



Appeal Decision

Site visit made on 4 November 2021

by P J Staddon BSc, Dip, MBA (Distinction), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2021

Appeal Ref: APP/U5360/W/21/3271109

78 Cazenove Road, Hackney, LONDON N16 6AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to approve details required by a planning condition of a planning permission.
- The appeal is made by Mr E Padwa against the decision of the London Borough of Hackney Council.
- The application Ref 2020/4121, dated 28 December 2020, sought details pursuant to condition 1 of planning permission Ref APP/U5360/C/17/3183525, granted on appeal on 30 October 2020.
- The development permitted is 'the retention of rear extensions at lower and upper ground floor levels on land at 78 Cazenove Road'.
- The condition in dispute is condition 1 which states that:

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.

Decision

1. The appeal is allowed and condition 1 attached to the planning permission Ref APP/U5360/C/17/3183525 is discharged in part.

Application for costs

2. An application for costs was made by Mr E Padwa against the London Borough of Hackney Council (the Council). This application is the subject of a separate Decision.

Background to the appeal

3. No 78 Cazenove Road lies in the Northwold and Cazenove Conservation Area (NCCA), but otherwise it is not listed, nationally or locally. It is a substantial and handsome former residential property fronting Cazenove Road, one of many similar, but individual, Victorian villas.
4. It is used as a Synagogue and, based on the submissions before me, has been in this use for many years. There is some planning history concerning an extension at the rear of the property. This began in 2012 when the Council granted permission to replace a conservatory with a 2 storey extension to house a growing congregation. By 2016, the extension had been built but the Council considered that it was longer, deeper and different to that initially approved and it served an enforcement notice in 2017, which was the subject of an appeal.
5. In the meantime, the Council granted permission¹ for a revised scheme which would allow the building as-built to be retained, but with a revised sloping roof form and different windows on the ground floor.
6. By the time the enforcement appeal was considered and decided in 2020, the only issues between the parties were the roof design, the appellant preferring the as-built roof design (to that approved in 2018), and the ground floor uPVC windows. The Inspector was satisfied that the existing roof would not harm the character and appearance of the conservation area and allowed the appeal and granted permission for the deemed application.
7. However, with regard to the ground floor rear windows, the Inspector was not satisfied and stated²:

'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 windows 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.'

8. The Inspector imposed a single condition which required revised window details to be submitted to the Council for approval within 2 months and implemented within 3 months of the Council's approval. This current appeal concerns details submitted by the appellant that were rejected by the Council.

Main issue

9. The main issue is whether the details submitted pursuant to condition 1 would preserve or enhance the character and appearance of the NCCA.

¹ Reference 2018/2649

² Paragraph 9 of appeal decision APP/U5360/C/17/3183525

Reasons

10. There are 4 ground floor window openings in the rear elevation of the extension, along with a door. The window openings are square with a semi-circular top and are defined by neatly pointed contrasting coloured brick surrounds. Each has a plain narrow cill.
11. The appellant's details, submitted pursuant to condition 1, would replace the existing uPVC window units with simpler uPVC designs with narrow glazing bars in the square sections, giving the appearance of 9 panes. Although the surrounding frames would be similar in width to the existing units, the removal of the offending large central bar, which I measured to be 165 mm deep, means that they would have a much lighter and more appropriate appearance.
12. I am mindful that the windows are not prominent in any public view. Indeed, only the top semi-circular parts can be glimpsed from Kyverdale Road, due to the height of the brick boundary wall at No 80 Cazenove Road. The windows will be seen in more private views by people using or visiting the appeal property, and I observed that the rear access from Kyverdale Road appeared to be well used on my site inspection. However, I am satisfied that proposed window details will be seen in the context of the new extension and would be appropriate to its design. There are also some retained trees which filter and soften these views.
13. I have noted the Council's submissions concerning uPVC windows and its view that, whilst improved, the frame details are still heavy. However, the earlier Inspector's recent findings, which included an acceptance of uPVC in this location, are a weighty material consideration and, for the reasons stated above, I am satisfied that the submitted details are acceptable and will not harm the character and appearance of the NCCA.

Conclusion

14. For the reasons stated above, I conclude that the details submitted (drawing number CR.78.WP.00) would not be harmful to the character and appearance of the NCCA. Whilst the Council has not cited any specific policies, I conclude that there would be no conflict with policy LP3 of the Hackney Local Plan 2033 (adopted July 2020) and policy HC1 of the London Plan (adopted March 2021) which require development proposals in conservation areas to preserve or enhance their character and appearance. Condition 1 is accordingly discharged in part. Full discharge of the condition will require the implementation of the approved details within the required timescale.

P. Staddon

INSPECTOR