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## Appeal Decision

Site visit made on 24 May 2021

**by M Cryan BA(Hons) DipTP MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 June 2021**

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**Appeal Ref: APP/X5210/W/20/3261121**  
**Flat 18C England's Lane, London NW3 4TG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by LXE Investments against the Council of the London Borough of Camden.
  - The application Ref 2020/0851/P, is dated 18 February 2020.
  - The development proposed is the erection of single storey mansard roof extension with terrace areas to the front and at roof level with associated railings.
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### Decision

1. The appeal is dismissed and planning permission for the erection of single storey mansard roof extension with terrace areas to the front and at roof level with associated railings is refused.

### Background and Main Issue

2. The Council had not determined the planning application prior to the appeal being lodged. However, a putative decision notice was submitted as part of its appeal statement, which indicated that the application would have been refused on the basis that the size, scale and location of the proposed roof terrace and associated railings would cause harm to the original character and setting of the host building, adjoining terrace and Belsize Conservation Area ("the Conservation Area").
3. The proposal was described on the planning application form as the "insertion of railings to form a terrace on the flat roof of mansard style roof extension currently under construction pursuant to planning permission 2019/1010/P". The roof extension described in the earlier planning permission appeared complete by the time of my site visit. A different description of development was used on the appeal form, and the submitted plans relating to this appeal show several small differences to the previously approved roof beyond the mere addition of railings. I have therefore used the amended description of development in the banner heading above and in my formal decision, as it more accurately describes the proposed development. Notwithstanding this, I have confined my detailed consideration in this appeal to the matters disputed between the main parties in respect of the proposed roof terrace and railings.
4. Taking account of all of the information before me, I consider that the main issue is the effect of the proposed roof terrace and railings on the character and appearance of the host building and the Conservation Area.

## Reasons

5. The proposal relates to a third floor flat within a four storey mid-terrace block on the north side of England's Lane. This side of the street is characterised by buildings with commercial units at ground floor level and residential accommodation above. Planning permission was granted in 2019 for the erection of a mansard-style roof extension and the formation of roof terrace to the fourth floor frontage (LPA ref: 2019/1010/P), and as I have already described that development appears to have been completed. The appellant now wishes to add a roof terrace, accessed by an opening rooflight and new internal staircase, and surrounding railings.
6. The appeal site lies within a Conservation Area, and I therefore have a statutory duty to pay special attention to the desirability of preserving or enhancing its character or appearance. As heritage assets are irreplaceable, the National Planning Policy Framework (the Framework) states that they should be conserved in a manner appropriate to their significance (paragraph 184). It goes on to advise that any harm or loss requires clear and convincing justification (paragraph 194) and that any harm that is less than substantial must be weighed against the public benefit of the proposal (paragraph 196).
7. The 2003 Conservation Area Appraisal and Management Strategy ("the CAA AMS") indicates that the Conservation Area's character is largely derived from its mid-19<sup>th</sup> century Italianate villas. The shops and other commercial premises on England's Lane give the sub-area around the appeal site a more mixed character than many other parts of the Conservation Area. From the evidence before me and my observations at the time of my site visit, I consider that the significance of the Conservation Area as a whole derives from its large number of well-preserved buildings which reflect the historic growth of London.
8. The CAA AMS advises at paragraph BE29 that roof gardens should not be located on mansard roofs, which the Council explains is due to their visibility and the potential for causing harm to the host building and surrounding street scene. The proposed terrace would not occupy the entire flat top of the mansard-style roof, but would be set in from both front and rear elevations. The setback from the front elevation would be such that the railings would not be seen from street level within England's Lane, although they would be visible from properties within Chalcot Gardens on the south side of England's Lane, and from the upper floors of properties on the north side of Elizabeth Mews at the rear of the appeal site. They would also be seen in public views from street level in Primrose Gardens close to the entrance to Elizabeth Mews.
9. Because of the height and prominence of the mansard roof extension at the appeal property, where visible from surrounding public and private viewpoints the railings would be set against the sky, which would make them a discordant and intrusive addition. This would be exacerbated by the likely use of garden furniture and similar paraphernalia, which would draw further attention to the terrace and railings. The overall character and appearance of the host building and its terrace would be harmed, and consequently the character and appearance of the Conservation Area would not be preserved.
10. The appellant has referred to the railings at No 14 England's Lane, which also sit atop a mansard-style roof, and a proposed roof terrace and railings at No 24 dismissed at appeal in 2008 (Ref: APP/X5210/A/08/2068998). I note (and accept) the description of the railings at No 14 by the Inspector in that appeal

as “rather unsightly and prominent”. The proposal before me is for a smaller terrace than either of those other examples which would be set further back from the front and rear elevations of the building. As a result it would be less harmful to the character and appearance of the host building and wider area than either the existing scheme at No 14 or the earlier proposal for No 24. Nonetheless, the proposal would cause harm, and I echo my colleague’s conclusion in respect of No 24, that the existence of other prominent roof alterations in the area, including terraces and railings, does not justify the harm that would be caused by the proposed development.

11. The evidence before me also referred to rooftop terraces at Nos 4 and 6 England’s Lane, although these were not visible from the street at the time of my site visit and I cannot be sure that they are directly comparable to this scheme. They do not therefore add weight in support of this proposal.
12. There is no substantive evidence before me to suggest that the proposed development would be harmful to living conditions for the occupiers of neighbouring properties. However, a lack of harm in this regard is a neutral matter which does not weigh in favour of the scheme.
13. I conclude that the development would fail to preserve the character or appearance of the host building and the Belsize Conservation Area. In the Framework’s terms, the harm to the heritage asset would be less than substantial, and must therefore be weighed against the public benefits of the scheme. The proposed development would provide increased outdoor living and relaxation space at the appeal property, and I recognise that in a densely built part of inner London this is a valuable commodity. However, this would be a private benefit for the occupier, and there are no public benefits arising which would outweigh the harm I have found.
14. The proposal would therefore conflict with Policies D1 and D2 of the 2017 Camden Local Plan, which together seek to ensure that new development is of a high quality design which contributes positively in complementing local character, whilst preserving or enhancing the historic environment and heritage assets including conservation areas. The proposal also conflicts with advice in the CAA AMS, and with the provisions of the Framework which seek to conserve and enhance the historic environment.

## **Conclusion**

15. The proposed development would be harmful to the character and appearance of the Belsize Conservation Area. This harm, which must be afforded great weight, is not outweighed by any public benefits of the scheme. The proposal would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan.
16. For the reasons given above, the appeal is therefore dismissed.

*M Cryan*

Inspector