

Appeal Decision

Site visit made on 15 October 2020

by David Fitzsimon MRTPI

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

Decision date: 28th October 2020.

Appeal Ref: APP/H5390/W/20/3252421

15 Humbolt Road, London W6 8QH

- 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 Messrs Francis and Peter Evans against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref 2019/02284/FUL, dated 28 July 2019, was refused by notice dated 24 April 2020.
 - The development proposed is the 'installation of metal railings to create small balcony and access walkway at raised ground floor level, and installation of spiral staircase to provide access to rear garden'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are as follows:
 - The effect of the proposal on the character and appearance of the host building and the local area;
 - The effect of the proposal on the living conditions of nearby residents in terms of noise and disturbance; and
 - The effect of the proposal on the living conditions of nearby residents in terms of privacy.

Reasons

Character and appearance

3. The appeal relates to a three storey plus basement level mid-terrace property which has been divided into flats. The proposal seeks to use part of the flat roof of a single storey rear extension as a balcony enclosed by railings and as a walkway to a spiral staircase providing a means of escape and access to the rear garden.
4. The appellants argue that the scheme before me amounts to a significant improvement on an earlier scheme a colleague Inspector found to be unacceptable (Ref. APP/H5390/W/18/3195517). However, it does not automatically follow that the appeal proposal is acceptable.
5. The appellants point to the fact that the proposed railings would '*significantly set away from surrounding boundaries*' and they would be traditional in their

design. In my view, the design of the railings and the spiral staircase is acceptable and neither would appear out of place, particularly given the presence of railings which enclose a rooftop balcony at No. 2 Disbrowe Road.

6. Nevertheless, a section of the railings would enclose a small balcony area on top of the flat roof extension directly adjacent to the outrigger of the host building. In order to adequately mitigate overlooking into the private rear amenity space of No. 13 Humbolt Road, a tall screen would have to be fitted to this section. In my view, such a screen would appear visually dominant and the effect would harm the traditional character and appearance of the rear of the host dwelling and its surroundings.

Living conditions – noise and disturbance

7. As explained, the proposal includes a small balcony area and I note this is smaller than the balcony previously considered by my colleague Inspector. In considering the issue of potential noise and disturbance, my colleague reasoned that *'in itself the terrace is not a noise generating development and because its use would be ancillary to the residential use of the flat there is no reason to find that its use would be unacceptable'*. My colleague went on explain that *'if there was a party at the appeal site then that might cause disturbance by virtue of music or conversation emanating from within, via the doors of the extension, which could happen whether the terrace was there or not'*. He concluded that the noise issue *'therefore appears to come back to good neighbourliness rather than being an inherently inappropriate and unneighbourly form of development'*.
8. I entirely agree with my colleague's position and to my mind, planning decisions must be based on an assumption that occupiers will reside in a considerate manner. Legislation is in place to deal with those who do not. In light of these factors, I am satisfied that the proposal would not cause unacceptable levels of noise and disturbance for nearby residents.

Living conditions - privacy

9. The proposed walkway between the door of the flat and the spiral staircase would be narrow whilst the staircase itself would be purely functional. On this basis, I would not reasonably expect people to spend time on either other than to access the rear garden. However, the proposed small balcony area immediately outside of the kitchen would extend as far as the side edge of the extension. Whilst not particularly deep, this balcony would be wide enough for people to sit or stand on for prolonged periods of time. The effect would be unduly invasive, particularly for the occupiers of No. 13 Humbolt Road when enjoying their rear outside space. As explained, whilst erecting a screen could mitigate this harmful effect, doing so would introduce an overbearing and incongruous feature.
10. For the above reason, I find that the proposal would unacceptably reduce the levels of privacy beyond that which the occupiers of No. 13 Humbolt Road should reasonably expect to enjoy, even in an urban location.

Other considerations

11. The appellants refer to the fact that a shallow balcony and staircase was in place previously. However, it is no longer present and nor did it sit on a flat roof extension projecting from the rear outrigger. The appellants also assert

that a means of escape from the associated flat is necessary, but no compelling evidence has been advanced to convince me that the appeal proposal is the only design solution in this regard.

12. The appellants have brought my attention to other planning permissions relating to balconies and glazed screens at properties within the local area, including one at No. 13 Humbolt Road. However, I do not know the precise planning circumstances behind the examples highlighted. Furthermore, from the limited information available to me, none appear directly comparable to the appeal proposal, which I have considered on its individual merits in any event.

Overall Conclusions

13. I conclude that the proposal would not lead to undue noise and disturbance for nearby residents. In this particular regard, there is no conflict with the overall aims of policy CC11 of the adopted Hammersmith and Fulham Local Plan (LP) or Key Principle HS8(i) of the Council's adopted Planning Guidance Supplementary Planning Document (SPD) which seek to safeguard against undue noise and disturbance.
14. However, the proposal would result in an unacceptable reduction in the level of privacy currently enjoyed by the occupiers of No. 13 Humbolt Road. In this respect, it conflicts with policy HO11 of the LP, along with Key Principle HS8(i) of the SPD, which seek to safeguard appropriate levels of privacy for existing residents. In addition, whilst the railings and spiral staircase would be visually acceptable in their own right, the installation of a screen to overcome the identified overlooking issue would harm the character and appearance of the host building and the local area. This would conflict with policies DC1 and DC4 of the LP which promote high standards of design that is appropriate to its setting.
15. The arguments advanced by the appellants in favour of the proposal do not outweigh the identified harm and policy conflict therefore the appeal does not succeed.

David Fitzsimon

INSPECTOR