



Appeal Decision

Site visit made on 17 July 2023

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2023

Appeal Ref: APP/U5360/W/22/3312205

3 Tan House, Springdale Road, London N16 9EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr and Ms Jack and Jade Coysh-Hewes against the Council of the London Borough of Hackney.
 - The application Ref 2022/1936, is dated 4 August 2022.
 - The development proposed is described as a "new roof terrace".
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Decision

1. The appeal is dismissed, and planning permission is refused.

Application for costs

2. An application for costs was made by Mr and Ms Jack and Jade Coysh-Hewes against the Council of the London Borough of Hackney. This application is the subject of a separate decision.

Preliminary Matters

3. I have taken the appellants' names from the appeal form as the names given on the application form were incomplete.
4. The appeal is against the Council's failure to give notice of its decision within the prescribed period. The Council's case and its putative reasons for refusal are set out in the statement of case.

Main Issues

5. The main issues are the effect of the development proposed on the living conditions of neighbouring occupiers, with particular regard to outlook, noise and disturbance and privacy, and its effect on the character and appearance of the host property and the surrounding area.

Reasons

Living Conditions

6. The appeal property is a modern two storey mews house situated between two similar mews buildings in a backland position to the rear of Green Lanes. Access to the site is obtained via a road to the side of 2-6 Springdale Road. The appeal property has a rectangular footprint and includes a large flat roof above the entire building. There is a small enclosed courtyard to the rear of the property.
7. The proposed terrace would occupy the majority of the roof but would be set back from the south western side of the roof. It would be enclosed by privacy

screens positioned on the inside of the parapet roof comprising timber panels or louvres, glazed balustrade and lead standing seam.

8. Flat 3 at 106 Green Lanes includes upper floor bedroom windows to the rear elevation which would be within close proximity of the proposed terrace and at a broadly similar level. They currently provide views over and beyond the flat roof of the appeal property and have a relatively open aspect. The occupants are likely to spend a significant amount of time in the bedrooms which are dependent on these windows as the only source of outlook from these rooms.
9. Even though the terrace would be set back from the south western side of the roof, it would still be very close to the rear of No 106. Owing to that proximity, occupants of Flat 3 would look out of their rear bedroom windows and be faced with a 1.8m high barrier which, even if it did include a green panel feature, would create an uncomfortable sense of enclosure and appear overbearing.
10. Given its proximity to the rear windows of No 106, particularly Flat 3, and other neighbouring properties on Green Lanes as well as 2-6 Springdale Road, the terrace would have the potential to generate noise and disturbance at an elevated position. That would be particularly so if it were used during the evening when the neighbours can reasonably expect a certain level of peace and quiet. Whilst the terrace may be used only by the occupants of the host property and not of a size allowing for a large number of people, outdoor conversations even from small gatherings would be likely to be particularly audible from the rear windows of flats on Green Lanes, including Flat 3, and from Nos 2-6 on the other side. That effect would be heightened during warm dry weather, when the neighbours are more likely to have windows open. Whilst I acknowledge that the terrace has been reduced in size since a previous application, I consider that its use would be likely to be intrusive to nearby occupiers, particularly Flat 3, other properties on Green Lanes and Nos 2-6.
11. The proposed screens would reduce noise experienced at nearby properties to some extent, but would be unlikely to fully reflect noise back towards the source or adequately mitigate the impact. The proposal is not comparable to gardens or courtyards in the vicinity as these are located at ground floor level where any noise would likely be lessened by the surrounding built form to all sides. I have considered the possible use of conditions to control the use of the terrace. However, such conditions would be unlikely to be reasonable or enforceable.
12. Due to its elevated position relative to the rear of the properties on Green Lanes, the terrace would allow views towards the neighbours' rear windows, particularly Flat 3 at No 106. However, with the inclusion of the proposed 1.8m high timber panels along the rear of the terrace, views towards the rear of Flat 3 and other flats on Green Lanes would be significantly reduced. The provision of the screen would reduce the impact of the proposal on these neighbours' privacy to an acceptable level. In relation to overlooking of the garden to the rear of Nos 2-6, there are already first floor windows within the appeal property which face towards the rear garden of Nos 2-6 so the terrace would not be a substantial change to the existing situation or be unduly harmful in this respect.
13. I conclude that the proposal would not give rise to significant effects in relation to privacy; however, it would result in significant harm to the living conditions of the neighbouring occupiers by reason of loss of outlook and noise and disturbance. The proposal would therefore conflict with Policy D3 of the London Plan (2021) Policy LP2 of the Hackney Local Plan (2020) (the Local Plan) and

the Residential Extensions and Alterations Supplementary Planning Document (2009) (SPD), which, amongst other things, seek to ensure that development is designed so that there are no significant adverse impacts on the amenity of occupiers and neighbours, including in relation to outlook and noise.

Character and Appearance

14. The surrounding area is of mixed character with residential properties and some ground floor commercial properties along Green Lanes. There are a variety of building sizes and styles, particularly in relation to height and rooflines. Properties range from traditional terraced housing to more modern development, such as the appeal building. Whilst the front elevations of the terraced properties have a uniform character, the rear elevations are of more diverse appearance due to the variety of extensions that have taken place.
15. The appeal property is of more modern construction than the nearby terraced properties. In that context, the contemporary design and good quality materials proposed for the terrace would not look out of place. Whilst the screening would introduce a solid feature above the flat roof, it would conceal domestic paraphernalia such as tables and chairs. Planting around the edges would further soften the proposal's appearance. Whilst there do not appear to be any other roof terraces within the immediate vicinity, given the wide range of extensions and additions to the rear of Green Lanes, the proposal would not appear intrusive or incongruous when viewed in the context of the wider area. The terrace would be seen from Springdale Road, but only at a distance and it would not be unduly prominent from this view. Whilst it would be more conspicuous in views from neighbouring flats, this would be in the context of taller buildings, some of which have balconies.
16. For the above reasons, I conclude that the proposal would not be harmful to the character and appearance of the host property or the surrounding area. Therefore, it would comply with London Plan Policy D3, Local Plan Policy LP1 and the SPD, where these seek to ensure that development is well designed and respects local character and context.

Other Matters

17. The appellants refer to the extension to the rear of No 106 which they contend has detrimentally increased the sense of enclosure within their rear courtyard. However, that does not justify the adverse impact that the proposal would have on the neighbours' living conditions. Whilst I sympathise with the appellants' desire to make efficient use of their property to provide a larger outdoor space, this does not outweigh the harm I have identified.

Conclusion

18. I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations that indicate the decision should be made other than in accordance with this. For the reasons given and having regard to all other matters raised, the appeal is dismissed.

M Ollerenshaw

INSPECTOR