



Appeal Decision

Site visits made on 24 October and 9 November 2023

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 19 December 2023

Appeal Ref: APP/U5360/W/23/3318206

5 Mentmore Terrace, Hackney, London, E8 3PN

- 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 J Hagan of Use Architecture against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2022/2170, dated 6 September 2022, was refused by notice dated 25 November 2022.
 - The development proposed is the installation of air source heat pumps, solar panels and amenity area.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A balustrade around the edge of the flat roof has been erected in accordance with the plans that accompanied the application. Air source heat pumps have also been installed but differ from the submitted plans in number (there are 6 rather than 4) and location (one is located at a right angle in the middle of the roof). Notable parts of the rest of the proposed development shown on the plans, namely a green roof and solar panels, had not been installed when I gained access to the roof on 9 November 2023. I have therefore determined the appeal on the basis of the submitted plans rather than on the basis of what has been built.

Main Issues

3. The main issues in this appeal are the effects of the proposed development on:
 - the character and appearance of the area, including its effect on 5 Mentmore Terrace which is a non-designated heritage asset;
 - the living conditions of neighbours, with particular regard to privacy; and,
 - biodiversity.

Reasons

Character and appearance

4. The appeal property is located within a densely developed part of Hackney that has a fine urban grain. The area is characterised by terraced dwellings, converted Victorian industrial buildings and modern apartments. 5 Mentmore Terrace is a locally listed building whose significance is derived from its industrial heritage and is architectural and historical. The building has been renovated in recent years and extended upwards with the addition of a flat roofed storey of a contemporary design.

5. The narrow dimensions of the roof level metal balustrade and balusters are sympathetic to the building's metal framed windows and their limited height and lightweight appearance means that they are subservient to the building. Such railings may not have been a feature of the original building. However, their appearance is a contemporary take on the area's industrial heritage that complements the design of the extended building and is in keeping with the railway viaduct railings along the opposite side of Mentmore Terrace. Other residential buildings to the south I have been referred to do not have prominent railings around the perimeter of their roofs. These other buildings though differ from 5 Mentmore Terrace in that they are modern apartment buildings whose design has not been as influenced by the heritage of the area.
6. The heat pumps are centrally located towards the rear of the building's flat roof. As a result, they are only publicly visible in brief glimpsed views from outside the entrance to London Fields Overground Station and between buildings on Gransden Avenue. The ugly utilitarian appearance of the heat pumps detracts from the private views from the many dwellings along Mentmore Terrace and Gransden Avenue to the rear. However, if permission was granted this matter could be suitably addressed by a condition requiring that the pumps are screened or enclosed.
7. For all of these reasons, I therefore find that the proposed development has been well designed, conserves the significance of the building and complements the character and appearance of the area. As a result, it complies with policies LP1 and LP4 of the Hackney Local Plan ('Local Plan'), policies D4 and HC1 of the London Plan 2021 and the supplementary planning document Residential Extensions and Alterations (SPD). These policies and the SPD require the protection of the character and appearance of a locality, including conservation areas, through high quality design that respects local design features.

Living conditions

8. Viewed from Mentmore Terrace, the proposed amenity space would occupy the width of the front of the roof and approximately 40% of its length. As a result, there would be clear views from much of the proposed amenity space of the nearby flats to the side of the building across the narrow width of Fortescue Avenue.
9. Apartments with facing elevations and balconies are a common feature of urban development. However, with the absence in this case of a balcony opposite at the same level as the proposed amenity space there would be unobstructed overlooking from a significant proportion of its area of the balconies immediately below and the rooms they serve. As the proposed amenity space would be able to accommodate far more people than the balconies opposite, the degree and perception of overlooking would be such as to have a significant adverse effect on the living conditions of the occupiers of the affected apartments.
10. The harm that would be caused could not be overcome by a condition requiring screening to be erected. This is because I am not persuaded that a screen could be added to the edge of the amenity area along the balustrade or roof edge without harming the design quality of the building and its appearance.
11. Reference has been made to the extensive roof terraces to two dwellings on London Lane. The front terraces to these properties though are set back from the front elevation and are separated from the flats opposite by a wide street.

The side terrace facing the apartments in Silesia Buildings does not face any balconies and the larger rear facing terraces do not face the main elevations of nearby residences. As a result, the terraces do not result in harmful overlooking. Reference to these developments therefore has not altered my findings in relation to this issue.

12. The outdoor amenity space immediately to the rear of the building at 6 Mentmore Terrace would not be visible from the proposed outdoor amenity space and so would not be affected by overlooking. The other properties to the north of the building whose rear elevations enclose a yard would not be harmfully overlooked due to the significant distance separating this outdoor area from the rooftop amenity space.
13. My view in relation to these other properties however does not negate my findings regarding the adverse effect of the proposal in relation to overlooking that would be experienced by the apartments on Fortescue Avenue.
14. For the reasons given above, I therefore conclude that the proposed amenity space would cause unacceptable harm to the living conditions of the occupiers of the apartments immediately below on the opposite side of Fortescue Avenue. The proposed development would therefore be contrary to policy LP2 of the Local Plan and the SPD which seek to prevent such harm.

Biodiversity

15. Policy LP47 of the Local Plan requires that where possible all development should enhance biodiversity leading to a net gain. Policy G6 of the London Plan requires development proposals to manage impacts on biodiversity and aims to secure net biodiversity gain. The planning permission granted for the roof extension that has been built complied with this policy by including a green roof that covered almost the entire roof.
16. The Mayor of London's Housing Design Standards London Plan Guidance was published in June 2023 replacing the Housing Design Quality and Standards published in 2020. In keeping with the 2020 document it advises as a minimum that 5sqm of outside space, with a minimum depth and width of 1.5m, should be provided for a dwelling with two bedspaces, with an additional 1sqm for every additional bedspace. Given that the property has been described as a 4 person unit this equates to a minimum provision of 7sqm. Best practice in the Guidance would be to exceed this minimum area and increase the minimum depth and width to at least 2.5m. As it is not a matter in dispute that the roof terrace is at least 20sqm in size it is significantly in excess of the London Plan Guidance minimums and this has been achieved by reducing the area of green roof approved as part of the existing permission by a significant degree.
17. The National Planning Policy Framework ('the Framework') is an important material consideration. An emphasis in the Framework and the development plan is that new development should enhance biodiversity. The Framework also advises that Councils should seek to ensure that the quality of approved development is not diminished between permission and completion as a result of changes made to a permitted scheme. In my judgement, the significant reduction in the area of the green roof that would occur in the appeal scheme would conflict with the Framework. This is because the development would harm the biodiversity that would have been provided by the approved scheme to a degree far in excess of that which can be justified by the Mayor's guidance in relation to the provision of private outdoor space.

18. I therefore conclude that the large reduction in the size of the green roof would cause demonstrable harm to biodiversity, contrary to policy LP47 of the Local Plan, policy G6 of the London Plan and the Framework.

Other Matters

19. Much of the area to the east is located within the Mare Street Conservation Area. The significance of this area is architectural and historical and is derived from its dwellings that date from the C18th onwards and its Victorian industrial buildings. The appeal property is positioned sufficiently far away from the western edge of the Conservation Area though for its setting and significance not to be adversely affected.

Conclusion

20. For the reasons given above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector