

Appeal Decision

Site visit made on 24 January 2017

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 14 February 2017

Appeal Ref: APP/V5570/W/16/3161143

The Knight's House, 1 St John's Path, London EC1M 4DD

- 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 Gordon Brough against the decision of the Council of the London Borough of Islington.
 - The application Ref P2016/0659/FUL, dated 19 February 2016, was refused by a notice dated 18 April 2016.
 - The development proposed is an extension to the existing roof terrace, including planting and improvements to green roof.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's decision notice refers to Policy DM3.4 - Housing Standards, of Islington's Local Plan: Development Management Policies, Adopted June 2013 (DMP). It is clear from the Council Officer's Delegated Report that the relevant policy is Policy DM3.5 - Private Outdoor Space, and that reference to Policy DM3.4 in the decision notice is therefore a typographical error. This error is recognised by the appellant in their appeal submissions, and consequently neither party has been prejudiced by my determination of the appeal on this basis.

Main Issues

3. The main issue in this case is the effect on the occupants of neighbouring residents, with particular regard to privacy, noise and disturbance.

Reasons

4. The appeal property is located within a dense urban area where residential and commercial developments are located cheek by jowl and there is a rich mix of both historic and contemporary development. The Knight's House is a substantial residential dwelling which is located within the upper floors of a contemporary building which also comprises office accommodation within its lower floors.
 5. The existing terrace is accessed from the second floor of the building and located on the roof of the office below. The terrace provides an outdoor seating area, with table and chairs for up to six people. It is tightly enclosed by a glass balustrade and planted pots which extend to approximately a metre in height.
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6. I noted on my site visit that the existing terrace is open to views from a numbers of other balconies and terraces which have been developed on neighbouring properties. However, in general the feeling is one of mutual overlooking from a distance between these respective amenity areas, rather than a direct and close relationship between them.
7. However, the existing terrace lies in very close proximity to the habitable room windows of a residential apartment, No 101, 4 St John's Place. There are clear views from the seating area on the existing terrace into the open plan kitchen/dining area of this property. Slightly more oblique views are also available into a bedroom. The large pane windows of this apartment increase the visibility of the accommodation and I noted on my site visit that the slightly elevated position of the terrace above the internal floor level of the apartment means that the occupants of this apartment experience a real sense of being overlooked, particularly when seated within their dining area.
8. I recognise that the appellant has sought to ensure that the extended terrace would be no closer in distance to No 101 by tapering its proposed boundary as it extends in a southerly direction. However, the existing situation is not ideal and the proposed southerly extension would provide more direct views into the bedroom area than currently exist. Moreover, the size and nature of the existing terrace provides some limitations on its use. Whilst I recognise that it could currently be used in a manner other than for seating, the proposed extended area would provide even greater flexibility for its use, and more opportunity for activities and movement that would in my mind increase the overall visual presence the terrace and consequently the occupants of No 101 would be likely to experience a greater sense of being overlooked.
9. The proposal would also extend the terrace towards the rear elevations of Nos. 56 and 57 Britton Street which include habitable room facing windows. Although I noted on my visit that there is a direct line of sight between these windows and the existing terrace, given the intervening distance and the small panes of glass within their window frames, existing views into the facing rooms are limited. However, the appeal proposal would bring the terrace closer to these windows and the opportunity for closer range views into the rooms would be enhanced. Consequently the privacy of the occupants of these properties would be compromised.
10. I recognise that Council policy does not specify the separation distance required between external amenity areas and habitable facing rooms, and I understand that the appellant has sought through pre-application discussions to identify the site constraints and mitigate overlooking through a detailed landscaping scheme and by setting the terrace away from the roof's edge. However, in this instance the privacy of the occupiers of No 101 is already compromised by the proximity of the roof terrace, and for the reasons given above the appeal proposal would significantly increase the opportunity for the overlooking of No 101, 4 St John's Place and Nos. 56 and 57 Britton Street. The proposed balustrade and hedge planting would not provide sufficient screening to mitigate the privacy concerns I have identified above.
11. Furthermore, I agree with the Council that the overall size of the proposed terrace would provide greater opportunities for larger gatherings, and although these may not be frequent, in this location any increase in activity

on the terrace would be likely to result in noise and disturbance to neighbours during both the day and evening time. Consequently, I do not consider that the imposition of a condition to restrict the hours of use of the terrace as proposed by the appellant would provide adequate mitigation.

12. I understand that in view of the scale of the existing dwelling the appellant wishes to increase the external amenity area available and I recognise that this would also provide an opportunity to improve the biodiversity potential of the green roof. However, the replacement of the green roof is not integral to this proposal and the existing dwelling has a good outlook with access to outside amenity areas on the second floor terrace and also at third floor level where a further balcony area is available for use. I therefore give these considerations limited weight and they would not outweigh the harm I have identified to the main issue set out above.
13. I have taken into consideration the relationship that exists between facing windows of 4 St John's Place and 53 Britton Street. However, this close relationship does not justify the harm I have identified and in any event each case must be considered on its own merits.
14. I conclude that the appeal proposal would have a materially harmful effect on the living conditions of neighbouring residents with particular regard to privacy, noise and disturbance. The proposal therefore conflicts with the development plan and in particular with Policies DM2.1 and DM3.5 of the DMP which seek to ensure that new development provides, amongst other things, a good level of amenity, including considerations of noise and the impact of disturbance, overlooking and privacy and in particular where buildings utilise roofs to provide private outdoor space, the proposal should take into consideration issues of design and overlooking. I also find conflict with Policy 7.6 of the London Plan which seeks amongst other things, to ensure that building and structures should not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings, in relation to privacy and overshadowing.

Other Matters

15. The site lies within Clerkenwell Green Conservation Area, however I note that the Council did not consider the proposed development would harm the character or appearance of the Conservation Area. From my inspection of the site I would concur with the views of the Council. In reaching this conclusion I have applied the statutory test set out in Section 72 (1) of the Planning (Listed Building and Conservation Areas Act), 1990 that requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area

Conclusion

16. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Elizabeth Pleasant

INSPECTOR