
Appeal Decision

Site visit made on 25 February 2020

by Martin Small, BA (Hons), BPI, DipCM, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th March 2020

Appeal Ref: APP/H5960/D/19/3242386

1 Fontenoy Road, London, SW12 9LZ

- 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 Hafiz Ahmad against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref: 2019/3151 dated 18 July 2019, was refused by notice dated 12 September 2019.
 - The development proposed is rear roof terrace with obscured balustrade surround.
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Decision

1. The appeal is allowed, and planning permission is granted for a rear roof terrace with obscured balustrade surround at 1 Fontenoy Road, London, SW12 9LZ in accordance with the terms of the application, Ref: 2019/3151 dated 18 July 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not 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: 19145/A01 Rev A Existing Floor Plans and Elevations, 19145/A02 Site Plan and Block Plan and 19145/A03 Rev A Proposed Roof Terrace and Balustrade Floor Plans and Elevations.
 - 3) Prior to commencement of use of the terrace as shown on drawing number 19145/A03 Rev A hereby permitted the obscure glazed screening to each side at a minimum height of 1.7m above finished floor level shall be installed. The screening shall be retained and maintained as such thereafter.

Procedural Matters

2. The appellant has provided amended drawings during the determination of this appeal to correctly show the existing first floor and roof extensions and proposed roof terrace set back from the adjoining property, 3 Fontenoy Road, by 0.7 m (by email dated 12 March 2020). The Council was aware of this inaccuracy in the submitted drawings when determining the application and I have made my decision on the basis of these revised drawings.

Main Issues

3. The main issues are the effect of the proposed development on i) the character and appearance of the host property and area and ii) the living conditions of the occupiers of the neighbouring properties.

Reasons

Background

4. Planning permission was refused for the creation of a roof terrace to the rear at second floor level with 1.1 m high glass balustrading at the appeal property in 2018. The reasons for refusal related to the effects of the proposed terrace on the character and appearance of the host property and surrounding area and on the living conditions of the occupiers of neighbouring properties, with particular regard to noise disturbance and loss of privacy through overlooking. The proposal before me attempts to address the concern over loss of privacy by increasing the height of the balustrading to 1.7 m.

Character and appearance

5. Fontenoy Road is an established residential area with dwellings of varying ages, designs and sizes. The appeal property forms the end of a terrace of dwellings, with both it and its neighbour, 3 Fontenoy Road (No. 3), lower and more recent than the other properties in the terrace.
6. The appeal property has been previously extended to the rear at ground, first floor and roof levels such that its rear elevation has been much altered and has a more contemporary appearance as a result. Whilst the proposed roof terrace would be a new feature on the rear elevation it would also be of a contemporary appearance and its design and appearance would therefore not be at odds with that of the existing rear elevation.
7. The terrace would extend the full width and depth of the existing first floor extension and would increase the bulk of the additions to the rear of the dwelling. However, due to the balustrades being glazed and the absence of a roof, the terrace would have a more lightweight appearance and be clearly distinguishable from the existing first-floor extension. Its relationship to the rear and side elevations of the existing extension would be simple rather than contrived and it would be integrated with the existing rear elevation.
8. The appellant draws my attention to a number of other roof terraces permitted in the area, and during my site visit I observed the roof terraces at 5A Fontenoy Road and 167A Bedford Hill. Although the majority are hidden from public view, being to the rear of properties with other properties to both sides, the roof terrace at 161A Bedford Hill is visible from Dornton Road. The Council contends that as these terraces are on properties of a different design and have been considered a sensitive design solution in each case, these existing roof terraces are not a material consideration.
9. However, although my attention has not been drawn to any roof terraces on properties of similar design to the appeal property in the immediate locality, and it is an established principle that each proposal should be considered on its own merits, roof terraces are not an uncommon feature in the area. An additional roof terrace would therefore not be, as a matter of course, alien or incongruous in the area.
10. The gap between the appeal property and 173 Bedford Hill affords an oblique view of the side elevation of the appeal property. In this view, the side of the proposed balustrading would be visible from both Fontenoy Road and Bedford Hill. However, it would only be visible for a short period of time when passing

along either road and, being to the rear of the property, it would not be prominent or intrusive in the street scene.

