



ROBINSON ESCOTT PLANNING LLP



CHARTERED TOWN PLANNING AND DEVELOPMENT CONSULTANTS

DOWNE HOUSE, 303 HIGH STREET, ORPINGTON, KENT BR6 0NN. TEL: 01689 836334 FAX: 01689 878091

email: enquiries@replanning.co.uk website: www.replanning.co.uk

**HOUSEHOLDER APPEAL BY:
MR B S KANG**

**CONCERNING AN APPEAL SUBMITTED ON
THE GROUND OF NON-DETERMINATION
FOR THE FORMATION OF A ROOF TERRACE
AND THE RETENTION OF TWO AIR
CONDITIONING UNITS AT:**

**7 COPTIC STREET
LONDON
WC1A1NH**

GROUNDS OF APPEAL

REP REF: MB/ML/13/116

1. INTRODUCTION:

- 1.1. A householder application for planning permission made by Mr B. S. Kang was submitted to the London Borough of Camden on 28 February 2014, proposing the formation of a roof terrace and the retention of two air conditioning units. The application related to the dwellinghouse at 7 Coptic Street, London, WC1A 1NH.
- 1.2. The application was acknowledged as valid by the Council on 26 March 2014 and the 8 week target date was confirmed as being 13 May 2014. The application was processed under reference 2014/1564/P.
- 1.3. The case officer (who visited the application site on 15 May 2014) advised that the Council had concerns surrounding the application and that if a decision was made, planning permission would be refused. The officer also advised that the Council was giving thought to refusing to determine the application (advice from the Council's legal officers had been sought on this matter), which would prevent the submission of an appeal. Following this discussion and given the circumstances surrounding the case, it was decided that there was no option other than to submit an appeal on the ground of non-determination.
- 1.4. The case in support of the proposed development is set out in detail in the Planning, Heritage, Design and Access Statement and in the absence of any specific objections to the development currently being identified by the Council, the appellant is content to rely principally on that document to set out the case in support of this appeal. However, we reserve the right to make a further submission specifically to address any matters raised by the Council and which are not dealt with in the Planning, Heritage, Design and Access Statement, or below.

2. PLANNING HISTORY:

2.1. There is an important recent planning history associated with the appeal property, comprising an Enforcement Notice Appeal (in which the appellant pleaded Ground (a), Ground (c) and Ground (f)), which was decided on 17 December 2013. The following documents from that appeal are attached as **APPENDIX 1** for the Inspector's consideration:

- Enforcement Notice;
- Local Planning Authority's Statement of Case;
- Appellant's Statement; and
- Appeal decision

2.2. Briefly, the Notice alleged breaches of planning control in respect of the formation of a roof terrace and the installation of two items of air conditioning plant. The Notice objected to the roof terrace on the ground of harm to the host building and the appearance of the conservation area and objected to the air conditioning units on the ground of harm to neighbouring residents' amenities.

2.3. During the course of the appeal, the appellant submitted an Assessment of noise and vibration from the air conditioning units. Having considered this evidence, the Council withdrew its objection to the units.

The Inspector's findings and conclusions

2.4. The Inspector found that the Ground (c) appeal should fail and as such moved to consider the planning merits of the roof terrace and the air conditioning units under the Ground (a) appeal. Although that appeal was unsuccessful, the Inspector reached some important conclusions which influenced the preparation and submission of the revised application, the subject of this appeal:

- The roof terrace would not cause harm to residential amenity through loss of privacy (paragraph 8).
- Given the limited amount of space available on the terrace, it does not lend itself to a “normal party” and as such, limited weight should be given to that objection (paragraph 9).
- There is no evidence that the air conditioning units cause levels of noise and disturbance which harm residential amenity and conditions could provide control over any excess noise (paragraph 10 and footnote 2).
- *“Though an officer report had referred to views from nearby streets it was common ground at the Hearing that the roof terrace did not have any effect upon the street scene of the Conservation Area, in part by reason of the terrace having been set back from the main walls of the building leaving the outer parts of the roof intact.”* (paragraph 12).
- The roof terrace can only be seen from the “upper world” which displays a more varied character than that within the public domain which is largely experienced from street level. *“In particular the different periods and types of construction have resulted in different building heights and types of roof, one feature of which is the presence of roof terraces/patios and balconies...”* Importantly, the Inspector further found, *“While there was some dispute as to the extent to which such features were characteristic of the area, I consider that they are sufficiently a part of the roof and upper floor treatments to be **not incongruous in principle** [my emphasis] within the upper zone roofscape.”* (paragraph 13).
- The setbacks provided from the front and rear walls are insufficient for the roof to absorb/accommodate the unlawful roof terrace without significant visual

effect and there has been a material change to the external appearance of the building. The Inspector concluded that the combination of both the use of materials and the change to the form of the roof are not architecturally sympathetic to the age and character of the building and its traditional pitched roof. The Inspector found the unlawful terrace to be out of keeping with no.7 and the terrace as a whole, “... *and even taking into account the greater variety of character in the upper zone referred to, I consider that it appears incongruous.*” (paragraph 14).

