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# Appeal Decision

Site visit made on 8 January 2019

by **J Wilde C Eng MICE**

an Inspector appointed by the Secretary of State

Decision date: 22 January 2019

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## Appeal Ref: **APP/X5210/D/18/3212402** **31 Mackeson Road, London NW3 2LU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr and Mrs Kirkpatrick against the decision of the Council of the London Borough of Camden.
  - The application Ref 2018/1477/P, dated 22 March 2018, was refused by notice dated 7 September 2017.
  - The application sought planning permission for erection of single storey side/rear infill extension and rear dormer window with associated roof terrace without complying with a condition attached to planning permission Ref 2016/0451/P, dated 31 March 2016 as amended by 2016/6351/P (appeal APP/X5210/D/17/3168272) allowed 13 April 2017.
  - The condition in dispute is No 3 which states that: the development hereby permitted shall be carried out in accordance with the revised plans: 726\_EX\_100, 726\_EX\_110, 726\_EX\_726\_120, EX\_726\_130, EX\_726\_140, EX\_726\_200, EX\_726\_210, 726\_EX\_300, 726\_EX\_310, 726\_EX\_100C, 726\_EX\_130B, 726\_EX\_210C, 726\_EX\_110B, 726\_EX\_140B, 726\_EX\_300C, 726.OS.01 and Figure 1.2 3D Sketch.
  - The reason given for the condition is: For the avoidance of doubt and in the interest of proper planning.
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### Decision

1. The appeal is dismissed.

### Background

2. The original planning permission (Ref 2016/0451/P) permitted a single storey side/rear infill extension and rear dormer window with associated roof terrace. A subsequent planning application (2016/6351/P) to install a glazed infill structure between the permitted side and rear ground floor extensions was allowed on appeal (APP/X5210/D/17/3168272).
3. The current appeal seeks to retain timber clad box planters on the permitted roof terrace which are not in accordance with the original planning permission. To achieve this it is necessary for condition No 3 of the permission allowed at appeal to be varied in respect of several of the drawings.

### Main Issue

4. The main issue is whether or not the proposed planters preserve or enhance the character or appearance of the Mansfield Conservation Area.

## **Reasons**

5. The appeal property is a terraced three storey Victorian dwelling located within the Mansfield Conservation Area (CA). The permitted roof terrace looks out westwards onto an area formed by the rear elevations of terraced houses in Mackeson Road, Constantine Road and Cressey Road. There are a number of other roof terraces within view of the appeal property and each other. The vast majority of these have relatively lightweight metal railings as their boundary treatment, which are in keeping with the age and design of the properties and are relatively unobtrusive. Similar railings were part of the original planning permission that permitted the roof terrace at the appeal property.
6. By contrast the box planters that have been installed and which now act as the boundary of the roof terrace are permanently fixed solid timber structures, about 1.1m high. They are painted grey and are very visible from the surrounding properties as well as from public realm ground level through a gap between buildings in Cressey Road.
7. The planters are bulky and out of keeping in terms of their design and materials with the other roof terrace boundary treatment in the vicinity and cannot therefore be construed to be preserving or enhancing the character or appearance of the CA, as required by Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. It is incumbent upon me to give considerable importance and weight to this identified harm.
8. Whilst the harm to the significance of the CA would be less than substantial the National Planning Policy Framework (the Framework) makes clear in paragraph 196 that any such harm should be weighed against the public benefits of the development. In this case however there would be no such benefits.
9. I note that the appellants have offered to reduce the height of the planters by 176mm. However, to my mind this would not reduce the bulk of the planters such as to render them acceptable. I also note that planters could be instrumental in concealing clutter and providing a habitat for wildlife. These factors do not however lead me to a different overall conclusion.
10. In light of the above conflict would exist with policies D1 and D2 of the Camden Local Plan 2017. The former of these requires that development respects local context and character while the latter makes clear that development will be resisted that does not preserve or enhance a CA.
11. It follows that the disputed condition 3 is necessary in order to preserve the character and appearance of the CA.

## **Conclusion**

12. Therefore, for the above reasons, and having taken into account all other matters raised, the appeal should be dismissed.

*John Wilde*

INSPECTOR