
Appeal Decision

Site visit made on 21 November 2016

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 20th December 2016

Appeal Ref: APP/H5390/W/16/3156968

Unit 2 First Floor, 52 Mimosa Street, London SW6 4DT

- 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 Philip Nicholson against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2016/02036/FUL, dated 4 May 2016, was refused by notice dated 30 June 2016.
 - The development proposed was originally described as 'The replacement of metal railings with glass screens around the existing roof terrace.'
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development set out in the banner heading above is taken from the application form. I note from the evidence before me that the flat roof of the ground floor rear extension has a lawful means of access in the form of the door at first floor level on the rear addition. However, I have no evidence that the existing metal railings around this roof or its use as a roof terrace are lawful.
3. The Council's decision notice describes the proposed development as 'Erection of 1.7m high obscured glass screens to replace the existing metal railings around the flat roof of back addition at first floor level', and I note that the appellant has used this description on the appeal form.
4. This revised description more appropriately describes the proposed development, and I have therefore considered the appeal on that basis as neither of the parties would be prejudiced or caused any injustice by me taking this course of action.

Main Issues

5. The main issues are:
 - (a) The effect of the proposed development upon the character and appearance of the host building and the surrounding area; and
 - (b) The effect of the proposed development upon the living conditions of the occupants of neighbouring residential properties, with particular regard to outlook, sense of enclosure and noise and disturbance.
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Reasons

Character and appearance

6. The appeal property is a first floor flat within a 3 storey Victorian residential terrace on the south-west side of Mimosa Street. The terrace backs on to another residential terrace of a similar scale located on Crookham Road. Both terraced rows have 3 storey flat roofed rear additions which face each other across short back gardens. These rear additions form a strong building line which does not appear to have been breached above ground floor level. The appeal property has a single storey extension beyond the 3 storey addition which projects almost to the rear boundary of the site.
7. It is proposed that 1.7m high obscured glass screens would be erected around the flat roof of the single storey extension. The appeal proposal would have the effect of raising the height of the modest ground floor extension considerably, introducing a built form of solid appearance at first floor level which would project significantly beyond the established building line formed by the 3 storey rear additions. The proposed obscured glass screens would be uncharacteristic of the traditional materials of brick, slate and timber used in the host building and surrounding development, and would have a solid opaque appearance which would look starkly alien in this context. The rear elevations of the terraced rows along Mimosa Street and Crookham Road are clearly visible from Lettice Street to the south east, and the appeal site is overlooked by a large number of properties, so the proposed development would be prominent in both public and private views.
8. My attention has been drawn to several roof terraces to the rear of properties on Mimosa Street and Crookham Road which, as I saw during my site visit, are visible from Lettice Street. I have no information regarding the planning history of these roof terraces. However, I noted that they are located on top of the 3 storey rear additions and so are less prominent when seen from street level than the appeal proposal would be. Consequently, they are not directly comparable to the proposed development. In any event I must, and have, determined the appeal on its own merits.
9. For the reasons set out above, the appeal proposal would result in the creation of a dominant and discordant feature which would fail to respect the scale, architectural rhythm and materials of the appeal property and surrounding development. I therefore conclude that it would have a harmful effect upon the character and appearance of the host building and the surrounding area. As such, the appeal proposal would fail to accord with the design aims of Policy BE1 of the Hammersmith and Fulham Core Strategy and Policy DM G3 of the Hammersmith and Fulham Development Management Local Plan (DMLP).

Living conditions

10. Development along Mimosa Street and Crookham Road has a dense urban grain, with limited spacing between buildings. Therefore, the ground floor flat at No 52 and neighbouring residential properties at 50 and 54 Mimosa Street and 57, 59 and 61 Crookham Road are situated in very close proximity to the appeal site.
11. The proposed development would increase the height of the ground floor rear addition by 1.7m, introducing screens along both the sides and the rear of the

extension. Although the screens would be glazed, they would be fitted with obscured glass and would thus have an opaque and solid appearance. As a result of its siting, scale and materials, the appeal proposal would have an enclosing and overbearing effect which would be harmful to outlook from the windows and gardens of adjacent residential properties.

12. The appellant makes the case that the area enclosed by the proposed screens would accommodate no more than 4 chairs and a table. Nevertheless, due to the proximity of the appeal site in relation to the rear windows of neighbouring residential properties at Nos 50 and 54 and Nos 57, 59 and 61, even a fairly small group of people sitting out at first floor level and talking would be likely to give rise to noise and disturbance which would be intrusive to the occupants of these properties.
13. I note that an earlier planning application¹ which proposed 1.4m high screens around the ground floor extension was refused, and that one of the reasons for refusal was that the screens were of insufficient height to prevent overlooking and loss of privacy to neighbouring residents. Whilst the increased height of the proposed screens would overcome this concern, as set out above the revised scheme which is the subject of this appeal would cause harm to the living conditions of neighbours in other respects.
14. There is no dispute that there is a lawful access to the flat roof, and the appellant points to the absence of planning conditions preventing its use as a terrace. However, the lawfulness of using it this way is not for me to judge, and it is open to the appellant to seek a separate determination in that regard. I note the appellant's overall argument that the occupiers of the first floor flat will continue to use the roof as a terrace irrespective of the outcome of this appeal. Whether lawful or not, that may be so. Nevertheless, I see no particular reason why this should mean I should sanction the appeal proposal, given the harm I consider it would cause.
15. For the reasons set out above, I conclude that the proposed development would have a harmful effect upon the living conditions of the occupants of neighbouring residential properties, with particular regard to outlook, sense of enclosure and noise and disturbance. As such, the appeal proposal would fail to accord with the amenity protection aims of DMLP Policies DM G3, DM H9 and DM A9 and the Hammersmith and Fulham Planning Guidance Supplementary Planning Document SPD Housing Policies 7 and 8.

Other matters

16. My attention has been drawn to a number of planning applications for 1.7m high privacy screens around roof terraces in the Borough which have been granted planning permission in the last year. However, I have not been provided with full details of the planning history of these cases and so am not aware of the precise design, scale and siting of each scheme or their respective relationship with neighbouring properties and the surrounding area. As such, it is not possible for me to make comparisons between the appeal proposal and these schemes in terms of their effect upon the character and appearance of the area and the living conditions of neighbouring occupants. In any event, I am required to reach conclusions based on the individual circumstances of this appeal.

¹ Ref 2014/05742/FUL.

17. The appellant has submitted photographs, drawings and copies of the relevant planning permissions in respect of roof terraces surrounded by glass privacy screens at 61 Allestree Road and 11 Hartismere Road. Again, I am not aware of the full planning history of these schemes. However, based on the submitted details it would appear that both these terraces are situated at a high level and are not sited directly adjacent to existing outdoor amenity space or windows serving neighbouring properties. Therefore, these other roof terraces are not directly comparable to the appeal proposal. I have determined the appeal on its own merits.

Conclusion

18. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

C L Humphrey

INSPECTOR