
Appeal Decisions

Site visit made on 10 October 2016

by D M Young BSc (Hons), MA, MRTPI, MIHE

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

Decision date: 27th October 2016

Appeal Ref A: APP/H5390/D/16/3151137 67 Doneraile Street, London SW6 6EW.

- 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 Ms Jane Davies against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2016/00021/FUL, dated 21 December 2015, was refused by notice dated 4 March 2016.
 - The development proposed is the erection of balustrade around part of flat roof of the existing back addition at roof level in connection with its use as a terrace, including installation of sliding and hinged rooflight into rear elevation and roof level to provide access to terrace.
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Appeal Ref B: APP/H5390/D/16/3154733 67 Doneraile Street, London SW6 6EW.

- 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 Ms Jane Davies against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2016/01995/FUL, dated 2 May 2016, was refused by notice dated 8 June 2016.
 - The development proposed is the erection of balustrade around part of flat roof of the existing back addition at roof level in connection with its use as a terrace, including installation of sliding and hinged rooflight into rear elevation and roof level to provide access to terrace.
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Appeal Ref C: APP/H5390/D/16/3154736 67 Doneraile Street, London SW6 6EW.

- 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 Ms Jane Davies against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2016/01996/FUL, dated 2 May 2016, was refused by notice dated 29 June 2016.
 - The development proposed is the erection of balustrade around part of flat roof of the existing back addition at roof level in connection with its use as a terrace, including installation of sliding and hinged rooflight into rear elevation and roof level to provide access to terrace.
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Decisions

1. Appeal A - The appeal is allowed and planning permission is granted for the erection of balustrade around part of flat roof of the existing back addition at
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roof level in connection with its use as a terrace, including installation of sliding and hinged rooflight into rear elevation and roof level to provide access to terrace at 67 Doneraile Street, London SW6 6EW in accordance with the terms of the application, Ref 2016/00021/FUL, dated 21 December 2015, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: AL(00) 001 A.
 - 3) Before the terrace is first brought into use, the balustrades, details of which shall first have been first submitted to and approved in writing by the local planning authority, shall be erected to the terrace and shall be permanently retained and maintained thereafter.
2. Appeal B - The appeal is allowed and planning permission is granted for the erection of balustrade around part of flat roof of the existing back addition at roof level in connection with its use as a terrace, including installation of sliding and hinged rooflight into rear elevation and roof level to provide access to terrace at 67 Doneraile Street, London SW6 6EW in accordance with the terms of the application, Ref 2016/01995/FUL, dated 2 May 2016, subject to the following conditions:
- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: AL(50) 002-A.
 - 3) Before the terrace is first brought into use, the balustrades, details of which shall first have been first submitted to and approved in writing by the local planning authority, shall be erected to the terrace and shall be permanently retained and maintained thereafter.
3. Appeal C - The appeal is allowed and planning permission is granted for the erection of balustrade around part of flat roof of the existing back addition at roof level in connection with its use as a terrace, including installation of sliding and hinged rooflight into rear elevation and roof level to provide access to terrace at 67 Doneraile Street, London SW6 6EW in accordance with the terms of the application, Ref 2016/01996/FUL, dated 2 May 2016, subject to the following conditions:
- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: AL(50) 001.
 - 3) Before the terrace is first brought into use, the balustrades, details of which shall first have been first submitted to and approved in writing by the local planning authority, shall be erected to the terrace and shall be permanently retained and maintained thereafter.

Main Issues

4. The Council granted planning permission in 2013¹, for a scheme which, amongst other things, involved the erection of a glass balustrade around part of the flat roof above bedroom 3 on the third floor in connection with its use as a terrace. The approved terrace measured 11.5m² and condition 8 required it to be enclosed by a 1.7m high glazed screen. Although that permission has expired, there is nothing from the Council to suggest that the same scheme would now be considered unacceptable. Therefore the 2013 permission is a material consideration of some weight. Appeals A, B and C all seek amendments to this previously approved roof terrace.
5. In the case of Appeal A the scheme seeks to create a terrace measuring 14m² and the main issue is the effect of the enlarged terrace on the living conditions of neighbouring occupiers with regards to noise disturbance.
6. In the case of Appeals B and C these schemes seek to create a terrace measuring 27m² and 25m² respectively. The main issues are the effect of the proposals on, firstly, the living conditions of neighbouring occupiers with regards to privacy and noise disturbance, and, secondly, the character and appearance of the Bishop's Park Conservation Area (BPCA).

