



Appeal Decisions

Hearing held on 14 September 2023

Site visit made on 14 September 2023

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 05 October 2023

Appeal A Ref: APP/U5360/C/22/3294804

1 Queensdown Road, Lower Clapton, London, E5 8NN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Newlon Housing Trust against an enforcement notice issued by London Borough of Hackney.
 - The notice, reference 2021/0250/ENF, was issued on 3 February 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a top floor extension.
 - The requirements of the notice are: EITHER 1. Make all necessary amendments to the rear roof extension of the Property so that the works accord with the approved drawings of planning permission 2017/4890 : O-111-P3, O-112-P3, O-114-P2 and O-115-P2; as attached; OR 2. Remove the top floor extension of the Property and restore the roof to its condition before the breach of planning control took place; 3. Make good all damage to the Property resulting from the removal of the unauthorised works as listed above; AND 4. Upon completion of the above steps, remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the property and its premises.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (g), (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal B Ref: APP/U5360/W/21/3287454

1 Queensdown Road, Lower Clapton, London, E5 8NN

- 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 Newlon Housing Trust against the decision of London Borough of Hackney.
 - The application Ref 2020/3716, dated 24 November 2020, was refused by notice dated 7 July 2021.
 - The development proposed is Change to mansard roof profile following previous permission (ref:-2017/4890) for mansard roof extension and internal alterations to 1 Queensdown Road to provide 8no 1 bed units in Class C2.
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Decisions

Appeal A - 3294804

1. Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a top floor extension at 1 Queensdown Road, Lower Clapton, London, E5 8NN as shown on the plan attached to the notice.

Appeal B - 3287454

2. The appeal is allowed and planning permission is granted for change to mansard roof profile following previous permission (ref:-2017/4890) for mansard roof extension and internal alterations to 1 Queensdown Road to provide 8 no 1 bed units in Class C2 at 1 Queensdown Road, London, E5 8NN in accordance with the terms of the application, Ref 2020/3716, dated 24 November 2020, and the plans submitted with it.

Applications for costs

3. An application for a full award of costs has been made by the appellants against the Council and is subject to a separate decision.

Preliminary Matters

4. No1 is the end of a terrace of once similar Victorian houses fronting Queensdown Road. Next to No1 and forming the corner of Queensdown Road with Downs Road is a large Methodist Chapel which is listed. In March 2018 planning permission (2017/4890) was granted by the Council to add a mansard roof and convert No1 into 8 x 1-bed supported housing units, two of which would be contained in the new mansard. The applicants are a charity that deals, amongst other things, with care leavers and unaccompanied asylum-seeking children (18-21 years) and the flats would provide a supported environment enabling them to transition to independent living.
5. The property originally had a butterfly roof, and in accordance with Council's SPD, the proposal was to retain the shape of the butterfly by infilling with metal panelling and adding a sloped mansard above. During construction the appellants were informed the grant regime operated by GLA was changing and following changes that needed to be made to the staircases the two units in the roof would not be large enough to secure the grant. I am informed the grant was £90k per unit or roughly 37% of the cost.
6. In order to create the extra space the appellants decided to abandon the sloping mansard and the metal infill and extend the rear wall upwards to a new parapet, creating a simple flat rear wall to roof parapet level and removing any reference to the butterfly roof. The front of the development was largely unchanged, the internal arrangements were altered, but the main change was to the rear elevation. A new application was made for the changes and officers indicated support. Unfortunately the application was lost during a cyber attack on the Council. A fresh application was made, but by then the building was completed. This application (2020/3716) was refused permission and an appeal was subsequently lodged (Appeal B). After that the enforcement notice was issued and appealed (Appeal A).

Main Issue

7. The sole issue between the parties is therefore whether the change from the rear roof profile granted permission in 2018 to the as-built roof is harmful to the character and appearance of the area and to the setting of the adjacent listed building.

The Appeal on Ground A and the S78 appeal

8. Policy LP1 of The Council's development plan is the most relevant policy. Sections (i), (ii) and (iv) are important as they require development to respond to local character and context, be compatible with the existing townscape and preserve and enhance the setting of heritage assets. The SPD deals specifically with butterfly roofs at 3.93 and figs 3.40A to C. it requires that the original butterfly profile is retained and suggests a metal clad effect such as was the design in the 2018 permission.
9. The key issue here is the local context. The row of terraced houses, of which No1 is the end, is called Sunnyside Villas. This was originally constructed with butterfly roofs. However, all the other villas have subsequently been extended upwards so that those roofs have disappeared. The as-built roof extension to No1 now matches, more or less, exactly the rear roof profiles of the rest of the terrace. I also note there are no other butterfly roofs in the immediate area; none in the rest of Queensdown Road nor in Cricketfield Road that runs behind it. Opposite is a large park and on the corner is the listed church. It seems to me, therefore, that when the appellants came to make their original application in 2017 it was their sole remaining butterfly roof that was out of context. The drawings for the 2018 permission show the Council's preferred option, but it sits somewhat incongruously alongside the plain brick rear façades of the rest of the terrace. Now, it blends in with its neighbours and appears entirely consonant and well mannered. In my view therefore, there is no harm to the character and appearance of the area and the development is not contrary to policy LP1 or to the SPD.
10. The Council's main issue with the listed building was that a harmful extension was bound to harm the setting of the chapel, hence I have determined that issue first. As the rear roof profile is not harmful, it makes it unlikely it will affect the setting the listed Chapel.
11. The significance of the chapel lies in its exterior form and decoration, an exuberant Victorian Romanesque front and side façade, wholly different from anything else in the area. It is also a substantial building that is more than capable of holding its own against minor changes to the houses around it. The side elevation runs down the side of No1 and dominates the rear garden. The parapet of the Chapel is the same height as the new parapet of No1 and the two buildings are separated by a narrow alley. Despite this, for the reasons given above the impact on the significance of the Chapel is minor and on the setting is negligible. I do not consider therefore there is any harm to the setting or to the character of the Chapel as a building of special architectural or historic interest.

Other Matters

12. Had I found the roof profile to be harmful it would not have been serious and would have been at the lower end of less than substantial harm to the setting of the listed building. In that case I would have found the impacts on the charity, such as the extra costs of rebuilding, the disruption to the existing occupiers, and the possibility of the loss of grant for the whole roof extension leading to a reduction of one or two units of much needed accommodation, would have amounted to sufficient material considerations to overcome the harm to policy and the character and appearance of the area and the necessary public benefits to outweigh the less than substantial harm to the listed building.

Conditions and Conclusion

13. The building is already built and a management plan is in place pursuant to the previous application. It was agreed at the hearing that no conditions were needed. I shall allow the appeals, quash the notice and grant planning permission for the development as built.

Simon Hand MA

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Tim Miles	) Agents
Tom Pemberton	)
Andrew Hayward	Architect
Juanita Folarin	Newlon Housing Trust
Lewis Devonish	Hackney YPS
Richard Hartley	Chartered Surveyor

FOR THE LOCAL PLANNING AUTHORITY:

Nick Kirk	Deputy Planning Team Leader
Lorraine Murphy	Senior Planning Enforcement Officer

DOCUMENTS

1. Signed Statement of Common Ground
2. Speaking Notes about the Newlon Housing Trust