- “*The Council has approved roof terraces on other properties in the area, but as already stated I do not consider that there is any objection in principle [my emphasis] to them within the upper zone of this part of the Conservation Area.*” (paragraph 16).
- The Inspector concluded that the existing, unlawful, roof terrace causes harm to the appearance of the Conservation Area (paragraph 17). It is important that in reaching this conclusion, the Inspector (consistent with the Council’s reason for issuing the Notice) did not identify any harm to the Conservation Area’s character, or its historic significance.

Interpretation of the appeal decision:

- 2.5. Firstly, it is clear that there can be no sustainable objection to the impact of the development on the privacy and amenities of neighbouring residents. The Inspector found that the roof terrace would not significantly worsen the relationship between the appeal property and neighbouring dwellings.
- 2.6. In respect of the air conditioning units, the Inspector did not identify any harm to the conservation area and was satisfied that on the basis of the empirical evidence

submitted by the appellant, they do not cause any harm to neighbouring residents' amenities through noise and disturbance.

- 2.7. As to the unlawful roof terrace, the Inspector found that it can only be seen in the context of the varied character of the "upper world" of the conservation area. The Inspector explains that the formation of a roof terrace would not be incongruous in principle, but that despite the varied character of the "upper world", the unlawful terrace is incongruous due to the use of materials and the extent of the change to the original roof form.
- 2.8. It is considered that the Inspector unequivocally accepted the principle of the formation of a roof terrace at the appeal property, but dismissed the Ground (a) appeal on the ground of the design and size of the terrace then proposed. In objecting to the roof terrace, the Inspector concluded that it would harm only the appearance of the conservation area. Logically, it follows that the unlawful terrace preserves the character and historic significance of the conservation area.
- 2.9. All that is required for planning permission to be granted is for the size of the terrace to be reduced in order that it would be absorbed into the original roof and for appropriate materials to be used in its construction. If this can be achieved then the terrace would be compatible with the "upper zone" of the conservation area and would not appear incongruous.
- 2.10. The revised application, the subject of this appeal, has sought to overcome these concerns.

3. PRE-APPLICATION ADVICE:

- 3.1. Following receipt of the appeal decision and prior to submitting the revised application, the appellant entered into informal pre-application discussions with the Council in the hope of finding common ground and to give the revised application the best possible chance of success. Full detail of that correspondence is enclosed as **APPENDIX 2**. The appellant's approach was, therefore, consistent with the Government's advice as set out in the Framework.
- 3.2. The Council argued that the Inspector sought to preclude the principle of development. However, in an email of 7 February, the Council advised that the retention of the rooflight and air conditioning units needs to be regularised and it was confirmed that an application proposing the retention of these together with a pedestrian route between them for maintenance purposes may be successful.

4. THE APPEAL PROPOSAL AND PLANNING MERITS:

- 4.1. A full description of the development is set out in the Planning, Heritage, Design and Access Statement, so is not repeated here, although it is sensible to provide a brief description of the proposal.
- 4.2. In the absence of any objection from the Inspector or the Council to the location of the air conditioning units, their position on the appeal building is unaltered.
- 4.3. The amendments proposed comprise a substantial reduction in the size of the roof terrace (the one proposed in this appeal is only 31% of the size of the terrace considered by the previous Inspector). It is considered that the roof terrace now proposed will be comfortably accommodated and absorbed within the original roof due to the amount of the butterfly roof form which will be reinstated. The proposed terrace would occupy only 24% of the entire area of the roof and would, therefore, be subservient to it.
- 4.4. As to the proposed use of materials, it is anticipated that the surface of the terrace will be finished in a slate tile, with black painted metal railing balustrades proposed in the locations shown on the application drawings. These materials are commonly used throughout the conservation area and are sympathetic to the age and character of the host building.
- 4.5. In view of these changes, it is considered that the proposed roof terrace will preserve the character, appearance and historic significance of the conservation area and will respect the host building. It is, therefore, considered that the terrace would be compatible with the “upper zone” of the conservation area and would not be an incongruous feature.

- 4.6. It is, therefore, contended that the Inspector's objection has been overcome and that the proposal is policy compliant.
- 4.7. In the light of the foregoing and the detailed case made out in the Planning, Heritage, Design and Access Statement, the Inspector is respectfully requested to allow this appeal.