



Appeal Decision

Site visit made on 9 December 2020

by **M Aqbal BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 01 March 2021

Appeal Ref: APP/T5150/W/20/3254898

92b Salusbury Road, London NW6 6PA

- 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 and Mrs Lax against the decision of the Council of the London Borough of Brent.
 - The application Ref 20/0866, dated 12 March 2020, was refused by notice dated 14 May 2020.
 - The development proposed is permission to use flat roof to ground floor single storey rear extension as roof terrace and associated boundary treatments at first floor level.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the appeal the appellants have illustrated an alternative form of screening to the proposed roof terrace. However, the Procedural Guide, Planning Appeals-England, states that the appeal process should not be used as a mechanism to evolve a scheme. Accordingly, I have determined the appeal on the original plans and drawings submitted with planning application Ref 20/0866.

Main Issues

3. The main issues are the effect of the proposal on the character and appearance of the area and the living conditions of neighbours.

Reasons

Character and appearance

4. The proposed roof terrace is to be created over a flat roofed, ground floor rear extension and would be accessed off the main living area of the appellants' flat.
 5. The existing ground floor extension although sizeable is of a simple form which is not dissimilar to others nearby. The rear elevations of the host building and nearby properties are relatively plain and are dominated by their three-storey brick outriggers. This provides a degree of consistency to their appearance in respect of form and materials.
 6. The Council's Residential Extensions and Alterations SPD 2 ('SPD2') states that designs of roof terraces should aim to minimize the impact on the elevation, match existing materials and colours, and use setbacks where possible.
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7. There are examples of roof terraces along the row of properties, that the appeal site forms a part of, including the host building. These are located at second-floor level and do not project beyond the existing outriggers. Therefore, being significantly above street level and modest in scale relative to the outriggers, these existing roof terraces are not particularly prominent.
8. In contrast, there are no first-floor roof terraces near the appeal site. Moreover, the proposed roof terrace would follow the form of the extension below, extending forward and wrapping around the side of the rear outrigger. As such, despite having an open aspect, the proposed roof terrace would be prominent with a substantial footprint.
9. To enclose the roof terrace, low balustrades are proposed along its perimeter. These would be slightly recessed behind new hedge planting. Whilst the addition of greenery would soften the appearance of the balustrades, this would also emphasise the extent of the terrace, which includes its elongated side element. Thereby making the proposed roof terrace very apparent from neighbouring properties.
10. Consequently, by reason of its siting and extent, the proposed roof terrace and associated enclosures would result in the introduction of an unduly sizeable and conspicuous addition to the appeal property, which would detract from the character and appearance of the area. The proposed development would therefore not reflect the guidance contained within SPD2 and would be contrary to Policy DMP1 of the Council's Development Management Policies ('DMP'), which along with other things, requires that new development in respect of siting and scale complements the locality.

Living conditions of neighbours

11. Due to the first-floor nature of the roof terrace, its use has the potential to increase the level of overlooking towards neighbouring properties and gardens. The proposed privet hedge along the front of the terrace would have a depth about 0.8m, this would limit the extent of direct overlooking of the gardens below. The setting back of the useable parts of the terrace behind the hedge would also reduce the perception of overlooking experienced by those using the gardens below.
12. A taller hedge of about 1.8m in height is proposed along the boundary with 94b Salusbury Road ('No 94b') and another hedge would be provided along the other shared boundary with 90b Salusbury Road. However, hedges would take time to establish and on the information before me, I cannot be certain that these would be of a type and quality that provide suitable screening throughout the year and the lifetime of the development. I am therefore not persuaded that the proposed screening would be effective. Particularly, in respect of the side element of the roof terrace, which would be in proximity of, and affords direct views towards rear and side facing windows serving flats, 90a and 90b Salusbury Road.
13. The proposed roof terrace is intended to function as an amenity area to the appellant's flat and therefore the activities associated with its use have the potential to generate noise and disturbance. Whilst most of this activity would be confined to the rear of the existing flat, away from the rear facing windows of No 94b, it would extend to the side of the outrigger, directly in front of windows serving flats, 90a and 90b. As such, the proposed arrangement would

significantly increase the potential for noise disturbance to the detriment of the occupiers of these properties.

14. Consequently, the proposed roof terrace because of its size, siting and lack of suitable screening would harm the living conditions of neighbours with regard to loss of privacy and noise disturbance. As such, the proposal is not cognisant with SPD2 with regard to safeguard neighbouring amenity. I, therefore, find conflict with Policy DMP1 of the DMP, which amongst other things does not support developments which fail to secure high quality amenity.

Other matters

15. Bearing in mind that in general the Courts have taken the view that planning is concerned with land use in the public interest, rather than private interests, the appellants' personal circumstances and reasons for requiring a roof terrace, as outlined in their 'Personal Statement' along with some local support for the proposal, accrue very limited weight and do not outweigh the harm I have identified.
16. The roof terrace over 105-109 Salusbury Road is located above second floor level over the main roof of a building in mixed use, which faces a busy road. It is also partly enclosed by glass screens and is not in proximity of windows serving other dwellings. Therefore, given its context and design, this existing roof terrace is not comparable to the scheme before me, and therefore does not alter my findings on the main issues.

Conclusion

17. For the above reason, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR