
Appeal Decision

Site visit made on 2 January 2020

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2020

Appeal Ref: APP/F5540/W/19/3239408

1 Gordon Road, Chiswick, London W4 3LU

- 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 Ashok Patel against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00493/1/P5, dated 26 April 2019, was refused by notice dated 9 September 2019.
 - The development proposed is the internal subdivision of a dwelling house to provide one, 4 bedroom house and one, 1 bedroom flat; formation of a roof terrace at first floor; erection of a boundary wall to forecourt.
-

Decision

1. The appeal is allowed and planning permission is granted for the internal subdivision of a dwelling house to provide one, 4 bedroom house and one, 1 bedroom flat, the formation of a roof terrace at first floor and the erection of a boundary wall to forecourt at 1 Gordon Road, Chiswick, London W4 3LU in accordance with the terms of the application, Ref 00493/1/P5, dated 26 April 2019, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matter

2. I observed during my site visit that the conversion of the property has been undertaken, but the roof terrace and boundary wall have not been constructed. Whilst I have determined this appeal on the basis of the plans before me, I also noted that there are minor discrepancies between these and some of the fenestration that has been inserted. These discrepancies do not however have any material bearing upon my assessment of the appeal.

Main Issues

3. The main issues are the effect of the development on (i) the living conditions of the occupiers of adjacent dwellings, with reference to the proposed roof terrace and (ii) whether the proposed roof terrace would provide suitable outdoor amenity space for the occupants of the flat.

Reasons

Living conditions

4. The proposed roof terrace would be enclosed by a 1.7 metre high translucent screen which would ensure that there would not be any harmful overlooking

onto the rear gardens of the adjacent dwellings or their ground floor windows. Whilst I note that concern has been raised that overlooking would be possible into upper floor windows, due to the size of the proposed terrace, the provision of the screen and the separation distance between the terrace and the adjacent dwellings, there would not be a harmful overlooking impact or loss of privacy.

5. The Council has also made reference to the potential for the roof terrace to cause undue nuisance and disturbance. However, as the property would be in domestic use, the levels of noise generated are not likely to be significant and the relationship of the proposed development to the existing development would be typical of that found in residential areas.
6. For these reasons I conclude that the roof terrace would not cause harm to the living conditions of the occupiers of the adjoining dwellings. Accordingly, there would be no conflict with the aims of policies CC1 and CC2 of the London Borough of Hounslow Local Plan 2015 (LP), both of which seek to safeguard living conditions.

Amenity space

7. The positioning of the appeal property and the size of the plot on which it is located means that it benefits from limited outdoor amenity space. The outdoor space that is available is associated with the 4 bedroom house and it would significantly compromise the living conditions of its occupiers if it would be shared communally with the occupiers of the flat. There is therefore no potential to provide additional outdoor amenity space for the flat, beyond the roof terrace that is proposed.
8. The plans submitted indicate that the roof terrace would provide 6m² of private outdoor space, which would meet with the requirements of Policy SC5 of the LP. However, there would not be any communal amenity space available for the occupiers of the flat and therefore in this respect the requirements of Policy SC5 would not be met. The Council has also raised concern regarding the quality of amenity space that would be provided however, although enclosed by translucent screening, it would provide an appropriate area and outlook for its intended use.
9. Whilst the shortfall of communal amenity space is acknowledged, internally the flat provides a generous amount of floorspace for its occupiers and the proposed roof terrace would provide a reasonably sized area in which to sit out. Furthermore, the appeal site is located in a sustainable urban location, relatively close to local amenities. The flat provides an additional dwelling and makes efficient use of what is a large property, resulting in its subdivision into two residential units which are able to serve different needs. Taken together, I give these considerations significant weight.
10. In conclusion, whilst the proposal would conflict with the communal outdoor space requirements set out by Policy SC5 of the LP, the factors I have identified outweigh the conflict with the policy that would occur in this instance. Policies CC1 and CC2 of the LP have been referred to by the Council, however neither sets out prescriptive requirements relating to the amount of amenity space required. Therefore, on the basis of my findings above, there is no direct conflict with the aims of these policies.

Other Matters

11. Concern has been raised by interested parties with regard to the appearance of the development and its access from Gordon Road. These matters have not however been raised as areas of concern by the Council and, based upon my observations during my site visit, both the appearance of the development and its access are acceptable. The proposed front boundary wall would also have an acceptable appearance. Reference has been made to the possibility that the proposed roof terrace would set a precedent for similar developments in the area, however I must consider the appeal based upon its own merits.

Conditions

12. The Council has requested that a number of conditions be imposed should the appeal be allowed. Of these, a condition relating to the approved plans is necessary to provide certainty and a condition relating to water consumption is necessary to ensure compliance with Policy EQ2 of the LP. A commencement of development condition is not required as works have begun but it is necessary to ensure that details of the privacy screening to the roof terrace are submitted for approval and that the roof terrace is provided, in the interests of the living conditions of the occupiers of the adjacent dwellings and of the flat.
13. The purpose of conditions 2 and 3 are to require the appellant to comply with a strict timetable for dealing with the provision of the roof terrace and a scheme relating to water consumption which need to be addressed in order to make the development acceptable. The conditions are drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matters because the development has already taken place. The conditions therefore provide for the loss of the effective benefit of the grant of planning permission where the detailed matters in question are not submitted for approval during the time set by the conditions, approved (either by the local planning authority ("LPA") or by the Secretary of State on appeal), and then implemented in accordance with an approved timetable. Should the requirements of the conditions not be met in line with the strict timetable, then the planning permission falls away.
14. The Council has requested that permitted development rights pertaining to the property be removed. Whilst the removal of the right to alter or extend the whole building would be unreasonably restrictive, the enlargement of the property at ground floor level or the provision of outbuildings and enclosures would reduce the amount of outdoor space available. It is therefore both reasonable and necessary to remove permitted development rights for such extensions, outbuildings and enclosures.
15. As the development is for the most part complete, a condition restricting the hours of construction work is not necessary. A condition requiring the removal of the dropped crossing that previously served the property's garage is also not necessary, as it is clear that it is no longer possible for vehicles to access the property and therefore the dropped crossing does not restrict on street parking. Details relating to bin and cycle storage are shown on the plans and are proportionate to the scale of the development. Conditions are however required to ensure that they are provided and retained.

Conclusion

16. For the reasons given above, I conclude that the appeal should, subject to conditions, be allowed.

Graham Wraight

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans and details: GR-001, 301 Rev B, 302 Rev A, 303 Rev A, 304 Rev A, 305 Rev A, 307 Rev A, 309 Rev A and the Flood Risk Assessment.
- 2) The use hereby permitted shall cease within 84 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme for providing the external roof terrace shown on approved drawings 302 A, 304 A and 307 A, to include details of the privacy screening, shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, the external roof terrace and privacy screening shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) The use hereby permitted shall cease within 84 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme for demonstrating that the development will achieve an internal water consumption not exceeding 105 litres per person per day shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 4) Within 6 months of the date of this decision the cycle stand shown on approved drawing 301 B shall be provided and it shall thereafter be retained. In the event of a legal challenge to this decision the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 5) Within 6 months of the date of this decision the refuse and recycling store shown on approved drawing 301 B shall be provided and it shall thereafter be retained. In the event of a legal challenge to this decision the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the footprint of the dwellings hereby permitted shall not be enlarged or extended, nor shall any building or enclosure (other than shown on the approved plans) be constructed within their curtilages.