



Appeal Decision

Site visit made on 21 October 2020

by Simon Hand MA

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

Decision date: 30 October 2020

Appeal Ref: APP/U5360/C/17/3183525

Land at 78 Cazenove Road, Hackney, London, N16 6AA

- 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 Beis Talmud Synagogue against an enforcement notice issued by the Council of the London Borough of Hackney.
 - The enforcement notice was issued on 27 July 2017.
 - The breach of planning control as alleged in the notice is without planning permission the erection of rear extensions at lower and upper ground floor levels of the Property ("The Development").
 - The requirements of the notice are 1. Remove the rear extensions at lower and upper ground floor levels from the property; 2. Make good all damage to the Property resulting from the removal of the unauthorised works and restore the relevant parts of the Property to the condition they were before the unauthorised extensions were constructed; 3. 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 6 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.
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Decision

1. The appeal is allowed, 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 the development already carried out, namely the retention of rear extensions at lower and upper ground floor levels on land at 78 Cazenove Road, Hackney, London, N16 6AA referred to in the notice, subject to the following condition:

- 1) Unless within 2 months of the date of this decision a scheme for the replacement of the uPVC windows on the lower ground floor of the extension is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the use of the extension shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 9 months of the date of this decision, the use of the extension shall cease and all equipment and materials brought onto the land for the purposes

of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

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.

Background to the Appeal

2. No 78 is used as a Synagogue and has been for many years. In 2012 planning permission was granted by the Council to demolish a rear conservatory and replace it with a two-storey rear extension. The building has split levels so the two-storey rear is described as lower and upper ground floors. The upper floor would be partly contained within a sloping roof with glazed sides. The extension was in order to house the growing congregation.
3. The extension was more or less completed in 2016 when the Council noticed it had not been built in accordance with the plans. According to them the lower ground floor was 3m longer, slightly deeper and had a flat roof with white render and small windows. The appellant disputed much of this, but after various attempts to regularise the situation a notice was issued in 2017 which is subject to this appeal.
4. In the meantime the Council granted permission for a revised scheme (2018/2649) which allows the building as-built to be retained apart from the roof element, which would be replaced by a sloping roof with wood framed acrylic window panels and the uPVC windows on the ground floor to be replaced with wooden framed ones. Looking through the previous papers it would seem to me it was the roof that was the primary issue all along for the Council, so why they required complete demolition of the extension is unexplained. Nevertheless, the only issues between the parties are now the roof design and the uPVC windows. The appellant argues the as-built is preferable to that granted planning permission in 2018.

The Appeal on Ground (a)

5. The site lies in the Northwold and Cazenove conservation area, but otherwise is not listed, nationally or locally. It is a handsome, large, former residential property fronting Cazenove Road, one of many similar, but individual Victorian villas. It stands one in from the junction with Kyverdale Road. The roof and windows in dispute affect only the rear of the building. The roof can be seen from Kyverdale Road, but the windows only from within the property itself, however, there are large gates allowing access behind the corner property to the rear of No 78 from Kyverdale Road, and when these are open the windows can also be glimpsed from the street.
6. Policy DM28 requires development to preserve or enhance the character and appearance of any conservation area. In particular extensions should be in proportion and not upset the character and appearance of neighbouring buildings. Core Strategy Policy 24 requires good quality design that enriches Hackney's built environment. Very recently new policies have been adopted, LP1 deals with design character and LP3 with heritage assets, however neither introduce any new issues for this appeal.

7. The existing white rendered roof with small windows is, I would agree, a little blocky and the whole rear extension is large and quite out of scale with the original house. However, I note that three doors to the west, a very much larger extensions have been allowed to several houses forming a mosque and (according to Google Maps) a primary school. These substantial extensions are massively out of scale and entirely disrupt what rhythm the rear elevations of the houses once had. I presume this has influenced the Council's decision to allow the current extension. I also note the Council's Conservation and Urban Design Officer thought the existing render roof was preferable to the proposed acrylic version that was eventually allowed.
8. I noticed on my site visit that the new acrylic roof has been begun and two panels are in place on the side of the existing roof. This confirmed my initial thoughts that the design officer was correct. While the existing roof is a little heavy, any roof covering the extension of that scale would be prominent and would not reflect the historic treatment of the rear of these properties. The question is therefore which would be the least worst option and that is unquestionably the existing roof. It does seem to be well constructed of suitable materials and contrary to the Council's assertions it also has a gentle but noticeable slope. I do not agree that render is prone to discolouration any more than any other covering material and have not heard the argument that render is unsuitable in conservation areas before. However, the acrylic finish would be entirely alien, drawing even more attention to the roof, which would seem larger and crudely modern. In my view to allow the existing roof to remain would not harm the character and appearance of the conservation area and so would be in accord with the Council's policies and the NPPF.
9. The uPVC windows are a different matter. Although they are unlikely to be readily visible from the public realm, they are clearly visible in the rear of No78 to anyone using that building. They are essentially square with a semi-circular top. The square section is split in two and both halves can be opened. This results in a poorly proportioned and unusually heavy frame to allow for the split opening which is, not to put too finer point on it, strikingly ugly, and sits poorly within the otherwise well executed details of the brick window surround. I have no objection to the use of uPVC in this location, but the design of these window is harmful to the character and appearance of the conservation area. In terms of the NPPF they cause less than substantial harm to the heritage asset (the conservation area) but given the design is entirely unnecessary there are no public benefits that outweigh that harm.
10. I shall allow the appeal on ground (a), quash the notice and grant planning permission for the development as built, subject to a condition that the uPVC windows on the ground floor should be replaced with ones of a simpler design to be agreed with the Council.
11. There is no need to consider the appeals on grounds (f) and (g).

Simon Hand

Inspector