



Appeal Decision

Site visit made on 5 April 2022

by **Peter White BA(Hons) MA DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 May 2022

Appeal Ref: APP/X5210/D/21/3289155

56 Hillway, Holly Lodge Estate, London N6 6EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Vivek Rattan against the decision of London Borough of Camden Council.
 - The application Ref 2021/2253/P, dated 8 May 2021, was refused by notice dated 20 October 2021.
 - The development proposed was originally described as alterations to flat roof at rear of 56 Hillway, London N6.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises the installation of an access rooflight on the rear roofslope and the formation of a second-floor rear roof terrace with associated balustrades. The appeal form states that there has been no change to the description. However, the development was described in this way by the Council, and I have also considered the proposal on this basis.

Main Issues

3. The main issues are: (i) whether the proposal preserves or enhances the character or appearance of the Holly Lodge Estate Conservation Area and the character and appearance of the building, and (ii) the effects of the development on the living conditions of occupiers of 54 and 58 Hillway, with regard to privacy.

Reasons

Character and appearance

4. The appeal site is located within the Holly Lodge Estate Conservation Area (HLECA), and I am therefore required to pay special attention to the desirability of preserving or enhancing the character or appearance of the HLECA. Paragraph 189 of the National Planning Policy Framework (the Framework) sets out how heritage assets are irreplaceable resources which should be conserved in a manner appropriate to their significance.
5. The significance of the HLECA is found in its development in the 1920's as a distinctive planned development in the Garden Suburb tradition, with buildings

designed in an English vernacular style influenced by the Arts and Crafts tradition. There is a homogeneity to the original design which lends a strong sense of place, within which there is a wealth and variety of details. The landscape and layout is unique as it retains vestiges of the landscaped gardens and drive of the former Holly Lodge mansion which sat in the north west part of the estate.

6. The appeal site is a half-timbered roughcast rendered dwelling with a tiled roof and a flat-roofed two storey rear extension on the eastern side of Hillway. At the time of my site visit the existing rear extension was visible through and over vegetation from Oakeshott Avenue. The proposed development would also be seen from this location, as well as from private rear gardens on Hillway.
7. The proposed development is the alteration of an existing flat roof to create a roof terrace by installation of an access panel door and perimeter upstands and balustrades.
8. Being set back beyond the flat roof, the roof access would appear as a rooflight, narrower but taller than the existing one. From Oakeshott Avenue only glimpses of it would be seen beyond No.58 and its garden. Seen in perspective from beyond the roof terrace itself, the eaves would not be visible, and the scale and off-centre alignment of the roof access would not be notable. I have not found this aspect of the proposal to be in conflict with the advice contained in the Council's Home Improvement CPG¹. The upstands would not be significantly higher than those already in place along the sides of the existing flat-roofed extension, and would only marginally appear to increase the height of the existing rear extension. With appropriate external finishes to the upstands, neither they nor the roof access would be particularly prominent, or harmful to the character of the dwelling or the area as a Conservation Area.
9. Use of the roof terrace could result in visual clutter from domestic paraphernalia, particularly in terms of views from Oakeshott Avenue. A condition prohibiting certain items, such as parasols, could reduce the harm to the character and appearance of the Conservation Area, but would need to be clearly defined. The frameless glass balustrading, despite being transparent in nature, would be visible from Oakeshott Avenue and would be seen as distinctly modern feature, even if less prominent than a framed structure. Whilst I acknowledge that a glass balustrade can be an acceptable feature in a conservation area, in this case the glass balustrading would stand as an independent feature, which would relate poorly to the hipped tiled roof adjacent to it. It would diminish the prominence of the original tiled roof of the dwelling thereby reducing the characteristics which support uniformity of design in the HLECA.
10. Overall, the proposed glass balustrading would be harmful to the character and appearance of the building and the HLECA. Having regard to the impact of the proposal on the HLECA as a whole, I find this harm to be less than substantial. In line with paragraph 202 of the National Planning Policy Framework (the Framework), I must weigh this harm against the public benefits.
11. The appellant has stated that the proposal would bring health and well-being benefits. He is concerned at overlooking from the four-storey mansion block at the end of the rear garden, and shading of the garden arising from trees

