



Appeal Decision

Site visit made on 27 July 2020

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2020

Appeal Ref: APP/G5750/C/20/3245030

418 Central Park Road, East Ham, London E6 3AB

- 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 Mr Simon Franc against an enforcement notice issued by the Council of the London Borough of Newham.
- The enforcement notice was issued on 9 December 2019.
- The breach of planning control as alleged in the notice is alterations to the roof of the first floor of the property to provide a roof terrace.
- The requirements of the notice are:
 1. Demolish the roof terrace and return the roof of the first floor of the property to its form prior to the unauthorised works being undertaken.
 2. On completion of step 1 above, remove all materials and debris from the site.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Ground (a) and the Deemed Planning Application

Main Issue

1. The main issues are the effect of the development on the character and appearance of the area and the living conditions of the occupants of neighbouring residential properties, with regard to noise and privacy.

Character and Appearance

2. Central Park Road predominantly comprises rows of period terraced properties lining both sides of the road. The uniformity of the architectural detailing, proportions and scale of the front elevations of the properties make a positive contribution to character and appearance of the area.
3. In marked contrast, the rear elevations comprise various alterations and extensions, including roof alterations and terraces of varying designs, and do not reflect the rhythm and uniformity of the frontages. Whilst not visible from Central Park Road, the rear elevations lining the south side of the road are clearly visible from the adjacent park.
4. The appeal property is a mid-terrace, two-storey dwelling with a loft conversion. It is set within a row of similar properties, many of which have also had loft conversions. The loft conversion is of a contemporary design with large windows and cladding exterior. This complements the other alterations

to the rear of the property where extensive glazing is utilised, including the first-floor terrace.

5. The second-floor terrace, which is the subject of this appeal, measures approximately 2.2m x 4m (8.8sqm) and sits atop the existing outrigger. It has a glazed balustrade, similar to the first-floor terrace, and extensive planting on its boundaries. Whilst the terrace can clearly be seen from the adjacent park and neighbouring properties and rear gardens, its design and relatively small size ensure that it is sympathetic to the contemporary design and the proportions of the rear elevation of the property. Furthermore, although it is in an elevated position at second-floor level, its size and extensive planting ensure that it does not appear as a dominate feature within the rear elevation of the terrace row.
6. I have had regard to the condition suggested by the appellant regarding screening to be installed to mitigate any harm I may find with regard to noise and privacy, issues which I shall address later in this decision. The suggested form of screening would be timber trellis or similar at a height of 1.7m. Based on the details contained within the Design and Townscape Analysis prepared by qR Architects, dated 29 October 2019, which accompanied the appeal submission, the suggested timber trellis¹ would be erected on the western boundary of the terrace. The slatted design of the trellis would break-up its mass and vegetation would cover it to a large extent, reducing its mass even further. As it would only be located on the western boundary of the terrace, its visual impact from the park would be limited and the lower southern boundary would still allow views of the terrace itself.
7. Overall, I find that the second-floor roof terrace, including the suggested screening on the western elevation, would not significantly harm the character and appearance of the area. As such, I find no conflict with Policies S6, SP1, SP2, SP3 and H1 of the London Borough of Newham Local Plan (LBNLP), which, amongst other things, seek to ensure that new development conserves and enhances the residential environment; is of a high quality; and, promotes healthy neighbourhoods. I also find no conflict with the Council's The Altering and Extending Your Home Supplementary Planning Document (SPD) 2018, which provides guidance on achieving a high quality of urban design.
8. In addition, I find no conflict with Policies 7.1, 7.4, 7.5 and 7.6 of the London Plan (LP) 2016, which, amongst other matters, seek to ensure that new development contributes to a good quality environment; contributes to a positive relationship between the urban structure and natural landscape features; and, makes a positive contribution to a coherent public realm. I also find no conflict with Policies D1, D2 and D7 of the Draft London Plan (DLP) 2019, which amongst other things, seek to ensure that new development is of a high quality; responds to local context; and, respects the public realm. Moreover, I find no conflict with the design objectives of the National Planning Policy Framework (the Framework).

