



Appeal Decision

Site visit made on 26 August 2020

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd September 2020

Appeal Ref: APP/C5690/W/20/3250584

Flat B 106 Dartmouth Road, London SE26 4RW

- 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 William Dalton against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/19/114532, dated 4 November 2019, was refused by notice dated 3 February 2020.
 - The development proposed is the installation of obscure glazed balustrade screening to the existing flat roof at the rear of Flat B 106 Dartmouth Road, SE26, in connection with its use as a roof terrace amenity area.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development field on the original application form seeks to provide justification for the proposed development. Therefore, in the interests of clarity and brevity, I have used the description of development from the Council's decision notice in the banner heading.
3. The property address is described as '106B Dartmouth Road' on the planning application form. However, it is described as 'Flat B 106 Dartmouth Road' in the appeal documentation by the main parties. I have used the latter property address in my Decision.
4. At my site visit, I noted that timber decking had been partially installed at the appeal property to form the base of the roof terrace. However, the obscure glazed balustrade screening had not been constructed. As such, I am determining this appeal on a part-retrospective basis.

Background

5. The appellant states that the use of the flat roof as a roof terrace for the occupiers of Flat B 106 Dartmouth Road has occurred for over ten years. Therefore, he argues that the use is lawful through the passage of time. However, this has been disputed by the Council and interested third parties. No substantive evidence, such as a certificate pursuant to Section 191 of the Town and Country Planning Act 1990, has been put forward to demonstrate that the use is lawful. In the absence of such evidence, I am unable to conclude that on the balance of probabilities the use of the flat roof as a roof terrace is lawful. I have determined the appeal on this basis.

Main Issues

6. The main issues are (i) the effect of the development upon the character and appearance of the area; and (ii) the effect of the development upon the living conditions of the occupiers of Nos 106A and 108 Dartmouth Road and Mayode House in respect of outlook and noise and disturbance.

Reasons

Character and appearance

7. The appeal property occupies the upper floor of a two-storey end terrace building on the western side of Dartmouth Road. The terrace contains approximately ten properties which are of a homogenous design. The surrounding area has an urban residential character with properties of differing age and size present in the local area.
8. To the southern side of the appeal property is an adjoining terraced dwelling, known as 108 Dartmouth Road. To the other side of the appeal property is a three-storey detached building, known as Mayode House, which is a flatted development. The ground floor of the appeal property is a self-contained flat, known as 106A Dartmouth Road. No 106A has a single storey flat roof rear extension with a rear garden beyond. The flat roof would form the base for the proposed roof terrace at the appeal property. It is proposed to erect obscure glazed balustrading to the side and rear boundaries of the roof terrace. The balustrading would be approximately 1.8 metres high to the sides and 1.4 metres high at the rear. The balustrading would be set back about 0.5 metres from the edge of the flat roof.
9. The overall design and appearance of the proposed balustrading would not be in-keeping with the host building and the adjoining terrace. Despite the proposed set back from the edge of the roof, the proposed balustrading would occupy an elevated first floor position above an existing ground floor extension, which would create a harsh and jarring impact, when viewed against the context of the host building and the adjoining terraced properties. Therefore, the proposal would unacceptably diminish the architectural integrity of the host building, which would cause significant harm to the character and appearance of the area.
10. I recognise that other properties within the immediate area, such as Mayode House and Larch House, feature roof terraces and balcony areas, but these are standalone developments where the roof terraces and balcony areas are integral to the design of the respective properties. Conversely, the proposed roof terrace would be an incongruous addition to the host building and would appear out of keeping when viewed in the context of the adjoining terrace.
11. In conclusion, the development does not accord with Policy 15 of the Lewisham Core Strategy (2011), Policies DM30 and DM31 of the Lewisham Development Management Local Plan (2014) (the 'DMP') and advice contained within the Lewisham Local Plan: Alterations and Extensions Supplementary planning document (the 'SPD'), which amongst other things, require new development, including alterations to residential properties, to be of a high quality design, which respects the character and appearance of the existing building and surrounding area.

Living conditions of neighbouring occupiers

12. The proposed balustrading would be sited in close proximity to the shared boundary with No 108. At first floor level No 108 has rear facing windows, which serve habitable accommodation. In addition, the balustrading would occupy an elevated position above the rear garden of No 106A. Although the balustrading would be stepped away from the edge of the roof, the proposed balustrading would have a significant dominating effect when viewed by the neighbouring occupiers from the respective rear garden areas and from the first floor rear facing window of No 108 closest to the shared boundary. Consequently, the development would have an oppressive and overbearing impact upon the outlook of the occupiers of the adjoining residential properties.
13. In terms of noise and disturbance, the proposed development would result in the creation of an outdoor roof terrace, which would be situated at an elevated position above the garden of No 108 and No 106A. Due to the elevated position of the roof terrace and the close proximity to the neighbouring rear gardens of Nos 108 and 106A, I consider that the noise and disturbance caused by the use of the roof terrace would cause significant harm to the living conditions of the neighbouring occupiers.
14. I recognise that Mayode House has a first-floor roof terrace. However, this is a detached property that is set back from the rear elevation of the appeal property and the adjoining terrace. In any event, the noise generated by the use of the existing roof terrace at Mayode House does not provide justification to allow further harm, which would result from the proposed development.
15. The Council have expressed concern that the proposed development would cause harm to the living conditions of the occupiers of Mayode House. As set out above, the neighbouring property is a detached building set back from the rear elevation of the appeal property. Given the degree of separation, I am not persuaded that the proposal would result in demonstrable harm to the living conditions of the occupiers of Mayode House. Despite this, the harm identified above is sufficient to justify dismissing the appeal.
16. For the reasons outlined above, I conclude that the proposed development would cause significant harm to the living conditions of the occupiers of No 106A and 108 Dartmouth Road in respect of outlook and noise and disturbance. As such, the proposal would not accord with Policy DM31 of the DMP and advice contained within the SPD, which explain that roof terraces should result in no significant loss of amenity to the occupiers of adjoining properties.

Other Matters

17. The proposal would improve the existing living conditions for the occupiers of the appeal property. However, such benefits would not be significant enough to overcome or outweigh my conclusions on the main issues.

Conclusion

18. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Christopher Miell
INSPECTOR