
Appeal Decision

Site visit made on 4 July 2023

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th July 2023

Appeal Ref: APP/U5360/D/23/3322969

34 Colvestone Crescent, Hackney, London E8 2LH

- 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 Joel Stern against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2023/0258, dated 1 February 2023, was refused by notice dated 17 April 2023.
 - The development proposed is to change existing single-glazed timber windows for double-glazed timber windows to match existing, replacement of windows at ground and first-floor rear elevation with double doors and external railings, new railings and gate to the front garden wall.
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Decision

1. The appeal is dismissed insofar as it relates to the replacement of windows at ground and first-floor rear elevation with double doors and external railings.
2. The appeal is allowed, and planning permission is granted to change existing single-glazed timber windows for double-glazed timber windows to match existing and new railings and gate to the front garden wall at 34 Colvestone Crescent, Hackney, London E8 2LH in accordance with the terms of the application Ref 2023/0258, dated 1 February 2023, subject to the conditions set out in the schedule to this decision.

Procedural matters

3. The site falls within the St Mark's Conservation Area (CA). Accordingly, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA, as required by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
4. An interested party raises concern that insufficient information is shown on the plans to enable the proposal to be properly assessed. My assessment of the appeal scheme is based on all the evidence before me and an inspection of the site and its surroundings. Like the Council, I am satisfied that the details of the proposal as shown on the drawings and detailed in the written evidence allow a reasonable assessment of the development sought.

Main issues

5. The main issues are the effect of the proposed development on the character and appearance of the host building and the local area and on the living conditions of the occupiers of neighbouring properties with regard to privacy.

Reasons

Character and appearance

6. The Council raises no objection to the replacement windows on the front and rear elevations, as proposed, or to the introduction of new railings and a gate to the front garden wall, subject to conditions. From the submitted evidence, I see no reason to disagree with the Council on these matters and note that planning permission has subsequently been granted for them. I shall, therefore, focus on the new first floor roof terrace and the Juliet style balcony at ground floor level with the installation of new doors that relate to them.
7. These elements of the appeal scheme would be at the back of the appeal property, which is a substantial 4-storey mid-terrace dwelling within the CA. The CA derives its significance as a designated heritage asset from the substantial villas and residential terraces of traditional style that form generally attractive streetscapes. Although not listed, the Map of the CA identifies No 34 as a Building of Townscape Merit. With its traditional style, detailing and regular pattern of fenestration, No 34 makes a significant and positive contribution to the character and appearance of the CA.
8. Railings are to be placed around the edge of the flat roof rear projection at first floor level to facilitate its use as a terrace. The new railings would extend across more than half the width of the main rear elevation, thereby creating a visually strong horizontal feature at a high level on the building. This arrangement would relate uneasily with the essentially vertical emphasis of the rear façade partly created by its pattern of window openings. The new railings would also increase the prominence of the host rear projection by visually accentuating its outward projection, scale and adding to its height. The railings would also signal the presence of the roof terrace and clearly set No 34 apart from other nearby buildings that do not have such a feature.
9. The proposed Juliette style balcony at ground floor level would also be a prominent addition to the rear elevation of No 34. From what I saw, this modern type of railing was an unfamiliar feature of buildings of traditional style within the local area.
10. These elements of the appeal scheme would not be visible from public vantage points given the position at the back of the property and away from the road. They would, however, be evident from the back gardens of properties in the same terrace as No 34. These views, while not public, encompass the character and appearance of the CA as it is experienced and appreciated by the occupiers and users of these buildings. In these views, the new roof terrace railings and Juliette style balcony would draw the eye as discordant and obtrusive features in the rear elevation of No 34. By diminishing the positive contribution of No 34 to the CA, these components of the appeal scheme would diminish its significance as a designated heritage asset.
11. I saw several roof terraces at the back of properties that address Colvestone Crescent from the back garden of No 34 and from its top floor rear windows. I am not aware of the detailed circumstances that have led to these features and so I am unable to gauge the extent to which they are directly comparable with those of the proposal. To my mind, these roof terraces and other changes to the original buildings have not compromised the visual character of the individual properties, or the area generally, to an extent that justifies an

unsatisfactory development. Consequently, these examples do not lend significant weight to the appellant's case.

12. My attention has also been drawn to several other planning permissions granted for roof terraces and a Juliette style balcony involving properties within and outside the CA. From the information provided, none of the examples cited form part of the same terrace as No 34, which provides the context within which the proposal would be visually 'read'. In any event, each development should be assessed on its own merits, as I have done. Even if the Council has been inconsistent in approving similar development proposals elsewhere, it does not in itself justify allowing this appeal.
13. The National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to its conservation. As the effects of the development are localised, the harm to the CA would be less than substantial but nevertheless of considerable importance and weight.
14. In such circumstances, the Framework advises that this harm should be weighed against the public benefits of the scheme. In this case, benefits from the proposed railings such as creating additional amenity space would appear to be largely private. No other public benefits are identified for the proposed railings and Juliette style balcony, and none would outweigh the harm that I have identified.
15. On the first main issue, I conclude that the proposed railings to the terrace and the Juliette style balcony would cause significant harm to the character and appearance of the host building and the local area. The character and appearance of the CA would fail to be preserved. As such, the proposal conflicts with Policies D4 and HC1 of The London Plan (LP) and Policies LP1 and LP3 of the Hackney Local Plan 2033 (HLP). These policies seek to ensure that development achieves the highest design quality, responds to local character and preserves or enhances the character and appearance of conservation areas. It is also contrary to the Framework, which states that development should be sympathetic to local character, safeguard heritage assets and add to the overall qualities of an area.

