

Appeal Decision

Site visit made on 2 May 2017

by Mike Worden BA (Hons) DipTP MRTPI

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

Decision date: 26th May 2017

Appeal Ref: APP/T5150/W/17/3168241
3 Olive Road, London NW2 6BX

- 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 Ms Maria Santos against the decision of the Council of the London Borough of Brent.
 - The application Ref 16/1440, dated 6 October 2016, was refused by notice dated 22 December 2016.
 - The development is a side entrance extension to upper floor flat and formation of first floor rear roof terrace over the roof of ground floor rear extension, with associated enclosure, privacy screening and French windows.
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Decision

1. The appeal is dismissed insofar as it relates to the formation of first floor roof terrace, associated enclosure, privacy screening and French windows. The appeal is allowed insofar as it relates to the side entrance extension to upper floor flat and planning permission is granted for a side entrance extension to upper floor flat at 3 Olive Road, London NW2 6BX in accordance with the terms of the application, Ref 16/1440, dated 6 October 2016, and the plans submitted with it, so far as relevant to that part of the development hereby permitted.

Procedural Matters

2. The development has been carried out and therefore I am considering this appeal retrospectively. In the interests of clarity and brevity, I have amended the description of development from that set out on the application form by removing the words 'retrospective' and 'revised' and the reference to an earlier approval.

Main Issues

3. The main issues are the effect of the roof terrace, railings and privacy screen on:
 - the character and appearance of the area and
 - the living conditions of the occupiers of the ground floor flat at number 3 Olive Road, number 1 and number 5 Olive Road with particular relevance to overlooking and privacy.
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Reasons

Character and Appearance

4. The appeal site is in a residential area close to the junction of Olive Road and Ashford Road. Number 3 Olive Road is a semi-detached property and has been converted in to two flats along with a rear ground floor single storey extension.
5. The garden to the rear is related to and for the use of occupiers of the ground floor flat. The upper flat is accessed from the side of the property via a new entrance which is in part the subject of this appeal.
6. The side entrance has not been built in accordance with the plans approved previously. However the Council has made it clear in both its officer report and appeal statement that it does not consider the design of the side extension as built to be harmful. I agree with the Council's position in that I consider the extension to be unobtrusive and not harmful to the character and appearance of the house.
7. The other element of this appeal is the creation of a roof terrace on the roof of the ground floor rear extension. The roof terrace has railings around the edges and obscurely glazed privacy screens on each of the two sides, with just railings on the side which faces the garden. Access to the roof terrace is from the rear room of the upper flat, through French windows.
8. The railings and the privacy screens are very evident in views of the rear of the property, not only from the rear gardens of the neighbouring properties and the garden of the ground floor flat at 3 Olive Road, but also from street level on Ashford Road. These features appear out of keeping with views of the rear of other properties in the vicinity. I consider therefore that the roof terrace, railings and privacy screens are harmful to the character and appearance of the area and contrary to Policy DMP1 of the Council's Development Management Policies Development Plan Document 2016 (the DPD) and Policy CP17 of the Core Strategy 2010 (the CS), which seek to ensure that development is of good design and compatible with its surroundings.

Living Conditions

9. The roof terrace will provide external amenity space for the occupiers of the upper floor flat at number 3 Olive Road. Without this roof terrace they do not have access to such amenity space and the roof terrace, which is accessed directly from the upper storey flat, provides a benefit in this regard. The use of roof terraces for private amenity space for upper storey flats is encouraged in the Housing Supplementary Guidance to the London Plan 2016. However this benefit must be weighed against any potential harm.
10. Whilst the privacy screens restrict views out from either side of the roof terrace, there is no such screen on the elevation facing the garden. As a consequence, it is possible to look down directly in to the garden of the ground floor flat at number 3 and also in to part of the garden of 1 Olive Road. The views in to the garden of 5 Olive Road are less obvious due to the greater distance away from the boundary and the presence of landscaping along it.

11. The potential for overlooking, at close quarters, of those residents enjoying the garden of the ground floor flat would result in a significant loss of privacy and would be unacceptable. Whilst the roof terrace provides benefits in terms of the provision of external amenity space, this does not outweigh the harm caused to the living conditions of the residents using the garden.
12. For these reasons I conclude that the development would significantly harm the living conditions of the occupiers of neighbouring properties contrary to the Policy DMP1 of the DPD and CP17 of the CS. It would also be contrary to the Council's Supplementary Planning Guidance (2002) called Altering and Extending Your Home and paragraph 17 of the National Planning Policy Framework (the Framework) which seeks good design and the protection of amenity.

Conclusion

13. I consider that the two parts of the development are distinct and separable. For the reasons given above I conclude that the appeal should be allowed insofar as it relates to the side extension, but dismissed insofar as it relates to the formation of the roof terrace, its associated enclosure and French windows. Given that the side extension has already been constructed, I do not consider it necessary to apply any conditions, having regard to the Planning Practice Guidance and the Framework.

Mike Worden

INSPECTOR