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# Appeal Decision

Site visit made on 6 February 2024

**by H Lock BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 February 2024**

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**Appeal Ref: APP/G5750/D/23/3331717**

**71 Masterman Road, Newham, East Ham, London, E6 3NW**

- 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 Jay Nicholls against the decision of the Council of the London Borough of Newham.
  - The application Ref. 23/01072/HH, dated 16 May 2023, was refused by notice dated 31 July 2023.
  - The development proposed is construction of garden roof terrace.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The description of development above has been taken from the Council's decision notice and the appellant's appeal form. Whilst normally this would be taken from the original application form, the above is a more succinct version of the detailed information provided on that form.
3. Since the appeal was lodged a revised National Planning Policy Framework (the Framework) has been published. However, as the substance of the policies of most relevance to this proposal remains broadly the same it has not been necessary to seek further comments from the parties.

## Main Issues

4. The main issues are the effect of the proposal on (1) the character and appearance of the appeal property and the street scene; and (2) the living conditions of neighbouring residents, with particular reference to privacy and disturbance.

## Reasons

### *Character and Appearance*

5. The appeal dwelling is located at the end of a terrace of properties from the same period, and as such of largely the same original architectural style and detailing. It is in a prominent position at the junction with Sandford Road and is built up to the adjacent footway. Although the terrace façade is fairly uniform, the rear is more diverse, with a range of extensions visible. This includes the

- appeal property, which has been extended at first- and ground-floor levels. There is also a dormer window, which would open onto the proposed terrace.
6. Despite the mix of extensions in the terrace, none appear to have roof gardens. Although using matching reclaimed bricks, the proposal would introduce an incongruous feature that would neither complement nor appropriately contrast with the original form and architectural style of the property. It would be a highly visible feature in a prominent position in the street scene. Being set away from the boundary, views from Masterman Road may be more limited, but it would be a significant intrusion in Sandford Road. I note that the purpose of the terrace is to accommodate potted plants to add to the aesthetic of the street scene, and to create an elevated façade of green. However, in its context, I consider that it would be a discordant feature above the footway.
  7. The proposal, including the alterations to the building to create the level terrace, would materially add to the bulk and massing of additions to the property. The appellant has provided an extensive analysis ('the analysis') of the juxtaposition, scale and massing of buildings in the surrounding roads, but I am not persuaded that they are comparable to the appeal proposal.
  8. It is evident that there are taller buildings in the area than the level of the proposed terrace, as identified by in the site analysis. However, these buildings, with features such as dormer windows, are very different in their appearance and purpose from a roof terrace. Rather than enhance the proportion qualities of the existing house and neighbouring buildings as suggested, I consider that it would create a dominant feature to the building.
  9. Limited information has been supplied of the planning permissions granted for the more historic examples included in the analysis. However, it is evident that some are more successively integrated in the street scene than others, which affects the level of support which they offer the proposal.
  10. There are some modern properties with roof terraces in Marlow Road<sup>1</sup>, but these are largely the exception in the streetscene. In the case of 2c and 2d Marlow Road, the presence of terraces behind obscure glazed panels has limited visual impact on the street scene, with these elements appearing as an integral part of a contemporary design. This is in contrast to the proposal, which would be at odds with the more traditional form and design of the appeal property.
  11. I therefore conclude that the proposal would detract from the character and appearance of the appeal property and the street scene. This would be contrary to Policy D3 of The London Plan 2021 (TLP), which amongst other criteria seeks high quality development which enhances local context; and to Policies SP1 and SP3 of the Newham Local Plan 2018 (LP) which together seek high quality development which secures integration and coherence with the local context. For the same reasons, it would not accord with the objectives in the Framework to create developments that add to the overall quality of the area and are sympathetic to local character, including the surrounding built environment.
  12. However, I find no conflict with TLP Policy D1, which relates to the preparation of area assessments to inform the capacity for growth, and TLP Policy D4, which refers to the mechanisms for delivering good design; nor with the

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<sup>1</sup> 17/00408/FUL – 140 High Street, South East Ham (now appear to be built as units 2c and 2d Marlow Road)

strategic aims of LP Policy S6, the aim to promote healthy neighbourhoods set out in LP Policy SP2, and the principles of neighbourly development in LP Policy SP8. However, this does not alter my conclusions on the first main issue.

13. The appellant has referred to the Council's 'Altering and Extending your Home' Supplementary Planning Document 2018 (SPD) and considers that the Council has rejected its own guidelines. However, these must be applied in their site-specific context. As the SPD does not appear to address the provision of roof terraces, I have given it limited weight.

### *Living Conditions*

14. The proposed terrace would be in an elevated position above habitable rooms<sup>2</sup> of the neighbouring terraced house, No.73. Whilst it may not be the appellant's intention to use the terrace for more than the display of plants, in the long term its size means that it could be used more intensively as amenity space by future residents. No planning condition could reasonably be imposed to control the nature of its use. Given the position and proximity to windows, I consider the proposal has the potential to cause an unacceptable degree of nuisance and disturbance to residents. Whilst this is a tight knit urban location, as most garden areas are at natural ground level, this would be an intrusion beyond levels that neighbours may reasonably expect. Although the appellant advises that there would be no acoustic echoing issues, this is not supported by any technical assessment.
15. The raised party wall would limit close views down into gardens of the terrace, but the proposed railings could enable views towards the amenity space of 69b Masterman Road (No.69b), on the opposite side of Sandford Road. Despite the road distance in between, the presence of this terrace would create a perception of overlooking for anyone using the garden of No. 69b. Some overlooking of garden areas from windows is largely unavoidable in an urban setting, but the position of a high level terrace would introduce an unexpected source of overlooking. However, privacy to habitable rooms of nearby properties would not be affected.
16. The roof terrace for the development at 2c Marlow Road is positioned close to a first-floor front window of the adjacent property, but that room would already experience a degree of disturbance being next to the road. Moreover, that roof terrace does not project beyond a neighbouring window, unlike the appeal scheme. According to the Council's delegated report for application 17/00408/FUL, the roof terraces to Nos. 2c and 2d would have a 1.7m high wall to the rear to prevent overlooking. Whilst I accept that there are some similarities, the relationship is not directly comparable and does not warrant acceptance of the appeal proposal.
17. I therefore conclude that the proposal has the potential to cause unacceptable overlooking and disturbance to a degree that the living conditions of adjacent residents would be harmed. This would be contrary to LP Policy SP8, which requires all development to achieve good neighbourliness, to avoid exposure to noise and disturbance, and to minimise overlooking and loss of privacy; and TLP Policy D14, which seeks to manage and mitigate noise to improve health and quality of life. This is consistent with the Framework aim for developments to create places with a high standard of amenity for existing and future users.

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<sup>2</sup> The appellant advises that the closest window is a stairwell.

18. On this point, I find no conflict with TLP Policy D1, which relates to the preparation of area assessments to inform the capacity for growth; nor with TLP Policy D2, which relates to infrastructure requirements. I do not consider the strategic place-making and design aims of LP Policies S6, SP1 and SP3 to be relevant, nor the promotion of healthy neighbourhoods set out in LP Policy SP2. However, this does not alter my conclusion of harm on this issue.

### **Other Matters**

19. The appellant has raised issues about inconsistent decision-making by the Council. However, such matters cannot be explored in a Section 78 planning appeal, and I have considered the proposal on its planning merits.

### **Conclusion**

20. For the above reasons, I conclude that this appeal should be dismissed.

*H Lock*

INSPECTOR