



Appeal Decision

Hearing held on 18 June 2009
Site visit made on 18 June 2009

by **J B Pybus** DipTP MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
30 June 2009

Appeal Ref: APP/X5210/C/08/2090474 **22 Buckland Crescent, London, NW3 5DX**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by R Moeln against an enforcement notice issued by the Council of the London Borough of Camden.
- The Council's reference is EN08/0397.
- The notice was issued on 8 October 2008.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised erection of a roof extension at 22 Buckland Crescent, NW3 5DX.
- The requirements of the notice are:
 - 1) The roof extension shall be completely and permanently removed.
 - 2) The original roof shall be reinstated.
- The period for compliance with the requirements is 12 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990, as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.

Decision

1. The appeal is dismissed, the enforcement notice upheld, and planning permission is refused on the application deemed to have been made under section 177 (5) of the Act, as amended.

The ground (a) appeal and the deemed application

Main issues

2. The main issues in the appeal are the effects of the unauthorised roof extension on:
 - a) The character and appearance of the Belsize Conservation Area,
 - b) The living conditions of the occupants of the neighbouring residential property, No 20 Buckland Crescent, in terms of privacy.

Reasons

Issue (a) Character and appearance of the Conservation Area

3. The appeal property is a detached Victorian villa situated on the north-west side of Buckland Crescent. Whereas there is a similar property adjacent on the north-east side, to the immediate south-west is a more modern block of flats. The basement and ground floor of the appeal property comprise two maisonettes, and there are three self-contained flats on each of the first and second floors. The roof extension attacked by the enforcement notice effectively creates a fourth floor above basement level, and has been formed by the partial removal of the property's shallow pitched hipped roof. It is approximately 2.8m wide by 4.8m long and has a flat roof and side walls of slate. It is set well back from the front of the main roof and is occupied as a single one bedroom flat.
4. The relevant development plan policies are within the *London Borough of Camden Replacement Unitary Development Plan (UDP)*, adopted in June 2006. Policy SD1 aims to foster sustainable communities and B1 seeks to ensure that new development is of a high standard of design. Policy B3 states that the Council will not grant permission for alterations and extensions which would harm the architectural quality of the area. The appeal property is within the *Belsize Conservation Area* and policy B7 provides that within such areas permission will only be granted for development which preserves or enhances the special character or appearance of the area. This echoes the statutory requirement contained within section 72 of the *Planning (Listed Buildings and Conservation Areas) Act 1990*.
5. The Council has also adopted relevant Supplementary Planning Guidance (SPG) entitled *Camden Planning Guidance (CPG)* and the *Belsize Conservation Area Statement (BCAS)*. The CPG advises, amongst other things, on the general implications and considerations for dealing with proposals in conservation areas and on designing roofs and terraces. It advises that roof alterations and extensions are unlikely to be acceptable if there is an adverse effect upon the skyline, or where the host building is unsuitable for such an addition. Examples are where there are shallow pitched roofs with eaves or there are groups of buildings whose roof lines are largely unimpaired. The BCAS analyses the qualities of the Conservation Area and its sub areas, and sets out a key policy framework for the designated area. As both documents were subject to public consultation before formal adoption by the Council, I accord them significant weight.
6. The Belsize Conservation Area is extensive and its character is largely typified by mid 19th century Italianate villas. Although in the majority of streets within the designated area there is some more recent development of varying quality, the 19th century development remains dominant. The attractiveness of the villas of this period results from their form, scale and individual designs, and these factors, together with a general uniformity in layout and spacing between buildings are key in defining the character of the Conservation Area.

7. In the BCAS the Conservation Area is divided into six sub-areas, with the appeal property being in sub area 1 known as Belsize Park. This area has some of the most imposing 19th century villas in the whole Conservation Area. There is a strong consistency in the height of the buildings, which are mostly three storey over a basement, and in their relationship with their streets. Materials are generally either stucco, as with the appeal property and neighbouring 19th century buildings, or red brick. The BCAS further divides the sub area into three, and the area comprising Belsize Park, Belsize Park Gardens, Buckland Crescent and Belsize Square is characterised by stucco villas, whose similar but not identical design gives a strong sense of unity, whether the villas are detached or paired. I noted that in this area especially, whilst there are instances of more recent alterations and additions, including roof extensions, most buildings appear to be unaltered and their original appearance is preserved.
8. The unauthorised extension has several windows of uPVC frames and with its vertical sides of black/grey tiles and flat roof has a box-like and unsympathetic appearance. With its central position it projects from each roof slope and therefore results in a significant break in the form of the original roof. This significantly detracts from the character and appearance of the building. I acknowledge that the extension is not visible from the footway below the building, but from the back edge of the opposite footway the top of the structure can be seen. In the vicinity of Nos 29, 31 and 33 Buckland Crescent much of the extension is clearly visible and its ungainly form is very apparent. It is also visible in varying degrees from neighbouring properties. I am in no doubt that due to its bulk, form and effect on the original roof form, the extension is incongruous, and is wholly unsympathetic to the building itself and results in harm to the wider Conservation Area.
9. A significant part of the appellant's case is that other traditional 19th century villas in the Conservation Area have been subject to dormer window additions or more substantial roof extensions. I was directed to examples at 61 Belsize Park, to the rear of the appeal property, and at 10, 14 and 25 Buckland Crescent. I noted dormers to other properties, either before or during the accompanied site visit, which were clearly later additions. I saw other more substantial roof extensions to other buildings, both in sub area 1 and in the wider Conservation Area. The appellant also drew attention at the Hearing to many large and very prominent roof additions to a number of 19th century villas in Adamson Road, which is immediately to the south-east of Buckland Crescent. These were viewed at the formal site visit.
10. I acknowledge that although some of the examples which I saw represent modest additions to their respective roofs, some are prominent and discordant elements in the street scene, and they result in material harm both to the traditional roof form of their host buildings and to the wider Conservation Area. Those in Adamson Road, which relate to a number of buildings on both sides of the road, are without exception on the front edge of the existing roofs, and are especially incongruous. Taking the road as a whole, the resultant harm is compounded because so many individual buildings on both sides are the subject of these prominent and box-like roof additions.

