



Appeal Decision

Site visit made on 23 January 2024

by H Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2024

Appeal Ref: APP/Y5420/C/22/3312877

417 Archway Road, London N6 4HU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act).
- The appeal is made by the company secretary/directors of Cliveden Land Limited against an enforcement notice issued by London Borough of Haringey.
- The notice was issued on 31 October 2022.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a roof addition and parapet wall on the second storey roof to facilitate a dwelling.
- The requirements of the notice are to:
 1. Remove the roof addition and parapet wall on the second storey roof in their entirety, and;
 2. Return the second storey roof to its former condition that existed prior to the commencement of the unauthorised development, and;
 3. Remove from the land edged red all resulting materials arising from compliance with the above requirements.
- The period for compliance with the requirements is 12 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f)&(g) of the Act.
- 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.

Summary of Decision: The appeal succeeds, the enforcement notice is corrected and then quashed and planning permission is granted, as set out below in the Formal Decision.

The notice

1. I have a duty to get the notice in order and s176(1) of the Act grants powers to (a) correct any defect, error or misdescription in the enforcement notice, and/or (b) vary the terms of the notice, provided it would not result in injustice to the appellant or the Council. The notice refers to a roof 'addition'. It would be clearer if this was referred to as a roof 'extension'.
2. The notice also refers to 'the second storey roof'. However, it is clear from the plans and my site visit that the original building had three storeys. Notwithstanding this, there is only one roof at the site and the appeal submissions from both parties make it clear that they knew the location of the development to which the notice refers. Removing the term 'on the second storey roof' corrects this matter while leaving the allegation and requirements clear. I am satisfied that I can correct the notice accordingly without causing injustice, as set out in the formal decision.

Preliminary matters

3. Planning permission was granted in 2017 (ref HYG/2017/0372) for a roof extension at the building to provide a 2 bedroom self-contained flat. The Council state that the development has not been built in accordance with the approved plans. From an inspection of the approved plans and observations made during my site visit, it is evident that the development has not been built in full accordance with the approved plans. The main deviation is that the flat roof surface on which the extension is constructed has been raised prior to adding the extension. While the height and proportions of the extension itself appear to approximate those of the approved plans, raising the height of the roof surface on which the extension is constructed has inevitably increased the overall height to the top of the extension. On the evidence available to me, the increase in height is modest and I am informed it was necessary to provide a fire break between floors.
4. The Council also state that the approved plans misrepresent the building and the development in terms of size and the relationship to adjacent buildings. I find no significant discrepancy in the scale and proportions of the appeal building itself, as shown on the plans. However, I acknowledge that there do seem to be some discrepancies between the approved plans and the on-site situation, regarding how the flat roof of the appeal building (the original and after the development) relates to buildings either side. Any such discrepancies should have been evident from a site inspection at the time the Council granted the planning permission.
5. Notwithstanding the above, I have considered and determined this appeal on the basis of the development as built.

The appeal on ground (a) and the deemed planning application

6. The appeal on ground (a) is that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The terms of the deemed planning application are derived from the allegation set out in the notice, as corrected. Hence, planning permission is sought for the erection of a roof extension and parapet wall to facilitate a dwelling.

Main Issues

7. The main issues are the effect of the proposed development on:
 - The character and appearance of the site and the surrounding area, with particular regard to the extent to which it would preserve or enhance the character or appearance of the Highgate Conservation Area; and
 - The living conditions of occupants of neighbouring dwellings, with regard to outlook.

Reasons – Character and Appearance

8. 417 Archway Road is located within the Highgate Conservation Area and opposite Highgate Woods. The original building to which the roof extension has been added, is three storeys, finished in brick and render, with a flat roof. Attached to one side of the appeal building is a three storey building, with another detached three storey building next to it on the corner with Church

Road. These are of a traditional design and proportions, with pitched slate roofs, and are set further forward than the appeal building. On the opposite side of the junction with Church Road is a modern block of flats, with 5 and 6 storeys and flat roofs. Beyond that, the next building on Archway Road is three storeys with a large grey clad mansard roof on top.

