
Appeal Decision

Site visit made on 28 March 2017

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 26 April 2017

Appeal Ref: APP/L5810/W/16/3165495
68 Glentham Road, London SW13 9JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Simon Wedgewood of Palladian Development Ltd against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 16/3377/VRC, dated 22 August 2016, was refused by notice dated 25 October 2016.
 - The application sought planning permission for demolition of existing garage and construction of a new 3 bedroom residential house without complying with conditions attached to planning permission Ref 15/4396/FUL, dated 21 June 2016.
 - The conditions in dispute are Nos U07025 DV48 and DV11 which state that:
U07025 DV48 – *"The development hereby permitted shall be carried out in accordance with the following approved plans and documents, where applicable. 071-PL-200; 071-PL-300; 071-PL-100; Arboricultural Report And Impact Assessment (22nd June 2015) prepared by Crown Consultants; Phase 1 Flood Risk Assessment Final v1.0 (ref:2381) prepared by Bethany Perham (Ambiental); and Bat Roost Potential Building Assessment Report Final Report V1 prepared by Daniel Hone (Hone Ecology); received on 16 October 2015; Construction Traffic Management Plan prepared by Morehen Architects Ltd; received on 1 March 2016; and 071-PL-355_REV A; and 071-PL-235_REV A; received on 12 April 2016."*
DV11 – *"The roof of the building shall not be used for any purpose other than as a means of escape in emergency or for maintenance of the building."*
 - The reasons given for the conditions are:
U07025 DV48 – *"To accord with the terms of the application, for the avoidance of doubt and in the interests of proper planning."*
DV11 – *"To safeguard the amenities of the adjoining premises and the area generally."*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development comprises the demolition of an existing garage and construction of a three bedroom dwelling over two floors with a basement. The roof is flat with a 1.2m high parapet wall around its perimeter and staircase up to the roof, the use of which is restricted by condition. The development is largely complete and I was able to view from the roof of the building, in the position of the proposed terrace, and I have taken this into account in coming to my decision.
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3. The application forms seek to vary or remove two conditions in order to enable the provision of a roof terrace on this property. The decision notice and appeal forms only refer to the condition restricting the use of the roof and not that relating to the approved plans. It is clear from the Officer Report that the Council had regard to the amended drawings submitted in coming to their decision. Given provision of amended plans that would need to be referred to should I allow the appeal, it is necessary to consider whether the plans condition should be amended so have considered the appeal as set out on the application forms.

Main Issue

4. The main issue is the effect of the proposed roof terrace on the living conditions of occupiers of neighbouring dwellings on Lillian Road and Lonsdale Road with particular regard to privacy, noise and disturbance.

Reasons

5. 68 Glenthams Road is located in a row of dwellings and commercial buildings that front the narrow road, with the rear of dwellings fronting Lillian Road beyond their small rear gardens and garages directly opposite. These dwellings are two storeys in height, although most houses have dormer windows within their roofspace, which are at approximately the same height as the proposed roof terrace. To the rear of the house are properties that front Lonsdale Road, which comprise taller dwellings with upper floors at a similar level to the proposed terrace.
6. The proposal would enable the use of the roof of the dwelling as additional outside amenity space. Much of the proposed terrace would be enclosed by an obscure glazed glass screen that would block views from the terrace over most neighbouring gardens, but it would have a gap to one side and over the roof light and staircase to the front. The side gap would allow views from the terrace over the neighbouring roofs along Glenthams Road that would not affect the privacy of neighbouring occupiers, but the front gap would allow views over the road to the rear of houses fronting Lillian Road.
7. The houses fronting Lillian Road are located more than the 20m referred to in Policy DM DC5 of the London Borough of Richmond-upon-Thames Local Development Framework Development Management Plan (DMP) as a minimum distance between facing windows. However, a roof level terrace would have a more severe effect than windows as it would provide wider views with less obstruction toward the rooms within the roof of the properties opposite by occupiers of 68 Glenthams Road. As such, the proposed terrace would lead to a reduction in the privacy of occupiers of those dwellings. Given the angle of view with the terrace set back from the front of the dwelling, it would not affect the privacy of the small rear gardens of those dwellings.
8. The proposed terrace is large and likely to be used for entertaining. This is an unusual position for outside amenity space and noise and other disturbance from the use of this terrace would carry further than it would from the existing outside amenity space at ground level and would not be materially reduced by the proposed screen. As such, noise and disturbance would affect occupiers of the houses to the front and rear, particularly those on Lillian Road and Lonsdale Road.

9. For these reasons, I conclude that the proposed terrace would harm the living conditions of occupiers of neighbouring dwellings on Lillian Road and Lonsdale Road by reason of loss of privacy, noise and disturbance. As such, it would be contrary to Policies DM DC5 and DM DC6 of the DMP that seek to protect occupiers of adjoining properties to development from unreasonable loss of privacy, noise and disturbance. Policy DM DC6 of the DMP encourages the provision of well-designed and positioned terraces, but the supporting justification for the policy confirms that this is provided for development without access to private gardens. However, 68 Glenthams Road does have a rear garden.
10. On the basis of the above considerations, I conclude that the appeal should be dismissed.

AJ Steen

INSPECTOR