacent to the boundary with No 54 which is currently only partially attached to the balustrade. He had also placed a screen on the other side of the terrace but it was damaged by the winter weather and it was therefore removed.
7. Access to the roof terrace is by climbing through the sash window in the attic storey. If there were no screens then it would be possible to see directly into the bedroom window of No 58 and into the adjacent attic storey window of No 54, which has been replaced with French windows. Currently, there is no requirement for the appellant to retain screens along the sides of the terrace. I therefore consider that the roof terrace would result in a significant degree of overlooking of neighbouring properties and a loss of privacy for the occupiers.
8. The appellant submits that the willow screen is for his benefit as it is essential to prevent him from being overlooked from his neighbour's roof terrace No 54. It is not his intention to use the roof terrace; it merely facilitates the provision of the privacy screen. The balustrade at the garden end of the roof terrace is there for reasons of safety. In my view the appellant's submissions do not explain the provision of decking if the terrace is only to provide a privacy screen. Furthermore, future occupiers of the appeal site could make full use of the terrace and other options are open to the appellant to maintain his privacy.
10. No conditions have been suggested by the parties but it is open to me to consider the imposition of conditions if they would overcome the harm caused by the development. In this case if I were to find that the development was acceptable, a condition requiring the submission of and the details for the permanent installation of screens could be imposed which would mitigate the harm caused by overlooking.
11. Without such a condition, it is concluded, for the reasons given, that the development would result in harm to the living conditions of neighbouring occupiers. The development would therefore not have accorded with Policy DM1 of the DMDPD which requires that new development should avoid overlooking and loss of privacy.

The conservation area

12. The CA is centred on a largely residential Edwardian development that once formed a suburb to London. The layout of the housing is mainly in the form of terraces. As the setting of the CA is around Muswell Hill, there are long views between the houses towards higher and lower ground. The distinctive character and appearance of the CA stems, in part, from its elevated position, as well as the homogeneity and high quality of the housing.

13. Rosebery Road is a long street of two storey terraced family housing. The appeal site is situated on the west side where the terraces are broken by the roads leading to the west such as Cranbourne Road and Muswell Road. From these particular roads it is possible to see the rear of Nos 38-58 Rosebery Road and the distinctive pattern created by the paired attic storey windows and intervening tall chimney stacks which step up the hill.
14. The roof terrace at the appeal site is clearly visible from the high ground on Muswell Road with its willow screen attached to the balustrade. I consider the roof terrace disrupts and therefore harms the clearly defined rhythm and appearance of the rear of the terrace as it is a prominent addition to the roof. The enclosure of the flat roof also obscures and detracts from the detailed and balanced composition of the attic storey sash window, with the raised and projecting party walls and the imposing chimney stacks.
15. The appellant submits that the roof terrace at No 54 is a precedent for the development which the Council advises has been in place for a number of years without express planning permission. Even so, in my view it only serves to confirm that such terraces in this location undermine the integrity of the homogenous appearance of the attic storeys which contribute to the character and appearance of the CA. Whilst there are a few roof terraces in the wider area, they do not appear to be a common feature and have not become part of the established character of the area.
16. For these reasons it is concluded that the roof terrace harms the character and appearance of the CA. As such, it does not accord with either Policy DM9 of the DMDPD, Policies SP11 and SP12 of the LP or Policies 7.4, 7.6 and 7.8 of The London Plan¹. These require, amongst other matters, that development affecting heritage assets should conserve their significance and that alterations to existing buildings should complement the architectural style, scale and details of the host building.
17. Although the harm to the CA is less than the "substantial harm" referred to in Paragraph 133 of the National Planning Policy Framework (the Framework), it nevertheless weighs significantly against the development. Paragraph 134 of the Framework requires the harm in such instances to be weighed against any public benefits of the proposal. The appellant does not expressly identify any public benefits but does submit that with the removal of the screen adjacent to No 58, the roof terrace no longer appears 'large and bulky', as referred to by the Council. However, for the reasons set out above, I consider that this would be an insufficient public benefit to outweigh the harm I have found to the character and appearance of the CA. Accordingly the proposal is at odds with the advice in Paragraph 134. The appeal on ground (a) therefore fails.

Conclusion

18. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

D Fleming INSPECTOR

¹ The London Plan: The Spatial Development Strategy for London Consolidated with Alterations since 2011, March 2016

