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## Appeal Decision

Site visit made on 29 July 2019 by Thomas Courtney BA(Hons) MA

**Decision by Andrew Owen MA BA(Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18<sup>th</sup> September 2019**

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**Appeal Ref: APP/Y1945/W/19/3229028**

**39A Market Street, Watford WD18 0PN**

- 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 Amanda Conlon against the decision of Watford Borough Council.
  - The application Ref 19/00026/FULH, dated 8 January 2019, was refused by notice dated 7 March 2019.
  - The development proposed is the erection of a new roof terrace on the existing first floor flat roof with balustrades and access door to the new roof terrace.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a new roof terrace on the existing first floor flat with balustrades and access door to the new roof terrace at 39A Market Street, Watford, WD18 0PN in accordance with the terms of application Ref 19/00026/FULH, dated 8 January 2019 and subject to the following conditions:
  - 1) The development hereby permitted shall begin no 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 location plan, 106/EX/100, 106/EX/101, 106/EX/102, 106/EX/103, 106/EX/104, 106/EX/105, 106/EX/106, 106/EX/107, 106/EX/108, 106/PA/200, 106/PA/201, 106/PA/202A, 106/PA/203A, 106/PA/204A, 106/PA/205A, 106/PA/206A, 106/PA/207A, 106/PA/208A.
  - 3) No development shall commence until the details of the materials to be used for the proposed development have been submitted to and approved in writing by the Local Planning Authority.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Procedural Matter

3. A Second Floor and Roof Plan (drawing no. 160/PA/202) was submitted during the appeal process. It shows the proposed roof terrace occupying the entirety of the space available on the flat roof as well as an amended staircase and a 1500mm high obscured glass screen fixed to a railing adjacent to the
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neighbouring property at 37 Market Street. The development shown is materially different to that which the Council based their decision on and which neighbouring residents understand as the proposal. I therefore do not accept the plan as I consider nearby residents would be prejudiced by not having had the opportunity to provide comments to me on it.

### **Main Issues**

4. The main issues are:

- The effect of the proposal on the character and appearance of the area; and
- The effect of the proposal on the living conditions of the occupants of 37A and 41A Market Street, having particular regard to noise and disturbance.

### **Reasons for the Recommendation**

#### *Character and appearance*

5. The appeal property comprises a Victorian mid-terrace property located on a busy road characterised by terraced properties with ground floor commercial premises and residential units within the upper floors. The appellant's property consists of a flat within the first and second floors of the building, accessed from an entrance within the under-croft between the appeal property and 41A Market Street which stretches over the side alleyway. A rear courtyard is accessed via the alleyway. It accommodates a number of commercial buildings and associated parking spaces as well as a small garden space used by the appellant.
6. The proposal would result in a roof terrace over part of the flat roof of the rear first floor extension enclosed by solid timber balustrades. A new glass door and steps would be formed to gain access to the terrace.
7. The character of the area to the rear of the No. 39A is somewhat unsightly, with numerous unattractive outbuildings with rickety roofs, extractors and ventilators, flat roofs finished with grey felt, a lot of hardstanding and parked vehicles, and very little vegetation. The proposed roof terrace, new door and steps, and balustrades would be quite modest in scale and, although unusual, would not harm the general character of the area. Although the balustrades and access door would be visible to surrounding properties to the rear, I find that the proposed roof terrace could potentially improve the appearance of the area with the introduction of elements typical of terraces and balconies such as potted plants. A terraced roof with wooden balustrades would appear more attractive than bare felt roofing and would not constitute poor design or result in visual harm.
8. I therefore find the proposed roof terrace, balustrades and access door will not unacceptably harm the character and appearance of the area. The development would therefore accord with policies UD1 and SS1 of the Watford Local Plan Core Strategy (the 'local plan'), the Residential Design Guide 2016 and the National Planning Policy Framework (NPPF) which together seek to ensure high-quality design of buildings which respect local context.

### *Living conditions*

9. The proposed roof terrace would abut the parapet roof wall of No. 41 and be sited within a few meters of the rear of No. 37. I find that the use of this roof space as a terrace is not dissimilar to that of a balcony or a rear garden associated with a terraced house where it is normally expected to hear a certain amount of noise. Although the potential noise and disturbance arising from the use of the terrace could not be controlled, I find no reason why the proposed use would generate an unacceptable amount of noise and disturb the living conditions of the occupiers of neighbouring properties.
10. I consider there would be no unreasonable impact on the living conditions of the occupiers of 37A and 41A Market Street with regards to noise. The development therefore accords with policies UD1 and SS1 of the Local Plan, the Residential Design Guide, as well as the NPPF which aims to ensure new development is of good design and ensures a high standard of amenity for occupants of neighbouring properties.

### **Other Matters**

11. I note concerns have been raised with regards the proposal resulting in overdevelopment. However, due to the modest nature of the proposed development, I do not consider it would result in overdevelopment.
12. I do not consider there would be any adverse impacts on the privacy of the neighbouring businesses as if those businesses are concerned they can employ measures themselves to obscure views as would be the case with any businesses with windows facing other buildings.
13. Furthermore, concerns regarding vehicular access to the rear of the appeal property via the side alleyway by construction workers is not a planning matter and does not affect my view that the development is acceptable in planning terms.

### **Conditions**

14. The Council has suggested a number of conditions that it would wish to see imposed in the event that the appeal was successful. I have considered the suggested conditions against the advice on conditions set out in the NPPF and the Planning Practice Guidance.
15. I have imposed the standard conditions relating to the commencement of development and specifying the relevant plans in order to provide certainty. I have also included a pre-commencement condition requiring the details of the external materials are approved by the Council in order to ensure they complement the appearance of the property and provide adequate screening to prevent overlooking to neighbouring properties.

### **Recommendation**

16. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

*Thomas Courtney*

APPEAL PLANNING OFFICER

**Inspector's Decision**

17. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

*Andrew Owen*

INSPECTOR