



Appeal Decision

Site visit made on 16 January 2025

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2025

Appeal Ref: APP/U5360/D/24/3352905

60 Oldhill Street, London N16 6NA

- 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 Ms Lucy Lloyd-Scott against the decision of the Council of the London Borough of Hackney.
- The application reference is 2024/0496.
- The development proposed is creation of a roof terrace with installation of railings; replacement of existing roof lantern with double-glazed alternative.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. On 12 December 2024, an updated National Planning Policy Framework (the Framework) was published, replacing the version from December 2023. I have had regard to this as an important material consideration.

Main Issues

3. The main issues are i) the effect of the proposal on the character and appearance of the Northwold and Cazenove Conservation Area (the NCCA) and the significance of a non-designated heritage asset and ii) the effect of the proposal on the living conditions of neighbouring occupants, with respect to privacy, noise and disturbance and overlooking.

Reasons

Character and Appearance

4. The appeal relates to a two storey dwelling forming part of a group of six similar properties on one side of Oldhill Street. The dwellings are arranged as three pairs and are notable for their broad front elevations and shallow footprints. They have no rear facing windows or land, with the gardens of dwellings on Osbaldeston Road abutting their rear walls. Each features a flat roof behind a front parapet marked by a central, triangular pediment, behind which is a prism-shaped skylight. There is further consistency of materials and architectural details, including the arched porch to the front door, red brick string courses and window surrounds and symmetrical chimney stacks. The dwellings in the group are recorded as locally listed buildings, being regarded as remarkable examples of their type, and can be regarded as non-designated heritage assets (NDHAs).
5. The appeal site is located within the NCCA, designated for its significant quality of mid to late Victorian housing. The wider street exhibits more housing of this era, in

a variety of different forms and interspersed by newer development, such as Oldhill Community School, and some ground floor commercial uses. In this varied context, the consistency of the group containing the appeal dwelling forms a prominent aspect of the street scene.

6. The proposed terrace to the main roof of the dwelling would be enclosed by railings that would be set back from the main parapet, but taller than it and spanning across a majority of the width of the roof. The railings would be visible above the parapet line and would represent an anomalous feature that would disrupt the consistent and largely unaltered roofline of this group. The offset position of the railings would add further incongruity by upsetting the symmetrical appearance of the dwelling from the front.
7. Moreover, the railings and other paraphernalia that would be expected of a roof terrace, such as tables, seating, parasols and plants, would add to the conspicuousness of the terrace in views from the street and the upper floors of dwellings opposite the site. It would also be seen from the gardens and rear windows of dwellings behind, where the use of an opaque balustrade on the rear side of the terrace would add to its visibility.
8. The appellant proposes to paint the railings blue to match the colour of the dwelling's door and window frames. Although intended to lend a more cohesive appearance to the dwelling, it would not sufficiently reduce visibility of the railings or mitigate their disruptive effect on the roofline of the group. It would also not address the visibility of other items that may be placed on the terrace.
9. The appellant points to the group not being entirely uniform due to replacement uPVC windows having been installed to No 52. I have no evidence of the circumstances of this change, but it is a different form of development, involving replacement rather than addition. It is not comparable to erecting visible structures above a consistent roofline, nor does the presence of these windows several doors down offer any mitigation for the impact of the railings on the roofline of the group.
10. Reference is made to a roof terrace approved nearby at 46-50 Oldhill Street. However, this relates to a building of wholly different design, not forming part of the NDHA group. The terrace was not constructed at the time of my visit, but based on the plans it would be a modest terrace on a lower section of the building and tucked against a taller section. As a result it would not break the main roofline nor disrupt the consistent appearance of a group of buildings. Similarly, the rear terrace at 79 Osbaldeston Street is not located to the main roof and whilst visible from the street, does not upset the prevailing roofline of the street. Consequently, I do not regard these as comparable examples and they do not alter my findings.
11. For the reasons set out, the proposed roof terrace would represent an uncharacteristic addition that would undermine the consistent form of the roofline and would harm the overall uniformity and architectural integrity of the group of which the appeal dwelling forms part. This would harm the significance of the NDHA and diminish its contribution to the streetscene and wider quality of the historic townscape that underpins the significance of the NCCA. Consequently, it would also harm the character and appearance of the conservation area.
12. The Framework states that great weight should be given to conserving a designated heritage asset's significance. The harm to the significance of the NCCA in this case would be less than substantial. This harm should be weighed