9. Adjoined to the appeal building on the other side is a narrow, two storey, flat fronted dwelling with a flat roof, and then a large traditional double bay fronted dwelling with a pitched roof containing two box dormers. Beyond this is a terrace of three storey, gable fronted dwellings of a fairly uniform design.
10. As set out above, despite the uniformity of the nearby terrace, the character and appearance of the area, particularly immediately around the appeal site, is mixed and lacks uniformity. The area features a variety of designs, materials, frontage profiles, roof forms and building lines and there are other flat roof, high level developments nearby. The original building itself is of no particular design or architectural merit and is more modern than, and significantly different to, the buildings around it. Therefore, the height, form and massing of the roof extension respects the established local character and responds appropriately to its context.
11. The front of the development is visible from the road along Archway Road, but the setback from the main front elevation (which is itself set back from the adjoined building to one side) means the roof extension does not appear overly bulky or prominent in the main streetscene. The rear of the development is visible from Church Road, and to a lesser extent Talbot Road, through gaps between built form. The height and flush cladding which extends down part of the original rear wall does result in the rear elevation appearing prominent from these perspectives. However, the site is set back from these roads and viewed alongside the rear elevations of other buildings which contain a variety of additions and alterations. In this context, the development does not appear overly dominant or out of scale with the original building and its surroundings.
12. I have assessed the development as built on its own effects and merits. Notwithstanding this, while the development is modestly higher, I consider the overall impact to be not significantly different to if it had been built in accordance with the approved plans.
13. I conclude that the development does not cause unacceptable harm to the character and appearance of the site and the surrounding area and would preserve the character and appearance of the Highgate Conservation Area. As such, the development complies with Policies DM1, DM6 and DM9 of the Haringey Development Management Development Plan Document (2017) (DPD); Policies SP11 and SP12 of the Haringey Local Plan Strategic Policies 2013-2026 (2017); and Policies D3 and H1 of the London Plan (2021). Together, amongst other things, these policies seek to ensure that development is well designed, is of an appropriate height for its surroundings, contributes to the distinctive character of the area, and conserves the significance of heritage assets. In addition, the development complies with Policy DH5 of the Highgate Neighbourhood Plan (2017) (NP) which sets out that roof extensions should respect the existing roof form in terms of design, scale, materials and detail and if located to the front, should be part of the established local character. Furthermore, it accords with the National Planning Policy Framework (December 2023) in that heritage assets would be protected.

Reasons – Living Conditions

14. The development is visible from neighbouring dwellings. Despite this, as set out above, within the context of surrounding rear elevations, its appearance is not intrusive. Despite the height of the development, the separation distance and layout of the surrounding dwellings is sufficient to ensure it does not have an overbearing effect and does not unacceptably dominate the outlook from rear windows or outside space.
15. Again, I have assessed the development as built on its own effects and merits. I find that its impact on neighbouring living conditions would not be significantly different to if it had been built in accordance with the approved plans.
16. I conclude that the development does not cause unacceptable harm to the living conditions of occupants of neighbouring dwellings, with regard to outlook. As such, the development complies with Policies DM1 and DM9 of the DPD; Policy D3 of the London Plan; and Policy DH5 of the NP. Together, amongst other things, these policies seek to ensure that development does not appear overbearing or intrusive and that appropriate amenity and outlook is secured.

Other Matters Relating to Ground (a)

17. I note that the Council acknowledge they do not have a 5 year supply of housing land. As I find the development to be acceptable, it is not necessary to give this weight in reaching my conclusion.

Conclusion on ground (a) and the deemed planning application

18. The appeal on ground (a) succeeds and planning permission is granted on the application deemed to have been made under section 177(5) of the Act.

The appeal on ground (f) and (g)

19. The appeal on ground (f) is that the steps required by the notice exceed what is necessary. The appeal on ground (g) is that any time period specified in the notice falls short of what should reasonably be allowed. As the appeal on ground (a) succeeds and I shall grant planning permission for the development described in the notice, grounds (f) and (g) therefore do not fall to be considered.

Formal decision

20. As I will be granting planning permission, and that permission is on the basis of the allegation set out in the notice, it is necessary for me to correct the wording of the allegation, as discussed above. However, after correction, I will quash the notice, so it is not necessary for me to correct the requirements.
21. It is directed that the enforcement notice is corrected as follows:
 - In section 3, the breach of planning control alleged, remove the word 'addition' and substitute the word 'extension', and delete the words 'on the second storey roof'.
22. Subject to this correction, the appeal is allowed and the enforcement notice is quashed. 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 roof extension and parapet wall on the roof to facilitate a dwelling, at 417 Archway Road, London N6 4HU, as shown on the Plan attached to the notice.

H Davies

INSPECTOR