
Appeal Decision

Site visit made on 28 October 2025

by **P Burley BA (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4 November 2025

Appeal Ref: APP/Y5420/W/25/3372237

1 (Flat 1) Cromwell Avenue, Hornsey, London N6 5HN

- 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 Moshe Pinto against the decision of the Council of the London Borough of Haringey.
 - The application Ref is HGY/2025/1762.
 - The development proposed is new balustrade railing to first floor roof area to replace existing wooden balustrade.
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Decision

1. The appeal is allowed and planning permission is granted for new balustrade railing to first floor roof area to replace existing wooden balustrade at 1 (Flat 1) Cromwell Avenue, London, N6 5HN in accordance with the terms of the application, Ref HGY/2025/1762, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing numbers: AT1277-01 (Existing and proposed typical elevations, June 2025); and AT1277-02 (Proposed plans & elevations, June 2025).

Preliminary Matters

2. When I visited the site, I noted that the submitted drawings show the door from the first floor storage area to the roof in a different position to where it is currently located. This does not affect my assessment of the replacement balustrade but, for the avoidance of doubt, my approval of the submitted drawings relates solely to the replacement balustrade and does not grant planning permission for any other development.

Main Issues

3. The main issues are:
 - the effect of the appeal scheme on the character and appearance of the Highgate Conservation Area (CA); and
 - the effect of the appeal scheme on the living conditions of occupiers of nearby residential properties, with particular regard to privacy.

Reasons

Character and Appearance

4. The appeal site, which is on the corner of Cromwell Avenue and Archway Road, is in the Highgate CA and, as such, I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. In defining the character of the area, the Highgate Conservation Area Appraisal (2013) notes that whilst there are differences between the buildings on Cromwell Avenue there are design elements which hold the whole together. According to the Council's officer report, the properties on Cromwell Avenue and Archway Road make a positive contribution to the CA and the appeal site's significance is derived from its role and collective contribution to the street scene along with other similar properties.
5. Although the existing timber fence is visible because of its position on top of a single-storey building, it is not visually-jarring or at odds with the palette of materials that is present in the surrounding area which includes boundary fencing on the adjacent property. Whilst functional in appearance it does not detract from or harm the features which contribute to the special interest of this part of the CA. On that basis I consider that it makes a neutral contribution to the CA.
6. The appeal scheme involves the replacement of the fence with a black wrought iron balustrade that would meet relevant Building Regulations for a roof-level guard rail. Although at 1.1m it would be higher than the existing 0.8m fence, the spacing between the slender pickets would result in a less visually-impactful enclosure that would not be unduly prominent. Although such enclosures at first floor are not widespread across the CA, when I visited the site I noted instances of simple black metal railings at first floor level which enclose terraces above shops on the nearby Archway Road. There were other examples of black metal railings nearby, for example on the side wall of the property on the northern side of Cromwell Avenue at its junction with Archway Road (i.e. opposite the appeal site) as well as around the front lightwells of some of the dwellings on Cromwell Avenue. Taking account of this context I find there to be some capacity for change in this part of the CA such that the proposed black railings would not appear to be out-of-place and that the simple design would be acceptable.
7. Although the Council noted in its officer report that the outriggers on either side of the Cromwell Avenue / Archway Road junction have a consistency and sense of rhythm that is intrinsic to the design of this terrace and the character and appearance of this part of the CA, the outriggers are not identical and are faced with different materials. Furthermore, and in the case of the appeal site, the outrigger already includes a fence at roof level. Therefore, I do not find that the effect of replacement railings on top of the outrigger would negatively affect or result in harm to the CA.
8. Overall, I consider that the appeal scheme would not harm the significance of the CA and, on the basis of this neutral effect, would preserve its character and appearance. Accordingly, the appeal scheme would not conflict with the Act or with Chapter 16 of the Framework. It would also not be in conflict with Policies DM1 and DM9 of the Council's Development Management Document (2017) (DMD), Policies SP11 and SP12 of the Council's Local Plan Strategic Policies (2013,

consolidated with alterations since 2017) or Policies D4 and HC1 of the London Plan (2021) which together seek good design and development that conserves the significance of heritage assets.

Living Conditions of Occupiers of Nearby Properties

9. Interested parties have said that the use of the roof as an amenity space is not established, including because the existing fence is not of a sufficient height to meet the guarding requirements of Part K of the Building Regulations. They have said that it would be undesirable to formalise the roof as an amenity space by permitting this appeal, including because roof terraces are uncharacteristic of the area and because a roof terrace of the scale and prominence proposed would detract from the amenity of the area.
10. However, the appellant has indicated that the roof is already in use as a terrace and has been used as such for some time. The reason for refusal does not raise issue with the principle of a roof terrace as it might have done if the Council had concluded that the proposed balustrade was a means to that end. Furthermore, no party has suggested to me that there are any planning restrictions on the use of the roof as amenity space, that the use of the amenity space is not lawful, or that any inadequacy of the existing balustrade in respect of the relevant Building Regulations affects its use in planning terms.
11. Rather, the Council has said that because the existing fence is solid it provides a degree of screening for neighbours to the rear whereas the proposed open railings would provide increased opportunities for overlooking and a material loss of privacy. Whilst the existing arrangement might screen views from some positions on the roof, bearing in mind the height of the existing fencing I do not find that its replacement with railings would result in a material loss of privacy.
12. In its Statement of Case the Council has also said that there would be views back into the window of the neighbouring property in the terrace. However, I consider the potential for such views following replacement of the existing fencing would not be materially different from the existing situation.
13. In addition, an interested party has said that the use of the flat roof would encroach on the privacy of 1a and 1b Cromwell Avenue as it would overlook the kitchen and patio garden of 1a and the bedroom of 1b. On my site visit I saw that the building containing the aforementioned dwellings is located at an angle to the appeal site such that views from the roof terrace towards its windows would be oblique. Furthermore, there are trees and other vegetation in the garden of that property which, as I saw on my site visit, provide a degree of screening when they are in leaf. Therefore, and in respect of 1a and 1b Cromwell Avenue, I find that the replacement of the existing fencing with railings would not give rise to materially different effects in terms of privacy when compared with the existing situation.
14. Overall, I find that the appeal scheme would not result in an undue loss of privacy to those properties and, therefore, that it would not cause unacceptable harm to the living conditions of occupiers of nearby residential properties. Accordingly, the appeal scheme would not conflict with DMD Policies DM1 or DM12 which together seek to ensure that there is an appropriate amount of privacy for residents of neighbouring properties.

Other Matters

15. The Council has also said that the roof terrace could accommodate large gatherings and therefore may give rise to noise nuisance, with a greater impact at first floor level than a typical garden. However, the appeal application was not refused on the basis of noise nuisance, I have not been presented with any evidence to support the Council's suggestions, and there is no other information before me that suggests that such harm is likely to occur.

Conditions

16. In addition to the standard time condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty.
17. Although it has said that it would result in unacceptable harm to the CA, the Council has also proposed a condition requiring the installation of 1.7m privacy screens on two sides of the roof terrace. However, for the reasons set out above, I do not find them to be necessary.

Conclusion

18. Overall, I find that the appeal scheme complies with the development plan when taken as a whole and that there are no other considerations that are material to this decision which indicate that an alternative conclusion should be reached.
19. For the reasons given above the appeal should be allowed.

P Burley

INSPECTOR