
Appeal Decision

Site visit made on 23 January 2017

by G J Fort BA PGDip LLM MCD MRTPI

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

Decision date: 03 February 2017

Appeal Ref: APP/H5390/W/16/3163379

First and Second Floors, 192 Munster Road, London SW6 6AU

- 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 and Mrs Adam Walker against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2016/02222/FUL, dated 14 May 2016, was refused by notice dated 9 September 2016.
 - The development proposed is the installation of a door to replace the existing window to the rear elevation at first floor level and the erection of opaque glass around the flat roof at first floor level in connection with its use as a terrace.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of a door to replace the existing window to the rear elevation at first floor level and the erection of opaque glass around the flat roof at first floor level in connection with its use as a terrace at First and Second Floors, 192 Munster Road, London SW6 6AU in accordance with the terms of the application, Ref 2016/02222/FUL, dated 14 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: Site plan EMA/2016/0014/0001; Section Plan EMA/2016/0014/0002; Floor Layout Plans EMA/2016/0014/0003; Rear Elevation Plans EMA/2016/0014/0004; Side Elevation Plans EMA/2016/0014/0005.
 - 3) The materials to be used in the alterations of the external surfaces of the rear wall and the door hereby permitted shall match those used in the existing building.

Procedural Matter

2. In the banner heading above I have used the description of development given in the appeal statement, which was taken from the Council's decision notice. This more accurately captures the scope of the proposed development.

Main Issues

3. I consider the main issues in this appeal to be firstly, the effect of the proposed development on the living conditions of the occupants of adjacent dwellings in
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respect of privacy, noise and disturbance; and secondly, whether the proposed development preserves or enhances the character or appearance of the Central Fulham Conservation Area

Reasons

Site, surroundings and proposal

4. Situated in the Central Fulham Conservation Area, the appeal dwelling comprises the upper floors of a mid-terraced property. To the rear of the property is the garden connected to No 192's lower floor dwelling, and beyond that the back gardens of the long blocks of terraces that front Reporton Road and Fernhurst Road, which run perpendicularly to Munster Road. The building has a substantial outrigger to the rear of three storeys, with a flat-roofed single-storey element projecting from this. A large sash window in the first floor of the outrigger overlooks the roof of the single-storey element.
5. The development proposed would replace the existing first-floor sash window on the outrigger of the dwelling with a glazed door, allowing access onto the roof of the single-storey element to facilitate its use as a balcony. Inset from the perimeter of the roof, at the right and left hand sides of the balcony, privacy screens of obscured-glazing would be installed. At the front of the balcony a glazed balustrade would be installed inset from the edge of the roof.

Living Conditions

6. Due to the density of the surrounding properties the appeal dwelling has a close relationship with a number of private amenity spaces. I saw that views into these spaces were available from the rear window adjacent to the flat roof, and from the one in the floor above.
7. In terms of the garden of the dwelling in the lower floors of No 192, I saw that the rear parts of this are already overlooked to a considerable degree by the outrigger windows in the building's upper floors. Whilst the balcony could increase the visibility of a marginal amount of the garden from the appeal building I consider that this would not result in additional overlooking to a degree that would cause a material reduction of the privacy of No 192's occupants.
8. I saw that the existing window adjacent to the roof offered comprehensive views of the garden of No 190, and in this respect, the proposed privacy screens would reduce the overlooking of this space to a considerable degree. As a result, the proposed development would cause no harmful effects to the privacy of No 190's occupiers. Similarly, the height of the privacy screen facing towards the rear garden of No 194, and its inset from the edge of the roof would restrict views considerably both from the existing window and the balcony, and as a consequence reduce the available overlooking in that direction.
9. Beyond the rear garden of No 192, the proposed balcony would offer views to the long back gardens of Fernhurst Road and Reporton Road, but given the separation distance, and the availability of existing views from the appeal dwelling's rear windows in this respect I consider that the proposed development would not lead to a material reduction in the level of privacy available to the occupants of those dwellings.