against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

13. The terrace would provide additional external space for occupants of the dwelling, for whom the only space at present is a modest and enclosed side courtyard. This would undoubtedly enhance the standard of accommodation, and I recognise the support of the Framework for making effective use of land. However, the benefits to the occupants in this case would be private, rather than public. Therefore, they attract limited weight in favour of the proposal. Overall, I find that there is insufficient public benefit to offset the identified harm and the works do not accord with the Framework.
14. Separately, the Framework states that in weighing applications that directly or indirectly affect NDHAs, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. The proposal would result in a small, but conspicuous change to the roofline of the dwelling and the overall appearance of the group forming the NDHA, which I have found would detract from its surviving character and undermine appreciation of its historic interest. The asset has local rather than regional or national significance; and given the degree to which its significance would be harmed, it is a matter to which I afford moderate weight in the planning balance.
15. Therefore, I conclude that the proposal would fail to preserve the character and appearance of the NCCA, the significance of the NDHA and the overall character and appearance of the area. This conflicts with Policies D1, D3, D4, and HC1 of the London Plan (March 2021) (the LP21) and Policies LP1, LP3, and LP4 of the Hackney: A Place for Everyone – Local Plan 2033 (2020) (the Local Plan), which together require high quality new development that responds to local character and positively contributes to the improvement of the built environment, and seeks to conserve designated and non-designated heritage assets in a manner consistent with their significance.

Neighbours' Living Conditions

16. The Council's Householder Design Guide Supplementary Planning Document (June 2020) recognises the potential problems of balconies with overlooking, loss of privacy to neighbouring properties, and nuisance during use.
17. The terrace would be set back from the edge of the roof nearest No 62 to prevent overlooking down into its side courtyard and first floor window on the side elevation. There are already mutual views between the respective first floor side windows, but the proposed setback would ensure occupants of this dwelling would not suffer any further loss of privacy due to overlooking from the terrace.
18. However, the terrace would introduce views over the rear gardens of Nos 141 and 143 Osbaldeston Road¹ which do not exist at present, and which would not be sufficiently screened by the mature tree in the garden of No 141. The rear elevations are stated to be some 22 metres from the proposed terrace, and I accept that this would reduce the invasiveness of views to internal parts of the neighbouring dwellings.

¹ The appellant has referred the dwellings abutting the site to the rear as Nos 139 and 141, and has so annotated the Block Plan, but the Site Location Plan indicates the correct addresses are Nos 141 and 143.

19. However, the position of the terrace directly above the neighbouring gardens would allow closer, more intrusive views over private external space than are possible from the oblique angles of view from neighbouring windows to either side. The use of an obscured balustrade to part of the terrace may screen views when users are seated, but it would have no effect for those standing or moving about. Moreover, the presence of people on the terrace, even if they are seated or not directly facing the gardens, would still create a persistent perception of activity and potential overlooking for neighbours that would harmfully undermine their privacy and enjoyment of their garden space.
20. Given the modest size of the dwelling, most use of the terrace would be by the occupants themselves and would be unlikely to generate significant noise and disturbance if used as one would normally use a private garden. Although the Council raises the possibility of use by larger groups of people, given its size, any such occurrences would be sporadic and no different to the potential use of other neighbouring gardens for large gatherings. As such, I do not find harm in respect of potential noise and disturbance from more intensive use of the terrace, in and of itself, but more intensive use would add to my concerns over loss of privacy for neighbours as set out above.
21. For these reasons, I conclude that the proposal would cause harm to the living conditions of neighbouring occupants, contrary to Policy LP2 of the Local Plan and Policy D3 of the LP21, which require development to achieve a high standard of amenity, including with respect to visual privacy and overlooking.

Conclusion

22. There would be harm arising from adverse effects on character and appearance, designated and non-designated heritage assets and neighbours' living conditions. As a result, the proposal would conflict with the development plan, taken as a whole. I afford significant weight to this conflict.
23. I have had regard to the public benefits weighing in favour of the proposal in conducting the heritage balance of the Framework above, the result of which is a strong reason for refusing the development proposed, pursuant to Paragraph 11(d)(i). Given the outcome of the heritage balance, it follows that the benefits of the proposal would also not be sufficient to outweigh the broader totality of harm identified in the overall development plan conflict.
24. Consequently, there are no material considerations, including the Framework, which indicate a decision should be made other than in accordance with the development plan. Therefore, for the reasons set out, I conclude that the appeal should be dismissed.

K. Savage

INSPECTOR