



Appeal Decision

Site visit made on 18 September 2024

by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 October 2024

Appeal Ref: APP/U5360/D/24/3343342

19 Ickburgh Road, Hackney, London E5 8AF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Ashley Whittaker against the decision of The London Borough of Hackney Council.
 - The application Ref is 2023/2836.
 - The development is a roof terrace with glass balustrade on first floor level.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development from the Council's decision notice as this is an accurate description of the appeal development that has also been used by the appellant for their appeal statement.

Main Issues

3. The main issues are the effect on:
 - The character and appearance of the appeal building and that of the Northwold and Cazenove Conservation Area (the CA); and
 - The living conditions of neighbouring residential occupiers.

Procedural Matters

4. This appeal relates to a development that has been implemented, therefore, the application is retrospective, and I have determined the appeal accordingly.

Reasons

Character and Appearance

5. The appeal property is a 19th Century 3 storey terrace house with a three storey outrigger and small front and rear gardens. This has been converted to 3 flats and the appeal dwelling is the first floor flat. The terrace of which the appeal property forms part is made of properties of similar age and architectural expression. This cohesive visual appearance and streetscape is also reflected in the terrace on the opposite side of the street and other streets in the local area and the CA.

6. The CA is recognised for its numerous typologies and examples of the Victorian terraced house, with streets that retain much of their original appearance and character. These architectural characteristics are exemplified by the appeal dwelling. As such, it contributes to the significance of the CA.
7. The CA is a heritage asset to which I have a statutory duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. I must pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
8. The appeal development is a first floor terrace that has been created on the flat roof of a two storey rear extension that wraps around the outrigger and is the full width of the appeal property. This creates the benefit of an external amenity space for the occupiers of the appeal dwelling, for which none had previously been provided.
9. To the perimeter of the roof terrace there is a glass balustrade with shiny metallic uprights. Due to the contemporary design, materials and appearance of the balustrade, this contrasts significantly with the Victorian architectural expression and character of the appeal property. Whilst there does not appear from my site visits to be other roof terraces in the immediate local area, there are rear metal staircases and rear extensions to nearby properties and the appeal development is seen in this context.
10. However, there is nothing at rear first floor level of the terrace of which the appeal dwelling forms part, which projects so far rearward as the glass balustrade with metallic uprights to the terrace, or that contrasts so significantly with the character and appearance of their host building and local area. The balustrade to the roof terrace does not, therefore, relate to the architectural conventions of its Victorian host property. As such, the glass balustrade with shiny metal uprights does not accord with design guidance for such development set out in section 3 of the Council's Residential Extensions and Alterations Supplementary Planning Document (2009) (the SPD).
11. Access to the roof terrace is provided by a door that replaced and enlarged an original rear window opening and also compromises this original feature. This is also contrary to the guidance given in Section 3 of the SPD. There are, however, other rear doors replacing existing windows in the rear of nearby and adjacent properties. Consequently, this part of the appeal development on its own results in only minor changes to the character and appearance of the appeal dwelling and terrace of which it forms part. However, this door replacing a window opening has to be considered along with the rest of the appeal development and its overall effect.
12. For these reasons, the extent of the balustrade, its materials and contemporary design, and alterations to the window opening to create a door, result in the appeal development appearing as an unduly prominent, visually dominating and incongruous addition of the appeal property and the terrace of which it forms part. Consequently, the appeal development fails to preserve the character and appearance of the CA.

Living Conditions

13. The extent of the terrace, which also wraps around the outrigger, results in it being in close proximity to the windows of neighbouring dwellings in the

terrace of which the appeal dwelling forms part. This allows for views into the windows to rear living spaces of these dwellings including bedrooms.

14. This is especially the case with the first floor rooms in adjoining dwellings at 17 and 21 Ickburgh Street, the windows to which are directly adjacent to the balustrade where it connects with the rear elevation of the appeal property. The proximity of the roof terrace and balustrade to these windows allows for direct and immediate views into these rooms. The degree of overlooking resulting from these views into the living spaces of neighbouring properties is intrusive and results in a significant loss of privacy for the existing and future occupiers of these dwellings.
15. There are also views from the roof terrace that is the subject of this appeal over the garden of the dwelling below in the appeal property and the gardens to neighbouring properties. Whilst there is overlooking of the garden and area from the windows to rear rooms of neighbouring properties and from the rear windows in the appeal dwelling, these are more tangential and are of only the rear part of the garden.
16. The views over the garden and area to the dwellings below the appeal dwelling and the rear gardens of neighbouring properties are more extensive and immediate. These allow for direct overlooking of that part of the rear gardens that are close to the rear of the appeal property and neighbouring properties. This additional overlooking from the roof terrace results in a degree of overlooking that is intrusive and oppressive to those that use the amenity of the rear gardens, leading to a significant loss of privacy. This does not accord with the guidance for such development set out in Section 3 of the SPD.
17. The appellant has drawn my attention to planning approvals for other roof terraces in the Council area. These, however, were for roof terraces that vary significantly in position, extent and design to the appeal development and would have been considered on their own merits, and I have done likewise in my consideration of the appeal development and have afforded these only moderate weight.
18. The appellant has also provided photographs of flat roofs of rear extensions being used as roof terraces, which they consider to be exemplars for the appeal development. Whilst these roofs appear to be of similar size to the appeal development, they do not appear to have any balustrades or access doors, and no details have been provided on their location or their planning status. I have, therefore only afforded these very little weight in my considerations.
19. For the reasons given above, I find that the appeal development, when considered as a whole, is substantially harmful to the character and appearance of the appeal property, the terrace of which it forms part and fails to preserve or enhance that of the CA. In the context of paragraph 208 of the National Planning Policy Framework (2023) (the Framework), the harm I have identified to the significance of the CA is less than substantial. Further, I find that the appeal development results in a loss of privacy that is substantially harmful to the living conditions of neighbouring residential occupiers.
20. The appeal development, therefore, conflicts with Policies LP1, LP2 and LP3 of the Hackney Local Plan (2020), Policies D3, and HC1 of the London Plan (2021) and Sections 12 and 16 of the Framework. Collectively, these seek to ensure that development has no significant impact on the amenity of

neighbours, is of high design quality, responds to local character and context and is compatible with the existing townscape, having due regard to the importance of preserving or enhancing heritage assets, conserving their significance, including their setting.

21. The Council's decision finds that the appeal development is contrary to policy D4 of the London Plan (2021). I have not come to this same conclusion, as policy D4 relates to design management procedures and policy guidance for London planning authorities.

Planning Balance and Conclusion

22. Whilst the appeal development provides an external amenity space, which would benefit existing and potential future occupiers, this does not constitute a substantial public benefit. In general, planning decisions should be made in the wider public interest. In this context, the harm I have identified, including the less than substantial harm to the significance of the CA outweighs these benefits.

23. Dismissing the appeal is a proportionate response in this instance.

Victor Callister

INSPECTOR