



Appeal Decision

Site visit made on 21 January 2021

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 February 2021

Appeal Ref: APP/F5540/W/20/3259280

No 2 Oak Lock Mews, Fraser Street, Chiswick, London W4 2DS

- 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 Mark Penrice against the decision of Council of London Borough of Hounslow.
 - The application Ref 00465/C2/P6 dated 5 May 2020, was refused by notice dated 3 August 2020.
 - The development proposed formation of a first floor roof terrace with side screens above the rear extension at 103 Devonshire Road, to be accessed from the first floor kitchen/living space of the dwelling at 2 Oak Lock Mews.
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Decision

1. The appeal is allowed, and planning permission is granted for the formation of a first floor roof terrace with side screens above the rear extension at 103 Devonshire Road, to be accessed from the first floor kitchen/living space of the dwelling at No 2 Oak Lock Mews, Fraser Street, Chiswick, London W4 2DS in accordance with the terms of the application ref: 00465/C2/P6, dated 5 May 2020, subject to the following conditions:
 - 1) The development to which this permission relates shall be begun within a period of three years commencing on the date of this decision;
 - 2) The development hereby approved shall be carried out in accordance with the following approved plans: DJADS-197-PL-200 (location plan), PL 136 (proposed rear elevation), PL-137 (proposed section A-A), PL-133 (proposed first floor plan) and PL-144 Rev B (proposed roof plan).
 - 3) Prior to commencement of the development a schedule and samples of all materials to be used, including acoustic specifications, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the materials will be maintained for the lifetime of the development;
 - 4) Prior to first use of the approved roof terrace the rear window to no. 103 Devonshire Road, over the stairwell, shall be either be bricked up or altered to utilise frosted glass and be inward opening only;
 - 5) No demolition or construction work shall take place on the site except between the hours of 08:00 to 16:00 on Mondays to Friday and 09:00 to 13:00 on Saturdays and none shall take place on Sundays and Public Holidays without the prior agreement of the Local Planning Authority.

Procedural Matters

2. I have utilised the Council's description of the development as per the decision notice as I feel it more concisely describes the development.

Main Issues

3. The main issue is the impact of the proposal upon the amenity of neighbouring occupiers with particular regard for loss of privacy, general disturbance and reduced light and outlook.

Reasons

4. The appeal site address is 2 Oak Lock Mews (no. 2), as per the header of this decision letter, but for the avoidance of doubt the appeal site relates to the roof area of a rear extension to 103 Devonshire Road (no. 103). It would be accessed as a roof terrace from 2 Oak Lock Mews via a new glazed door leading out from the first floor of no. 2.
5. The terrace would be created by laying decking over rubber matting. A 1.8m high obscure laminated glazed screen would be erected around the sides of the terrace with rubber acoustic absorption material to 1.8m meters height on the rear wall of no. 103. An existing window, to the rear of no.103 (serving a stairwell, which I accessed as part of my site visit) would be removed and bricked up.
6. The Council's assessment, in paragraph 5.2 of the delegated report, appears to confirm that the proposal as presented would help minimise overlooking on neighbouring occupants and that the window to the rear of no. 103 could be closed and bricked up to avoid privacy implications for neighbouring occupants. The Council's submission (delegated report) does not evidence, nor support, the inclusion of loss of privacy which is within the stated reason for refusal.
7. The nature of Oak Lock Mews and Devonshire Close is that they are in very close proximity back to back. There is already a high degree of overlooking and general impacts upon privacy as a result of the existing intensive layout. Taking into account the height of the screens proposed, as well as the site context from my site visit (where I viewed from both no. 103 and no. 2), I find that with natural use the limited views out from the proposed terrace would not be direct into habitable elements of neighbouring properties and would not result in a loss of privacy. I find that there is no impact upon the privacy of neighbouring properties which is sufficient enough to warrant refusal.
8. There is of course potential for increased activity as a result of the use of the proposed roof terrace. The Council do not evidence why the proposed acoustic measures are considered to be insufficient despite acknowledging that the acoustic absorption material, and the series of planters, would help to minimise, to an extent, disruption through noise pollution. The appellant has robustly outlined, in their planning statement¹, multiple vertical and horizontal measures which meet international standards. Some, such as Resonics, have been tested to reduce sound by up to 90%.
9. I have no evidence to suggest that natural use of the proposed terrace (which would serve a single residential dwelling), with the use of acoustic mitigation