Living conditions

16. The introduction of a roof terrace, as proposed, would form a platform on which people would be able to gather and sit out. Anyone of average or above height stood on the roof terrace close to the common boundary with 32 Colvestone Crescent would be likely to have a close view into a first-floor rear window of this attached property. The privacy of the occupiers of No 32 would be unduly compromised as a result. These overlooking problems could be resolved if a screen were put in place to one side of the new terrace, between Nos 32 and 34. However, the scale and height of the resultant boundary feature would feel oppressive when seen from the first-floor window of No 32 nearest to the site.
17. Given its elevated position, users of the new terrace would also be able to overlook the gardens of other properties on either side of the site at close range. That the new railings to the terrace would be visible from the back gardens of neighbouring properties would also signal its presence that could heighten the perception of being overlooked. However, I saw that the inter-visibility between the upper rear windows of No 34 and the back gardens of

nearby properties is extensive. As such, I doubt that the additional overlooking possible, and the sense of being overlooked, as a result of the new terrace would be so great as to significantly reduce the value and enjoyment of this outdoor space for the occupiers of these adjacent properties.

18. Nevertheless, I conclude on the second main issue that the proposed roof terrace would cause significant harm to the living conditions of the occupiers of No 32. Accordingly, it conflicts with LP Policy D4 and HLP Policies LP1 and LP2 insofar as they aim to safeguard residential amenity.

Other matters

19. Once complete, the proposed roof terrace would provide amenity space that would improve the living conditions of existing occupiers. I also note that sustainable materials will be used. However, these matters do not outweigh the significant harm that I have identified.
20. The replacement windows and the new railings and gate at the front of No 34 are acceptable in planning terms. Taken individually and together, these elements of the appeal scheme preserve the character and appearance of the CA and do not conflict with the planning policies cited by the Council. From my inspection of the plans, these parts of the new development are severable from the new roof terrace and balcony, which are objectionable. Therefore, I am able to issue a split decision that grants planning permission solely for them. In contrast, the new doors at ground and first floor levels would provide access to the roof terrace and are directly related to the Juliette style balcony and so cannot be severed from them in functional terms.

Conditions

21. In addition to the standard time limit condition, it is necessary to impose a condition that requires the development to be carried out in accordance with the approved plans for certainty. To ensure the satisfactory appearance of the development, a condition is imposed to require that the external materials match those of the existing building.
22. To address the lack of some information relating to the replacement windows and the front railings and gate, conditions are imposed to require further details prior to their installation. The need for these conditions is raised in the Officer's report and their wording is similar to the conditions imposed on the subsequent planning permission that was granted for these items. These conditions are necessary to ensure that the appearance of development is satisfactory.

Conclusion

23. The proposed roof terrace, its associated railings and the Juliette style balcony would conflict with the development plan, when read as a whole. There are no material considerations, including the Framework, which indicate that the decision should be taken otherwise than in accordance with the development plan. For the reasons set out above, I therefore conclude that the appeal should be dismissed in relation to these parts of the development.
24. For the reasons set out above, I also conclude that the appeal should be allowed to change the existing single-glazed timber windows for double-glazed

timber windows to match existing with the introduction of new railings and gate to the front garden wall.

Gary Deane

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.
- 2) That part of the development hereby permitted shall be carried out in accordance with the following approved plans: Refs EX-L001, EX-P001, EX-P002, EX-P003, EX-P004, EX-P005, EX-E001, EX-E002, EX-E003, EX-S001, PR-L001, PR-P001, PR-P002, PR-P003, PR-P004, PR-P005, PR-E001, PR-E002, PR-E003, PR-S001 and PR-S002 Revision B.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) All new sash windows shall accurately replicate, in terms of material, profile, and detailing, the original windows surviving to the property. They shall be painted timber, double-hung with a slim profile, narrow integral (not applied) glazing bars with a putty finish (not timber bead), and horns to replicate the detail of the existing windows. The glazing shall be no greater than 12mm (4mm glass:4mm gas:4mm glass) in total thickness. No trickle vents or metallic/perforated spacer bars are permitted.
- 5) The following elements of the scheme shall not be installed or carried out unless in accordance with following details have previously been submitted to and approved in writing by the local planning authority: i) a detail drawing of proposed window horn at 1:5 scale; ii) a detail drawing of the proposed railings including finials at 1:5 scale; and iii) details of any proposed bricks for the front boundary wall. The works shall be carried out in accordance with the details so approved.