



Appeal Decision

Site visit made on 22 February 2021

by Michael J Muston BA(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2021.

Appeal Ref: APP/H5390/W/20/3261380
2-14 Shortlands, London W6 8DJ

- 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 Biem of Viewranks Estates Ltd against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2020/01325/FUL, dated 28 May 2020, was refused by notice dated 27 July 2020.
 - The development proposed was originally described as the creation of a communal amenity space on the existing roof.
-

Decision

1. The appeal is allowed and planning permission is granted for the extension of existing plant screening at main roof level to incorporate a roof terrace at 2-14 Shortlands, London W6 8DJ, in accordance with the terms of the application, Ref 2020/01325/FUL, dated 28 May 2020, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: drawings numbered 0001, 0045, 0046, 0047.
 - 3) The screening of the terrace enclosure hereby permitted shall be constructed in Powder Coated Aluminium Mesh. The screening shall be erected as detailed on the plans hereby approved, prior to the first use of the roof as a sitting out area, and shall be permanently retained in this form thereafter.

Procedural Matter

2. The development was described on the application form as set out in the heading above. This was amended by the Council, to "*Extension of existing plant screening at main roof level to incorporate a roof terrace*". This is also the description used by the appellant on his appeal form. I have therefore used this amended description as the basis for my decision.

Main Issue

3. The main issue is whether the living conditions or health of occupiers of 2-14 Shortlands would be unacceptably affected, when using the proposed roof terrace, with particular regard to air quality and traffic noise.

Reasons

4. Policy CC10 of the Hammersmith & Fulham Local Plan (2018) (the LP) says that the Council will seek to reduce the potential adverse air quality impacts of new development by requiring, amongst other things, development which may be impacted by local sources of poor air quality to provide an air quality assessment, and mitigation measures that reduce exposure to acceptable levels where developments are proposed that could result in occupants being particularly affected by poor air quality.
5. Policy CC11 of the LP says that noise impacts of development will be controlled by implementing a series of measures. These include noise sensitive development being protected against existing sources of noise through careful design, layout and use of materials , as well as by protecting external amenity areas.
6. The proposed screening would surround an area to be used as a roof terrace. The Council considers that this terrace would be unacceptably impacted by both poor air quality and noise from traffic on the nearby A4, particularly as the appeal site is close to an elevated section of that road.
7. With the appeal documents, the appellant submitted an Air Quality Assessment (AQA) and an Environmental Noise Assessment (ENA). The AQA concludes that modelling has predicted concentrations of pollutants to be below the relevant objective levels at the edge of the amenity space, and that as a result no mitigation is considered necessary. The ENA concludes that measured noise levels indicate that the amenity space would exceed the upper guideline noise level without mitigation. However, it calculates that the mitigation proposed in the form of the screening would reduce noise levels to below that level, thereby making the proposal acceptable.
8. The Council has not disputed the findings of these documents, and I accordingly attach great weight to them, and conclude that, from the evidence before me, that neither the living conditions nor health of occupiers of 2-14 Shortlands would be unacceptably affected, when using the proposed roof terrace. The proposed development would comply with Policies CC10 and CC11 of the LP.

Conditions

9. As well as standard conditions relating to when the development should commence and compliance with the approved plans, the Council has also suggested a condition requiring any alterations to the elevations of the existing building to be carried out in the same materials as the existing elevation to which the alterations relate. The submitted plans do show some elevational changes, but these appear to be part of an already approved scheme, and not part of this proposal. This condition is therefore unnecessary.
10. The Council has also suggested a condition (No 4), stating that the terrace enclosure shall be constructed in Powder Coated Aluminium Mesh. As this is

the material shown on the submitted plans and is the material already on site around the plant, this element of this condition is necessary, in the interests of the appearance of the building, and to protect users of the roof terrace from otherwise unacceptable noise levels.

11. The other part of suggested condition 4 is a restriction on any other part of the roof being used as an amenity space, to protect neighbouring occupants from overlooking. However, having seen potential views from the whole roof on my site visit, there is no issue with overlooking from any part of the roof. This part of the suggested condition is unnecessary and I have not imposed it.
12. The Council's suggested condition 5 would require the submission of a noise assessment. However, as one was submitted as part of the appeal process, it showed that the proposed screening would be effective, and the Council has not disputed its findings, this condition is unnecessary. I have instead amended condition 4 to require the proposed screening to be erected prior to the first use of the roof as a sitting out area.
13. The Council's suggested condition 6 would require the construction of a green vegetation barrier in addition to the proposed screening, in order to minimise air pollution. However, the appellant's submitted AQA makes it clear that this is not necessary. As the Council has not disputed the findings of the AQA, I agree with the appellant that this condition is also unnecessary.

Conclusions

14. For the reasons set out above, I conclude that the appeal should be allowed, subject to the conditions set out above.

Michael J Muston

INSPECTOR