Living Conditions

9. The terrace is within close proximity of a number of windows on the eastern and southern elevation of 416 and 416a Central Park Road. These windows serve various rooms including kitchens, bathrooms and bedrooms. With the

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- exception of the window in the adjacent roof extension, the extensive planting on the terrace restricts views into these windows, with only glimpsed views possible when one strains to look through the vegetation. However, the planting cannot be relied upon as a permanent screen as plants may die or be removed, at which point there would be significantly adverse overlooking of these windows.
10. I note the appellant's argument that there is already significant inter-visibility between the windows in the appeal property and those in nos 416 and 416a. However, without some form of permanent screening, the proposal would significantly exacerbate this harm, allowing an even greater degree of inter-visibility as it enables direct views in a downward direction into some of the opposing windows as well as views into the window in the adjacent roof extension.
 11. The terrace is also within close proximity of windows in 420 and 422 Central Park Road. However, the positioning of these windows and the solid boundary wall of the terrace on its eastern elevation ensure that any overlooking is so minimal that it would not have any significantly harmful effect on the living conditions of the occupants of these properties by way of loss of privacy.
 12. The terrace also overlooks neighbouring gardens. However, these gardens are already significantly overlooked by windows in numerous properties. The terrace does not materially exacerbate this existing harm.
 13. Overall, in its current form, I find that the terrace has a significantly harmful effect on the privacy afforded to the occupants of Nos 416 and 416a, which would unacceptably harm their living conditions.
 14. However, the condition suggested by the appellant regarding the erection of a screen on the western boundary of the terrace would adequately restrict views into the opposing windows of Nos 416 and 416a and the adjacent roof extension. Therefore, I am satisfied that such a condition would adequately mitigate any harm by reason of overlooking. Section 177(1)(a) Town and Country Planning Act 1990 (the Act) only allows the grant of planning permission in respect of matters stated in the Notice as constituting a breach of planning control "whether in relation to the whole or any part of those matters". Although there would be difference in height between the conditioned screen and the existing balustrade I do not consider that the screen would go beyond the matters alleged in the Notice. Despite the increase in height of the screen compared with the balustrade the condition would be an appropriate one to attach.
 15. I turn now to address the effect of the terrace on the living conditions of neighbouring occupants with regard to noise and disturbance. The terrace is approximately 8.8sqm. As a result of its size, the usability of the terrace is limited, for example, few people could congregate on it any one time. Consequently, the noise generated by the few people using it, by means of conversing, would be limited. Amplified noise emanating from the terrace could be discernible by neighbouring residents. However, this could be controlled by other regulatory controls.
 16. I have had regard to the assertion that the elevated position of the terrace results in noise travelling further along the terrace, disturbing more local residents. However, due to its size, noise would likely be limited and therefore

even if it does travel further due to its elevated position, it would not likely be to an unacceptable extent.

17. Given the above, I find that the terrace does not facilitate noise and disturbance to such an extent that it significantly harms the living conditions of the occupants of neighbouring properties. Consequently, I do not consider that the conditions suggested by the appellant with regard to the restricted hours of use of the terrace are necessary.
18. I find therefore, subject to a condition regarding the erection of a screen, that the proposal does not significantly harm the living conditions of the occupants of neighbouring residential properties, with regard to privacy and noise and disturbance. As such, I find no conflict with Policies S6, SP1, SP2, SP3 and SP8 of the LBNLP, which, amongst other matters, seek to protect residential amenity. I also find no conflict with the SPD, which provides guidance for new extensions to ensure that the privacy of neighbouring amenity is not harmfully compromised.
19. In addition, I find no conflict with Policies 7.1, 7.6 and 7.15 of the LP, which, amongst other matters, seek to ensure that new development positively contributes to a good quality environment and, does not cause unacceptable harm to the amenity of surrounding residential buildings, in relation to privacy and noise. I also find no conflict with Policies D1 and D13 of the DLP, which amongst other things, seek to ensure that new development delivers appropriate privacy and amenity; and, avoids significant adverse noise impacts. Moreover, I find no conflict with the design objectives of the Framework.
20. The Council refers to Policies 7.5 of the LP and D2 and D7 of the DLP. However, these policies relate to the public realm and how design shall be delivered. There is no evidence before me as to how they are relevant to the consideration of this main issue regarding living conditions.

Conditions

21. I have considered the imposition of appropriate planning conditions. In the interests of protecting the living conditions of neighbouring residents, with regard to privacy, a condition is necessary regarding the erection of a screen on the western elevation of the terrace.

Conclusion

22. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on grounds (f) and (g) does not therefore need to be considered.

Formal Decision

23. The appeal is allowed and the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for alterations to the roof of the first floor of the property to provide a roof terrace at 418 Central Park Road, East Ham, London E6 3AB as shown on the plan attached to the notice subject to the following condition:

- 1) Unless within three months of the date of this decision:

a) details of a 1.7m high screen to be erected on the western elevation of the hereby approved terrace have been submitted to and approved in writing by the local planning authority, and;

b) the screen has been fully completed in accordance with the approved details;

the first-floor terrace shall be demolished, all damage to the dwelling resulting from removal of the terrace shall be made good and all the demolition materials shall be removed from the site within three months.

After the works required by (a) and (b) above have been undertaken, the terrace shall be maintained in accordance with those requirements.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Alexander Walker

INSPECTOR