10. Any oblique views of habitable room windows available from the proposed balcony would be effectively obscured by its privacy screens. Consequently, I consider that the proposed development would not lead to a significantly greater degree of overlooking than the current arrangement and would thus cause no material harm to the living conditions of occupants of adjacent properties in terms of a reduction in privacy available in habitable rooms or private spaces.
11. The proposed balcony would be of extremely modest proportions, and thus be unlikely to accommodate a substantial amount of people. It would be in domestic use not unlike the amenity spaces in its immediate surroundings. Consequently, I consider that its use would not create levels of noise and disturbance that would be out of keeping with the appeal dwelling's surrounding environment and thus would not cause materially harmful effects to the living conditions of the occupants of adjacent properties.
12. No material harm would be caused by the proposed development to the living conditions of the occupants of adjacent properties in terms of privacy, noise and disturbance. Accordingly, the proposed development would comply with Policies DMG3 and DMA9 of the Hammersmith and Fulham Development Management Local Plan (adopted July 2013) (the DM Plan); and the Planning Guidance Supplementary Planning Document (adopted July 2013) (the SPD). Taken together, and amongst other matters, the policies and guidance seek to ensure that alterations and extensions take into account good neighbourliness and protect existing residential amenities.
13. As I have found no material harm in these respects, I consider that no interference with the right to peaceful enjoyment of property and possessions arising from Article 1 of the First Protocol of the European Convention on Human Rights as incorporated by the Human Rights Act 1998 would occur as a result of the proposed development.

The Conservation Area

14. The grid-iron street pattern of the Central Fulham Conservation Area, lined by rows of terraced properties imparts an orderly and regimented character to the streetscene from which much of its significance derives. The rears of the properties, particularly in the surroundings of the appeal dwelling, are in marked contrast to the architectural rhythms and linear emphasis of their fronts showing a varied pattern of rear alteration and extension.
15. The proposed development would be modest in scale and of lightweight construction. Public viewpoints of the proposed structure would be extremely limited, and where it is visible from the private realm, it would be so in the context of a considerable number of incremental changes and additions. Consequently, the proposed balcony would not read as a visually jarring or discordant element, and would not undermine the architectural rhythm of the terrace, or impart an impression of harmful over-development. This leads me to the view that the proposed development would cause no harm to the significance, character or appearance of the Conservation Area.
16. Accordingly, and mindful of my statutory duty arising from section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I consider that the proposed development would preserve the character and appearance of the Central Fulham Conservation Area. As a result, the proposed development

would not conflict with Policy BE1 of the Hammersmith and Fulham Core Strategy (adopted October 2011); or Policies DMG3 and DMG7 of the DM Plan; or the SPD. Amongst other things, and taken together, the policies and guidance seek to ensure that new development respects its townscape context and preserves the significance of heritage assets.

Other Matters

17. Due to the lightweight nature of the proposed boundary treatments, their subservient scale set against the context of the appeal dwelling's existing rear wall, and their inset from the sides of the roof, I consider that they would not create a level of shading that would cause a material reduction to the availability of sunlight and daylight to the occupiers of adjacent properties.
18. I have had regard to comments concerning the ownership of the roof and about its structural capacity to undergo the alterations as proposed. However, these are essentially private matters that have not been determinative in my assessment of the planning merits of the appeal.
19. I have found that the proposed development would preserve the character and appearance of the Conservation Area, and would avoid material harm to the living conditions of the occupiers of adjacent dwellings. As a result the proposed development would not provide a precedent for developments that would have harmful impacts in these regards.

Conditions

20. I have assessed the Council's suite of suggested conditions against the tests given in paragraph 206 of the National Planning Policy Framework. This states that conditions should only be imposed where they are necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other respects.
21. In the interests of certainty I have attached a condition specifying the approved plans, although in a modified form to that suggested by the Council. I have also found it necessary to attach a condition requiring the alterations to the rear elevation to be progressed using matching materials in order that the development is sensitive to the character and appearance of its host building and surroundings, although I have used a modified form of wording to ensure greater precision in this regard.
22. As I have attached a condition specifying the approved plans, I see no necessity to attach the suggested condition that seeks to limit further extension of the balcony use or the erection of additional boundary structures. Neither, given the proposed use and modest proportions of the balcony, do I consider it necessary to attach a condition restricting the development of water tanks, water tank enclosures or other structures.

Conclusion

23. The proposed development would not conflict with the development plan insofar as the policies are relevant and have been drawn to my attention. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should succeed.

G J Fort INSPECTOR