¹ Dated 20 March 2020

measures, would result in noise which would be at a level which is unacceptable in a densely populated residential area where there is already a roof terrace in the immediate vicinity. Similarly I do not have evidence that it would very likely result in undue levels of disturbance as suggested by the Council. Taking into account the site context, and application of a condition to confirm details of materials to be used (including acoustic specification) I have no evidence before me to conclude that the proposal would result in unacceptable noise or disturbance for neighbouring residential properties.

10. The Council have provided little explanation as to actual impact upon the neighbouring properties as to light other than a reference to orientation. The appellant has provided a thorough assessment as to the potential impacts of the proposal upon neighbouring properties within regard to light/sunlight. The proposed screening is stated not to interfere with the 27 degrees above horizontal sight lines for the rear windows at no. 103 and no. 105 Devonshire Road. Overall, I concur that the height of the screens and proximity to neighbouring windows is not likely to result in unacceptable levels of reduced light or sunlight. I find that due to the presence of the existing built form the proposed terrace, which would be in between existing built form of both two and three storeys, will not impact upon neighbouring living conditions.
11. The Council's concern relating to outlook for the first floor flat at no. 103 and no. 101 Devonshire Close are noted. The appellant notes that this description should refer to no. 105 not no. 101 (no. 101 is noted to have a roof terrace). The closest window, in no. 105, has obscured glass which is demonstrated in the appellant's photographs². The screens will be lower than the midpoint of the sash windows in no. 103 (also demonstrated in the appellant's photographs³) which I do not find would, therefore, result in loss of outlook and/or result in overbearingness which warrants refusal.
12. The proposal would be consistent with London Borough of Hounslow Local Plan 2015 (LP) Policy CC1 which requires proposals to respond to the wider context and LP Policy CC2 which supports contemporary architecture that responds intelligently to current and future lifestyles and requires proposals to be designed to mitigate noise quality issues, provide adequate outlook and minimise overbearingness and overshadowing. The proposal would also be consistent with LP Policy SC7 which requires alterations and extensions to not result in harm to the amenity of neighbouring residents.
13. I acknowledge that the Residential Extension Guidelines Supplementary Planning Document 2017 (SPD) guidance relating to use of a flat roof as a roof terrace. Despite this it is clear that this guidance allows for assessment as to individual cases on their own merits. Given that I find no impact upon neighbour's privacy I find the proposal is consistent with the overarching objectives of the SPD which seeks to protect neighbouring amenity.

Other Matters

14. I note objection, from Flat 1 103 Devonshire Road, relating to privacy and noise and disturbance. A second objection from 101a Devonshire Road also raises privacy and noise. I have discussed both of these matters above within this decision letter. I note comments relating to the proposed materials

² Figure 3 of Photo Sheets Representation September 2020

³ Figure 1 of Photo Sheets Representation September 2020

however, the Council have not raised the proposed materials as a reason for refusal and concluded that the terrace would not appear out of keeping with the area. I find no reason to conclude differently on this matter. I also note comments regarding existing works not being built to plan, however, this is a matter for the Council's enforcement team and does not fall to be considered within the scope of this appeal.

Conditions

15. The Council have not suggested any conditions within this appeal. A condition requiring the development to be in accordance with the approved plans is required in order to control and define the development which is granted consent. A time condition is attached to comply with section 51 of the Planning and Compulsory Purchase Act 2004. A condition requiring submission of the materials to be utilised, including acoustic specifications, is required to ensure both a satisfactory appearance and protect the amenity of neighbouring residents. A condition relating to the rear window, over the stairwell, in No. 103 is required to protect the privacy of users of the approved roof terrace and neighbouring residents. To protect neighbouring residential amenity during construction a condition limiting timings of constructions works is required.

Conclusion

16. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be approved subject to conditions.

Eleni Randle

INSPECTOR