¹ London Borough of Camden Home Improvement CPG

- planted in response. He sees the proposed development as a means of securing access to sunlight for health and leisure activities for the family's well-being.
12. Trees and shrubs planted at the eastern end of the garden largely obscure or filter views from the mansion block windows. Much of the rear garden was in shadow at the time of my visit, but I noted that substantial planting on the northern and southern sides of the garden contributed significantly to that shading. I note that part of the special character of the Holly Lodge Estate is its Garden Suburb tradition, but also that not all gardens in the area are as significantly planted.
 13. In this case, while I note the appellant's privacy concerns, the dwelling benefits from large front and rear gardens, and generally spacious surroundings; with Waterlow Park and Hampstead Heath within walking distance. The provision of a roof terrace would provide private benefits to the appellant and his family but would not benefit the wider public.
 14. In the absence of substantive public benefits, the harm I have identified is not outweighed. I therefore conclude that the development would fail to preserve or enhance the character and appearance of the HLECA and would cause harm to the character and appearance of the building. It would conflict with Policies D1 and D2 of the London Borough of Camden Local Plan (2017), which relate to design and heritage, and to policies DH2 and DH5 of the Highgate Neighbourhood Plan (2017), which relate to development in conservation areas and roofs and roofscape.

Living conditions

15. The appeal property is one of a row of houses which sits in close proximity to its side boundaries and the houses either side.
16. On the northern side, No.58 sits at a slightly higher level and has two dormer windows facing the appeal site. The appellant describes the eastern window as serving a non-habitable room, but there would be intervisibility between users of the roof terrace and the western most window. Users of the proposed roof terrace would have direct views into that window over the 1.1m high balustrade and the lower part of the tiled roof.
17. To the south, No.54 sits at a slightly lower level and has a large dormer with two windows facing the appeal site. The closest window to the proposed roof terrace is obscure glazed, but there would be intervisibility between users of the roof terrace and the other window.
18. Given the size of the proposed roof terrace, views from it and intervisibility between it and its surroundings would vary from different positions on the roof. Some views into the side dormer windows at No.54 and No.58 would be oblique, and the side walls of the dormer windows would reduce intrusive visibility to some degree. Nevertheless, privacy would be reduced into rooms on both adjoining properties, and that would be the case even with obscure glazing of the southern glass balustrade, which would have limited effect being only 1.1m high.
19. Use of the roof terrace would also result in overlooking of the gardens of No.54 and No.58, above and through the 1.1m high glass balustrades, and I am not convinced that the use of frameless glass without handrails would discourage users from standing close to the balustrade. I also noted at my site visit that

obscure glazing of the southern glass balustrade would have little effect in reducing visibility into the garden of No.54. Although a degree of overlooking will already occur from the rear first floor windows of the appeal property, it would be significantly greater from the proposed roof terrace.

20. The appellant proposes that a condition could be imposed limiting use of the proposed roof terrace to health and wellness purposes only. However, it would be difficult to define the limits of such uses, and it seems to me that almost any use typically undertaken in a domestic garden could fall within those parameters. It would therefore be difficult to enforce, and in any event, such a condition would not overcome the privacy issues for neighbouring occupiers.
21. In conclusion, the proposed development would harm the living conditions of occupiers of 54 and 58 Hillway, with regard to privacy, and would conflict with Policy A1 of the London Borough of Camden Local Plan (2017), which relates to managing the impact of development.

Other Matters

22. The appellant has provided a long list of other properties, within the HLECA and elsewhere, where roof terraces or glass balustrading have been approved or built. I note that that a number of dwellings on Holly Lodge Gardens have rear roof terraces, but of those within the HLECA only 11 Holly Lodge Gardens appeared to be visible from public areas. In that case, in contrast to the proposed development, the roof terrace and glass balustrade were barely perceptible amid the scale and grandeur of the dwelling with its ornate detailing and its substantial scale. I also visited the other locations listed as part of my site visit, but none appeared to be comparable to the appeal site.
23. I am unable to give weight in my decision-making to interactions between the appellant and the Council, or the absence of them. I am required to deal with the appeal before me on its own merits having regard to the evidence presented.
24. Other matters have been raised by interested parties, including those relating to noise from use of the terrace, hours of use and numbers of users. As I am dismissing the appeal for other reasons, I have not considered these matters further.

Conclusion

25. For the above reasons, having regard to the development plan as a whole, the approach in the Framework, and all other relevant considerations, the appeal is dismissed.

Peter White

INSPECTOR