11. I therefore conclude that the proposed roof terrace would not be unacceptably harmful to the character and appearance of the appeal property or of the surrounding area. Accordingly, the proposed development would not conflict in this respect with Policy DMS 1 of the Development Management Policies Document (2016) (DMPD) which sets out that, amongst other things, the scale, massing and appearance of development should contribute positively to local spatial character.
12. Neither would the proposal conflict with Policy DMH 5 of the DMPD which sets out criteria for assessing alterations and extensions, including that an extension does not dominate or compete with the original building and where an extension is visible from the street, it is sympathetic to the style of the building, is not visually intrusive and does not harm either the street scene or the building's appearance.
13. The proposal would also accord with the guidance on roof terraces in the Council's Housing Supplementary Planning Document (2016) and paragraph 127 c) of the National Planning Policy Framework (the Framework) which requires planning decisions to ensure that developments are sympathetic to local character, including the surrounding built environment.

Living conditions

14. The appellant has agreed with the Council's estimate of 9.7 m² for the floor area of the proposed roof terrace¹. The roof terrace would therefore be modest and not capable of accommodating large gatherings of people. Accordingly, the potential for noise and disturbance would not be significantly greater, if at all, than from the appellant and his family and friends gathering in the rear garden of the appeal property.
15. There is no indication in the Council's Delegated Report that noise and disturbance has been an issue with the other roof terraces in the area, which the appellant contends vary in size from 5.3 m² to 14.5 m². The appellant also draws my attention to the proposal for a roof terrace at 167A Bedford Hill with a floor area of 13.5 m² that the Council considered not to be capable of accommodating large gatherings of people and so would not increase the potential for significant noise disturbance to neighbouring residential occupiers.
16. Due to its position at the end of a terrace near the entrance to Fontenoy Road, there are views from the windows in the rear elevations of the first and second floors of the appeal property over the rear gardens of No. 3 and a number of properties on both Bedford Hill and Dornton Road. Objections have been raised to the proposed roof terrace from some of the occupiers of dwellings on Bedford Hill on the grounds of a loss of privacy due to overlooking. However, the proposed terrace would be surrounded by a 1.7 m high obscure-glazed balustrade which would prevent overlooking by all but particularly tall people.
17. The proposed terrace would therefore not lead to significantly increased overlooking and, indeed, the balustrading would block the existing views from the second-floor rear windows of the appeal property, thus enhancing the

¹ Email dated 12 March 2020

privacy of the occupiers of nearby properties. I note that the Council also concluded that the proposed development would not lead to a harmful level of overlooking.

18. The rear windows of No. 3 already experience a degree of enclosure from the existing first floor extension to the appeal property and the large rear projection of 5 Fontenoy Road. The proposed terrace would result in an increase in height of the existing elevation adjacent to No. 3 by 1.7 m. However, given the otherwise open outlook from the rear windows of No. 3 down its reasonably long garden and the lightweight nature of the proposed balustrading, the balustrading would not be unduly overbearing or dominant. I note that although this was a concern raised in the Council's Delegated Report, it is not specifically cited in the Council's reason for refusal.
19. I therefore conclude that the proposed roof terrace would not result in a materially harmful effect on the living conditions of the occupiers of neighbouring and nearby dwellings through noise and disturbance, loss of privacy or being overbearing. The proposed development would therefore not conflict in this respect with Policy DMS 1 of the DMPD which sets out, amongst other things, that developments should not harm the amenity of occupiers / users and nearby properties. Neither would it conflict with paragraph 127 f) of the Framework, which requires planning decisions to ensure that developments create places with a high standard of amenity for existing and future users.

Other Matters

20. Some of those objecting to the proposed development question the need for the proposed roof extension given the size of the appellant's rear garden. However, as I have not found any conflict with the policies of the development plan or the Framework, there is no need for me to consider the matter of need.

Conditions

21. The Council has suggested conditions were planning permission to be granted. I have used these as the basis of the conditions I have attached. However, I have not attached a condition requiring the materials to be used in the construction of the external surfaces of the development to match those used in the existing building as the submitted drawings indicate that the balustrade is to be of frosted glass.
22. Planning permission is therefore granted subject to the standard three-year time limit condition. It is also necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. A condition requiring the installation and retention of obscure glazed screening to each side at a minimum height of 1.7 m above finished floor level is necessary to protect the living conditions of the occupiers of neighbouring and nearby properties.

Conclusion

23. For the reasons given above, and having had regard to the other matters raised, the appeal is allowed, and planning permission granted subject to conditions.

Martin Small INSPECTOR