



Appeal Decision

Site visit made on 3 December 2020

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st December 2020

Appeal Ref: APP/N5660/D/20/3260173

16 Ashmere Grove, London SW2 5UJ

- 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 Dan Benhamou against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 20/01682/FUL, dated 15 May 2020, was refused by notice dated 14 July 2020.
 - The development proposed is a loft conversion, roof terrace, floor plan redesign and all associated works at 16 Ashmere Grove.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development upon the character and appearance of the area.

Reasons

3. The appeal property is a two-storey mid-terraced dwelling located on the eastern side of Ashmere Grove. The property has a two-storey outrigger to the rear elevation. Externally, the dwelling has a traditional appearance with a brick exterior under a tile pitched roof.
4. It is proposed to construct a loft conversion at the appeal property, which would comprise of a rear dormer window with a roof terrace. The roof terrace would be inset into the roof slope of the existing outrigger and would be enclosed by glass balustrading.
5. Policy Q11 of the Lambeth Local Plan (the 'LP') relates to building alterations and extensions. Criterion (a)(i) of Policy Q11 explains that works should respond positively to the original architecture, roof form, detailing, fenestration of the host building and other locally distinct forms, such as group characteristics. Criterion (b) of Policy Q11 states that extensions should be subordinate and development which unacceptably dominates or overwhelms the host building will not be supported.
6. Criterion (o) of Policy Q11 refers to roof terraces and other similar works. It states that such works will normally be resisted on locally distinct building types where they are not characteristic of the host building/group.

7. The surrounding area has an urban residential character and there are a variety of property types present within the immediate area, including a modern large-scale flatted development located to the rear of the appeal site.
8. Ashmere Grove is predominately characterised by two-storey terraced dwellings. The homogenous architectural style of the properties, which feature pitched roof forms and traditional materials, such as brick, results in a design balance and symmetry which contributes positively to the character and appearance of the area.
9. Despite the use of matching roof tiles, the overall scale of the proposed dormer window with its bulky flat roof form would be significant and excessive in the context of the proportions of the host building and it would dominate the rear roof slope of the appeal property.
10. Moreover, despite the limited projection onto the rear outrigger and its positioning behind the existing chimney stack, the proposed roof terrace, which would be enclosed by glass balustrading that would be approximately 1.8 metres high, would have a stark and jarring appearance when viewed in the context of the host building and other terraced buildings on Ashmere Grove, which predominately have simple pitched roof forms at the rear.
11. In conclusion, the proposed development would be an unsympathetic addition to the existing dwelling, which would appear as a prominent and intrusive structure within the local roofscape. As such, the proposal would unacceptably diminish the architectural integrity of the host building and cause significant harm to the character and appearance of the area.
12. I am cognisant that views of the proposal would not be readily visible from Ashmere Grove due to the rearward position of the works. However, the proposed works would be an unduly prominent form of development when viewed from the neighbouring properties to the rear of the site, which would cause significant harm to the character and appearance of the area.
13. The residential development located to the rear of the appeal site features terraces and balconies. However, this recent development has a fundamentally different character and appearance when compared to that of the traditional terraced properties on Ashmere Grove. Therefore, this development does not provide a precedent for allowing the appeal.
14. The appellant points out that planning permission was granted for the construction of a roof terrace at No 1 Ashmere Grove. Moreover, he explains that No 17 Ashmere Grove features a rear balcony, which is visible from the street. However, based on the evidence before me, both developments relate to the construction of a first floor terrace/balcony, whereas the proposed roof terrace would be inset into the roof of the rear outrigger. Moreover, the planning permission at No 1 predates the LP and the National Planning Policy Framework 2019 (the 'Framework').
15. In terms of the wider examples of inset roof terraces referred to by the appellant, which includes development at Kellet Road and Lyham Road, these developments are located a considerable distance away from the appeal site. Such development is not seen in the context of the appeal site and does not therefore contribute directly to the aforementioned and distinctive characteristics of the local area.

16. For the collective reasons outlined above, I conclude that the proposal would cause significant harm to the character and appearance of the area. As such, the proposal would not accord with the aforementioned criteria of Policy Q11 of the LP. Moreover, the proposal would not accord with LP Policies Q2 and Q5 which state that new development will be supported where it does not unacceptably comprise visual amenity; and sustains and reinforces local distinctiveness through design which responds to the positive aspects of the local context and historic character.
17. In addition, the proposal would conflict with guidance relating to roof alterations and extensions contained within the Council's Building Alterations and Extensions Supplementary Planning Document.
18. Given the above, the proposal would be inconsistent with paragraph 127(c) of the Framework which requires development to be sympathetic to the local character.

Other Considerations

19. The proposed roof terrace would provide additional outdoor space for the occupiers of the appeal property, which would improve their living conditions. However, I have found that the proposal would cause significant harm to the character and appearance of the area. This is a matter of overriding concern and outweighs the limited benefit identified above.
20. The Council have granted a certificate of lawfulness¹ pursuant to Section 192 of the Town and Country Planning Act 1990 for the erection of a rear roof extension, the installation of two front roof lights and the installation of a pipe on the rear elevation by virtue of the provisions set out under Schedule 2, Part 1, Classes B, C and G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the 'GPDO'). The rear extension would be of a similar design and appearance when compared to the proposed dormer. However, it would not feature a roof terrace.
21. The Courts have set out a two-stage approach where a determination must first be made concerning whether the fallback position is a material consideration, before weight is ascribed. The first stage is to determine whether there is a greater than a theoretical possibility that the development might take place. The second stage is that if it is found that there is a greater than theoretical possibility, then the decision-maker should exercise their planning judgement to determine what weight should be ascribed to the fallback position.
22. The appellant does not expressly indicate whether they would exercise their permitted development rights to extend the property, as deemed to be lawful by the certificate. However, he explains that "The permitted development application that retains all aspects of the proposal with the exception of the terrace has been granted". Consequently, it is unclear whether there is a greater than a theoretical possibility that the permitted development might take place if this appeal was dismissed.
23. Notwithstanding the above, even if I were to conclude that there was a greater than a theoretical possibility that the development might take place and afford significant weight to the fallback position, if the permitted development was

¹ Council Ref:20/00647/LDCP

implemented, the overall volume of built form would be less than the appeal proposal because the fallback position does not include the terrace, which I have found would be an unsympathetic addition to the host building.

24. Consequently, I conclude that the permitted development extensions and alterations that could be constructed at the appeal property, as confirmed by the certificate, would result in less harm to the character and appearance of the area, when compared to the appeal proposal. Therefore, the fallback position does not provide a compelling reason to allow this appeal.

Conclusion

25. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Christopher Miell

INSPECTOR