



Appeal Decision

Site visit made on 13 November 2024

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06th December 2024

Appeal Ref: APP/U5360/X/24/3346138

1F, 373 Mentmore Terrace, London E8 3DQ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Edith and Carr Ltd against the decision of the Council of the London Borough of Hackney.
 - The application ref 2024/0802, dated 10 April 2024, was refused by notice dated 6 June 2024.
 - The application was made under section 191(1)(b) of the Act.
 - The development for which a certificate of lawful use or development is sought is the installation of a louvre on the façade of unit 1F, Mentmore Terrace.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Edith and Carr Ltd against the Council of the London Borough of Hackney. That application is the subject of a separate decision.

Legislative Background and Main Issue

3. Planning permission is required for carrying out development of land¹. 'Land' includes a building or any part of a building, and 'development' includes the carrying out of building operations, amongst other things². 'Building operations' includes operations normally undertaken by a person carrying on business as a builder; however, the carrying out for the maintenance, improvement or other alteration of any building of works which do not materially affect the external appearance of the building shall not be taken to involve development of land³.
4. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded, with particular regard to whether the installation of the louvre comprised building operations, and if it did, whether it materially affects the external appearance of the building.

Reasons

5. A ground floor level windowpane has been replaced with a louvred vent set within a black wooden panel in association with a kitchen extract system serving a restaurant. Limited details have been provided as to the processes

¹ Section 57 of the Act

² Sections 336 and 55(1) of the Act

³ Sections 55(1A) and 55(2)(a)(ii) of the Act

undertaken, but it is claimed that the installation of the extract system and the louvre was not an operation which would normally be undertaken by a builder. In the absence of sufficiently precise and unambiguous evidence to support that claim, on the balance of probabilities, I disagree.

6. It would be reasonable to describe the removal of a windowpane and the installation of a louvred vent to serve a professional kitchen extract system on this particular building as works which would normally be undertaken by a person carrying on business as a builder. This is on account of the technical and complex nature of the bespoke works, which are in association with a professional kitchen within a recent mixed use development. As a matter of fact and degree, I therefore find that the installation of the louvre comprised building operations.
7. Case law⁴ explains that, in order for works to materially affect the external appearance of a building, they need to bring about a change which is visible from a number of vantage points, and they need to be material to the appearance of the building as a whole. In this context, 'the building' is the whole of 373 Mentmore Terrace, which is a contemporary 6 storey block with residential units at upper floor levels and commercial units and refuse/utility stores at ground floor level. It is located in an area with a mixed semi-industrial/commercial/residential character, opposite bricked-up railway arches with a range of louvered vents. Louvered vents to various service areas can be seen on the building at No.373 and on other neighbouring buildings.
8. There is consistency in the design and layout of windows, balconies, doors and the finish across the façade of the building. It is a neatly presented, attractive modern structure with louvered vents integrated above doors as part of the building's overall design on all elevations. Other vents, which are not immediately obvious from the street, have been set within recessed soffits, above windows.
9. In contrast, the louvre the subject of the application is an obvious deviation from the regular arrangement of tall, sophisticated windows around the building. It is noticeable from the public highway, despite being above eye-level and in a recessed and partially shaded position. Therefore, although louvered vents were previously present at various points on the façade of the building, the addition of the louvre in place of a windowpane has led to a notable change to the external appearance of the building.
10. The louvre may be small in size, and it may only occupy a tiny percentage of the extensive façade, but it remains a noticeable feature due to it being at odds with the aesthetic appeal of the otherwise consistent fenestration arrangement of the building. The change is more than *de minimis* because it visibly jars with the high-quality design of the building and is a clear departure from the overall architectural composition. This is despite the presence of other louvered vents on the building and in the surrounding area. The co-ordinated detailing of the building prevents the louvre from appearing as an original feature.
11. I therefore find that the installation of the louvre comprised development requiring planning permission. There is no dispute that the works do not accord with the limitations of Class A of Part 7, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as

⁴ *Burroughs Day v Bristol CC* [1996] 1 PLR 78; 1 EGLR 167

amended) and I see no reason to find differently. I have not been referred to any other planning permission the development may benefit from.

12. In the absence of planning permission, the louvre is in breach of planning control, and enforcement action could be taken in respect of it. The louvre is not therefore lawful with regard to section 191(2) of the Act.

Conclusion

13. For the reasons given above I conclude that the Council's refusal to grant an LDC in respect of the installation of a louvre on the façade of unit 1F, Mentmore Terrace was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the Act.

L Douglas

INSPECTOR