
Appeal Decisions

Site visit made on 11 July 2017

by Paul Dignan MSc PhD

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

Decision date: 24 July 2017

Appeal A: APP/T5150/C/17/3171726 **84b Wakeman Road, London, NW10 5DH**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Peter Grenfell against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice, numbered E/15/0679, was issued on 7 February 2017.
 - The breach of planning control as alleged in the notice is: Without planning permission the erection of a railings on top of the flat roof to rear of the premises.
 - The requirements of the notice are: Step 1 Remove the railings and all associated items, fixings/materials from the flat roof to the rear of the premises.; and Step 2 Remove all associated debris, items and materials arising from compliance with the above step.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.
-

Appeal B: APP/T5150/W/17/3171014 **84b Wakeman Road, London, NW10 5DH**

- 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 Peter Grenfell against the decision of the Council of the London Borough of Brent.
 - The application Ref 16/3387, dated 1 August 2016, was refused by notice dated 31 October 2016.
 - The development proposed is Retention of metal railings.
-

Decisions

1. Appeal A: The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.
2. Appeal B: The appeal is dismissed

Reasons

3. The appeal property is an end of terrace 2-storey building with additional accommodation in the roof area. It is arranged as 2 flats. There is a flat roofed rear outrigger of 2 storeys, with access to the flat roof via a trap-door type door opening from the roof accommodation. Timber decking is laid on the outrigger roof and it appears that it has been used as some form of roof

terrace for a number of years. Evidence of the existence of the door and decking submitted to the Council was sufficient to satisfy it that they were lawful by virtue of immunity from enforcement and a Certificate of Lawful Use or Development (LDC) was issued to that effect¹. It appears also that in the past there has been some form of fencing erected around the flat roof, but the railings the subject of the notice are relatively new.

4. The Council's main concern is the impact of the use of the flat roof on the privacy of neighbouring properties. The flat roof provides vantage points for overlooking of neighbouring gardens and for looking into what appear to be habitable room windows of nearby properties at distances that would be likely to impinge on privacy in those rooms, while the proximity to gardens, particularly those of the neighbouring properties to the west, and the high vantage points, results in what I would characterise as severe overlooking, with the potential for significant harm to amenity in terms of loss of privacy. The decking and access onto the roof means that some use of the roof is likely in any case, but I consider that the provision of railings would promote a pattern, character and intensity of use of the flat roof that would be likely to have a far greater adverse effect on privacy in surrounding properties than would be likely without railings. It has been suggested that setting the railings in from the roof edge by 1-1.5m would satisfactorily resolve the issue of loss of privacy, but while there would be some improvement I consider that the loss of privacy would still be substantial and unacceptable.
5. I appreciate that the provision of railing has safety benefits, but there are other ways of controlling the risks to which users of the roof would be exposed. On balance I consider that the factors in favour of the development do not outweigh the harm to the living conditions of the occupiers of neighbouring properties in terms of loss of privacy that would result from the retention of the railings. The development would conflict with Policy DMP1 of the Council's adopted Development Management Policies 2016, which expects development to provide high levels of amenity, and to the guidance set out in its adopted Supplementary Planning Guidance No. 5 – Altering and Extending your Home (SPG5), which seeks amongst other things to ensure that alterations do not have an unacceptable impact on neighbours.
6. In its reason for refusing the planning application the Council also objected on the basis that the railings are not in keeping with the character of the existing dwellinghouse, or the wider locality, but it has not elaborated on this in its written statement. In any case, I consider that the principal harm in planning terms would be the loss of privacy in neighbouring properties. I find that this would be contrary to the development plan, and there are not material considerations to indicate that planning permission should nonetheless be granted. Accordingly, having considered all other matters raised I conclude that both appeals should be dismissed.

Paul Dignan

INSPECTOR

¹ Ref. 16/2523 - Certificate of Lawful Development for an existing rear rooflight, door in the rear roof with steps down to a flat roof with a wooden deck on top of that flat roof.