11. In assessing the significance of these other developments, there is no information available to me relating to the planning circumstances of any of the cases referred to. Whilst the parties agreed at the Hearing that all would have required planning permission, there is no certainty as to their date of construction and whether or not they preceded the Council's present UDP policies and SPG. Moreover, as acknowledged by the Council, some may have become immune from enforcement action by virtue of the effluxion of time. These factors notwithstanding, however, the existence of other harmful roof additions in the Conservation Area does not justify the appeal extension, which should be assessed on its merits and against the policies of the UDP and the guidance of the SPG. To attach significant weight to the existence of other unsympathetic development would result, in the longer term, in failure to preserve or enhance the character or appearance of the Conservation Area.
12. I conclude on issue (a) that the extension conflicts with UDP policies SD1, B1, B3 and B7, and with both the CPG and BCAS. The extension fails to preserve or enhance the character or appearance of the Belsize Conservation Area.

Issue (b) Living conditions of the occupants of 20 Buckland Crescent

13. The unauthorised roof extension has two windows to a kitchen/dining area on its north-east elevation facing towards 20 Buckland Crescent. This property has two windows on its side south-west elevation at second floor level, one of obscure glass to what appears to be a bathroom, and the second of clear glass to a habitable room. Although there is not a direct view of this clear glass window from either kitchen window of the appeal extension, it is possible to see into it from the two windows. Occupants therefore suffer a loss of privacy.
14. Policy SD6 of the UDP aims to safeguard the amenity of neighbouring occupants in terms of, amongst other things, privacy. The CPG has more detailed guidance on overlooking and privacy, and advises that there should be a minimum of 18m between the windows of habitable rooms of different facing units, which is not achieved here. The Council also draws attention to an application in 1999 (ref: PW9902718), affecting the appeal property, where a reason for refusal was overlooking windows on the side elevation.
15. The Council considers that this objection could be overcome by the installation of fixed windows with obscure glass. The appellant indicated at the Hearing that such measures would be acceptable. I consider that the two windows as existing result in an unacceptable loss of privacy and there is therefore conflict with policy SD6 and the CPG. However, I agree that were there no other objections to the extension, this objection could be overcome by the imposition of suitable conditions.

Other Matters

16. The Council has drawn attention to the fact that the size of the new flat (26 sq m) does not quite meet the minimum size advised in the CPG for a single person flat (32 sq m). However, this shortcoming is not so significant as to

render the flat uninhabitable and no objection by the Council is advanced on these grounds. I agree with this position.

17. Representations were made at the Hearing that the construction of the unauthorised extension had resulted in damage to the ceiling of the flat below, No 8. This was supported with photographic evidence. Furthermore, attention was drawn to certain sub standard aspects of the construction, including an inadequate door to the new flat from the common staircase. However, whilst I acknowledge the substance of these representations, they are either civil matters between the relevant parties or issues for consideration under the Building Regulations. I am advised that there is no approval for the extension under the Building Regulations.

Conclusions on the ground (a) appeal and the deemed application

18. My conclusions in regard to the effect of the unauthorised extension on the character and appearance of the Belsize Conservation Area represent a compelling objection to the appeal development. The appeal will therefore be dismissed, the enforcement notice upheld, and planning permission refused on the deemed application.

The ground (f) appeal

19. In the ground (f) appeal attention is drawn to the fact that the appellant, who acquired the flat in April 2008, was out of the country when a Planning Contravention Notice was issued in respect of the unauthorised extension. It is also stated that the various searches and surveys during the purchase period did not reveal that the extension had no planning permission. Whilst these points were repeated at the Hearing, they do not constitute 'lesser steps' as meant by section 174(2)(f) of the Act, and are therefore not material to a ground (f) appeal.
20. A willingness to discuss the implications of the enforcement notice with a view to achieving an acceptable extension is stated in the context of the ground (f) appeal. This was also repeated at the Hearing. However, there is no alternative plan before me, and I have no evidence that lesser steps than the complete removal of the roof extension, as required by the notice, would overcome the objections.
21. The ground (f) appeal therefore fails.

J B Pybus

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr G Silvera BAHons Architecture
Dip Architecture

Design Consultant, Bruce Grove, London

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Jones Dip Env Planning

Enforcement Planner, London Borough
of Camden

INTERESTED PERSONS:

Mr S Khan

Flat 8, 22 Buckland Crescent, London

DOCUMENTS

Document 1 Letter informing interested parties of the Hearing and list
of those notified

Document 2 Enforcement breach/complaint form and photographs,
put in by Mr Jones

PHOTOGRAPHS

Photographs A1 Photographs of properties in Belsize Park, Buckland
Crescent and Adamson Road with roof extensions,
including location plan, put in by Mr Silvera

