
Appeal Decision

Site Visit made on 7 September 2021 by S Witherley CIHCM MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 February 2022

Appeal Ref: APP/U5360/W/21/3269172

127a, Flat 2, Richmond Road, Hackney, London E8 3NJ

- 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 Timothy Block against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2020/3767, dated 27 November 2020, was refused by notice dated 25 January 2021.
 - The development proposed on the application form is: Erection of balustrade around first floor front flat roof and replacement of existing sash windows with French doors.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The effect of the proposal on 1) the character and appearance of the appeal building and the surrounding area, including whether it would preserve or enhance the Graham Road and Mapledene Conservation Area (CA) in which it sits, and 2) the living conditions of neighbouring occupiers by way of privacy.

Reasons for the Recommendation

4. No. 127a sits within a short terrace block located in the CA with its significance, as it relates to the appeal site derived in part from the form and character of the Victorian terraced properties. The setback position of properties along with the verdant streetscape, with roadside trees, creates a spacious and pleasant suburban character.
5. The appeal building has a forward projecting retail unit at ground floor with residential units in the floors above. No. 127a is located within the first floor and overlooks the flat roof of the commercial unit below. Above ground floor level the terrace has a number of attractive and repeating features such as regular window openings, with traditional sash windows. These features make a positive contribution to this part of the CA and the CA as a whole.
6. The proposed first floor balustrade and replacement sash windows with French doors would enable the occupants of the appeal site to utilise the flat roof of the commercial unit below as a roof terrace.

7. The size and positioning of the proposed balustrade to enclose an outdoor terrace area would create a dominant vertical feature in what is otherwise a generally flat, uninterrupted roof scape. In addition to this harm, the proposed replacement windows, as a result of their design and materials, would remove a traditional feature, which is intrinsic to the overall character and appearance of this building's pleasant façade. In combination, the balustrade and French doors would add visual clutter and would disrupt the rhythm and unity of the block as a whole. This would be contrary to the guidance contained in the Hackney Supplementary Planning Document Residential Extensions and Alterations (2009) (SPD) which seeks to ensure roof terraces do not compromise existing openings and architectural features.
8. The appellant has referred me to the neighbouring roof terrace, which sits at the end of this short terrace block. The Council note *the balcony had been in place since 2012 and considered it lawful through the passage of time*. As such this neighbouring balcony was not assessed against current development plan policies in the *Hackney a Place for Everyone* Hackney Local Plan (2020) (HLP) or the SPD. In any event the presence of one end roof terrace does not necessarily mean that a similar proposal would be achieved without impacting on the character and appearance of the area. Moreover, from what I saw of the neighbouring development it highlights the need to assess each proposal on its individual merits to ensure that no further harm to the character or appearance of the CA arises as a result of harmful development. Thus, the presence of the neighbouring development does not justify the appeal proposal which would further erode the character of the terrace.
9. The harm that the proposed development would cause to the significance of the CA would be less than substantial. However, there would be no public benefits that would outweigh that harm. It is understood that the proposal would provide a safe means of enclosure and an additional amenity area for the appellant and their family to access. Nevertheless, these personal benefits do not equate to public benefits and do not therefore provide sufficient justification for the proposal given the identified harm. The proposal, therefore, causes harm that is not justified or outweighed, as required by paragraph 202 of the National Planning Policy Framework (the Framework).
10. For the above reasons, I conclude that the proposed development would harm the character and appearance of the appeal property and fails to preserve the character or appearance of the CA. The proposed development would therefore conflict with Policies LP1 and LP3 of the HLP, Policies D1, D4 and HC1 of the London Plan (2021) (LP) which collectively seek development to respect the existing context, character and appearance of an area and requires development to preserve and enhance heritage assets.

Living conditions

11. The prominent position of the proposed terrace above street level would give rise to unacceptable overlooking of those neighbours who reside on the same floor and who have large front windows immediately adjacent to the appeal site. I consider that the degree of overlooking would give rise to a loss of privacy that would be harmful to the living conditions of the occupiers of these neighbouring properties. This would result in a proposal that would be contrary to the SPD which also seeks to ensure terraces do not impact on the privacy of neighbouring properties. The appellant contends that the flat roof is already

utilised in a similar manner. However, the need to access via the sash windows and absence of a balustrade is likely to limit the extent of use. Formalising the arrangement with a French door to provide easy access and a balustrade would be likely to increase the degree to which the roof was utilised and therefore increase the frequency of overlooking into neighbouring properties.

12. As such the use of the proposed roof terrace would have an unacceptable harmful effect on the living conditions of the occupiers of neighbouring properties by way of loss of privacy as a result of overlooking. This would be contrary to Policy LP2 of the HLP and Policy D3 of the LP which require new developments to have no significant adverse impacts on the amenity of occupiers and neighbours.

Other Matters

13. The appellant notes that there is a previous successful planning application for the same terrace, however, they have not provided any details of this application and therefore I cannot provide any comments on this possible fallback position.
14. They also note that they would be happy to retain the original windows to enable the development to be considered acceptable. That is not the scheme before me, however, I am not satisfied that a condition to remove this element from the proposal would make otherwise unacceptable development acceptable, and it would not mitigate the harm arising as a result of the balustrade and the formalisation of the use of the balcony.

Conclusion and Recommendation

15. For the reasons given above and having had regard to all other matters raised, I find that there are no material considerations that indicate the decision should be made other than in accordance with the development plan. I recommend that the appeal should be dismissed.

S Witherley

APPEAL PLANNING OFFICER

Inspector's Decision

16. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall dismiss the appeal.

Chris Preston

INSPECTOR