Reasons

Living conditions

7. With regards to Appeal A, the Council's refusal reasoning raises concerns about the '*potential*' for noise disturbance to neighbouring occupiers. However, this is a residential area and a certain amount of noise is therefore inevitable. No evidence has been adduced to demonstrate future users of the terrace would generate unacceptable levels of noise or that there is a correlation between the size of a terrace and the amount of noise generated. That being the case, and bearing in mind that the proposed terrace is a mere 2.5m² larger than the previously approved scheme, I conclude that there would be no conflict with Policies DM A9 and DM H9 of the "*Hammersmith & Fulham Development Management Local Plan 2013*" (the LP) and Part 8 of the "*Hammersmith & Fulham Planning Guidance Supplementary Planning Document 2013*" (the SPD). Insofar as Appeal A is concerned these seek to avoid noise that would undermine existing neighbour amenity.
8. In relation to appeals B and C for the reasons set out above, I am not persuaded that the size of the terrace itself is a reasonable basis to conclude that it would give rise to significant levels of noise. Therefore despite being significantly larger than the previously approved scheme, I find that there would be no unacceptable effect on the living conditions of adjacent occupiers with regards to noise disturbance.
9. In terms of loss of privacy the Council's objection to appeal schemes B and C is based on the proposed 1.1m high balustrade to the southern edge of the terrace. Notwithstanding that the terrace is likely to be used for sitting out rather than standing, I accept that a 1.1m screen would not necessarily prevent someone from looking south towards those properties on Cloncurry Street.

¹ LPA Ref: 2013/00004/FUL

10. However, the Council's evidence is scant and it is not readily apparent to me why this would be a problem. When I viewed the flat roof from the window of bedroom 4, it was apparent that those properties cited by the Council are some distance away. There are no details of any local privacy standards that might be breached if I were to allow the appeal and it is germane that the terrace would be no closer to these properties than the existing bedroom windows in the first and second floors. Consequently, I am satisfied that the living conditions of these occupiers would be safeguarded.
11. With regard to Appeal B only, the Council's fourth reason for refusal refers to the unacceptable effect of the terrace on the occupiers of 69 Doneraile Street. However there is nothing in the Council's submission that adequately explains why this would be so. As the appellant points out, the terrace would only extend 1.9m beyond the previously approved scheme. There are no windows in the side elevation of No 69 and more than adequate separation exists between the two properties. From my observations it is doubtful whether the terrace could even be seen from the windows in the rear elevation of No 69. Even if I am wrong about that, it would be at an acute angle and therefore its effect on the outlook of the occupiers of No 69 would be negligible.
12. Consequently, for appeals B and C the proposals would not have an unacceptable effect on the living conditions of neighbouring occupiers with regards to noise, outlook or privacy. Thus there would be no conflict with Policy BE1 of the CS, Policies DM G3 and DM G7 of the LP.

Character and appearance

13. As I noted when I visited the site the rear elevation of the appeal property as well as others in the vicinity has undergone previous extensions. As a result, the backs of properties in the area lack a coherent architectural approach which is in marked contrast to the uniformity of the street scene. I do not therefore consider the rear elevation of the appeal property makes a positive contribution to the BPCA.
14. The terrace and glazed surround would be located to the rear of the property where there would be little or no inter-visibility with public areas. The only views of it are likely to be from the rear windows and gardens of those properties to the south. From here, it would not protrude above the existing roofline and would not challenge the host dwelling. The glazed balustrade could be a neutral colour and would be set back 0.85 metres from the front edge of the roof behind the small parapet wall.
15. In my opinion, the terrace and associated structures would be an inconspicuous addition to the rear elevation. Its outward appearance would be similar to the previously approved scheme and would have little overall effect on the character and appearance of the BPCA. In these circumstances there would be no conflict with the statutory duty under the Act in relation to conservation areas.
16. I therefore conclude in respect of Appeals B and C that the development would accord with Policy BE1 of the CS, and Policies DM G3 and DM G7 of the LP. Collectively these state that alterations to buildings should be of the highest standard of design that respects local context and is appropriate in terms of scale, form, height and mass.

Conditions

17. For all three appeals, I have imposed conditions limiting the life of the planning permission and specifying the approved plans in the interests of proper planning and to provide certainty. In addition I have imposed conditions relating to the balustrade to ensure the satisfactory appearance of the development.
18. I have not been made aware of any elevational changes to the appeal property and therefore a condition relating to matching materials is unnecessary. A condition regarding the size of the terrace is unnecessary as these details are shown on the approved plans and therefore captured by the plans condition. Finally, in the absence of any information to the contrary, I find it unlikely that other structures would be erected on the roof. This condition is therefore unnecessary.

Conclusion

19. It has been suggested that the appeal schemes could set a precedent for other proposals in the area. However, any such proposals would be judged on their merits and this is not a matter to which I have attached any great degree of weight.
20. Based on the foregoing and having regard to all other matters raised, I conclude that the appeals should succeed.

D. M. Young

Inspector