
Appeal Decision

Site visit made on 4 October 2016

by Emma Tinsley-Evans BSoc.Sc MA MRTPI

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

Decision date: 04 November 2016

Appeal Ref: APP/H5390/W/16/3151580
45 Stanlake Road, London W12 7HG

- 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 Jean Francois Villaneau against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2016/00797/FUL, dated 19 February 2016, was refused by notice dated 18 April 2016.
 - The development proposed is installation of balustrading to provide balcony at first floor rear and installation of pair of doors to rear elevation.
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Decision

1. The appeal is dismissed.

Main Issue

- The main issue is the effect of the proposed development on the living conditions of the occupants of neighbouring properties with regard to outlook and privacy.

Reasons

2. The terrace would be created on the flat roof of the existing single storey ground floor extension. This existing extension is in close proximity to the rear ground floor bay window of the neighbouring property at 47 Stanlake Road. The extension already creates a sense of enclosure for the occupants of this neighbouring property, although some relief is provided by the angle of the roof of the ground floor extension, which slopes away from the boundary of No 47.
 3. The angle of the roof would see the privacy screens around the proposed terrace being set in. This would allow the screens to be positioned slightly further away from the ground floor window of No 47 than the side elevation of the existing extension.
 4. Nevertheless, the screens would stand around 1.8m high at this point and extend for around 3m from the rear elevation of No 45. Whilst the proposed screens would allow light through, given their height, opaque appearance and the extent to which they would project along the proposed terrace, they would increase the sense of enclosure experienced by the occupants of No 47 from the bay window on the ground floor.
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5. This increase in height would diminish the relief currently provided by the sloping pitched roof of the existing extension. The proposal would therefore be an overbearing and oppressive form of development that would be detrimental to the outlook of the occupants of No 47 from their ground floor bay window.
6. With regard to privacy, I acknowledge that there is currently a view of the neighbouring rear gardens from the kitchen window of No 45 and I consider that the height of the proposed privacy screens on the side elevations would limit views of the neighbouring gardens from inside the property. Nevertheless, the terrace would have a screen of just 1.1m on the rear elevation. This would allow occupants to get much closer to the gardens of the neighbouring properties, including the garden of the flat below. The elevated position coupled with low screening would result in additional opportunities for overlooking and a greater degree of overlooking than from the access point onto the proposed roof terrace. This would conflict with SPD Housing Policy 8(ii) of the Council's Planning Guidance Supplementary Planning Document 2013 (SPD).
7. There are currently limited views into the ground floor bay window of No 47 from the first floor kitchen window of No 45. The height of the proposed privacy screens would further restrict views. The proposed development would not therefore lead to increased overlooking into the ground floor bay window of No 47 and would not result in an unacceptable loss of privacy for the occupants.
8. The proposed roof terrace would be in close proximity to the rear first floor window of No 47. There are currently no views into this window from No 45. Given the height of the proposed side balustrade, only the very top of the neighbouring first floor window would be likely to be seen from the terrace. This, together with the relatively small size of the proposed terrace, would not result in a significantly harmful loss of privacy to the occupants of No 47 with regard to overlooking into this first floor window.
9. Limited views of the properties in Frithville Gardens are also currently available from the appeal site. However, given the distance and intervening vegetation, I do not consider that the proposed development would result in increased overlooking that would be materially harmful to the privacy of the occupants of these properties.
10. Notwithstanding this, whilst the proposed development would not increase overlooking into neighbouring windows or result in an unacceptable loss of privacy to the occupants of the properties in Frithville Gardens, the proposal would increase overlooking of the gardens immediately adjacent to the appeal site. This would be detrimental to the privacy of the occupants of these neighbouring properties. In addition, the proposed side screens, whilst mitigating overlooking into the windows at No 47, would be an overbearing form of development. Consequently, on balance, I conclude that the proposed development would have a harmful effect on the living conditions of the occupants of neighbouring properties with regard to outlook and privacy.
11. I find conflict with Policies DM G3 and DM A9 of the Council's Development Management Local Plan 2013 (DMLP) which seeks to ensure that proposals respect the principles of good neighbourliness and do not have a detrimental impact on privacy enjoyed by neighbours or outlook from windows in adjoining properties, amongst other things.

Other Matters

12. My attention has been drawn to other examples of roof terraces in the area. However, I am not aware of the planning status of some of these examples, nor do I have the exact details of these before me or an understanding of the site specific circumstances that may have led to their approval. In any event, each case is considered on its individual merits and the examples do not lead me to a different view in this case.
13. I note the concerns of the neighbouring occupant regarding the impact of the proposed development on light to their property. However, the Council has carried out at 45 degree angle test (used to assess whether there would be an impact on the amount of light reaching windows) and have concluded that the proposal complies. From my observations on site and given the materials that would be used in the proposed development, I am satisfied that there would be no harmful effects on the living conditions of the neighbouring occupants with regard to light.
14. With regard to the design of the proposed development, I saw that French doors are not uncommon in the area and I note that the Council has raised no issue about the design of the proposal or the materials that would be used. I agree with the Council that the proposal would be acceptable in this regard.
15. I acknowledge the health benefits of sunlight and the value that private open space could provide to the appellant and his family. I also note the importance that the Council attaches to outside space in terms of their policy approach and the appellant's comments about the affordability of properties with terraces. However, whilst the provision of outside space is a benefit of the proposal to which I attach some weight, it must be balanced against policies that seek to ensure good neighbourliness. In this case, I do not consider that the benefit of providing outside space outweighs the harm to the living conditions of the occupants of neighbouring properties that I have identified.

Conclusion

16. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Emma Tinsley-Evans

INSPECTOR