



Appeal Decisions

Site visit made on 9 December 2020

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2021

Appeal Ref A: APP/X5990/D/20/3253583

2 Godson Yard, London NW6 5FE

- 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 Mrs Nazma Nielsen against the decision of City of Westminster Council.
 - The application Ref 19/09127/FULL, dated 23 November 2019, was refused by notice dated 6 May 2020 .
 - The development proposed is described as: 'Continued use and erection of roof terrace with timber decking and balustrades on the part flat roof at the rear of the property, involving a reduction in its size, plus erection of obscure glazed screens and retention of doorway onto the terrace ('Option 2' scheme).'
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Appeal Ref B: APP/X5990/D/20/3253582

2 Godson Yard, London NW6 5FE

- 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 Mrs Nazma Nielsen against the decision of City of Westminster Council.
 - The application Ref 19/09384/FULL, dated 3 December 2019, was refused by notice dated 6 May 2020.
 - The development proposed is described as: 'Continued use and erection of roof terrace with timber decking and balustrades on the part flat roof at the rear of the property, involving a reduction in its size to 8.1 sq.m., plus erection of obscure glazed screens and retention of doorway onto the terrace ('Option 3' scheme).'
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Decision Appeal A

1. Appeal A is allowed and planning permission is granted for continued use of part of flat roof at rear raised ground level of property as a roof terrace, installation of obscure glazing and retention of timber decking and doorway onto the terrace ('Option 2' scheme) at 2 Godson Yard, London NW6 5FE, in accordance with the terms of the application Ref 19/09127/FULL, dated 23 November 2019, and the drawings submitted with it, subject to the following conditions:
 - 1) Subject to Condition 2 of this permission, the development hereby approved shall be completed in accordance with the following approved plans: Site Location Plan and Existing Block Plan – Drawing No 1337NN_PRE:SH1 Rev A; Proposed (Option 2) Floor Plans – Drawing No 1337NN_PRE:SH12 Rev A; Proposed (Option 2) Sections A-A and B-B – Drawing No 1337NN_PRE:SH13

Rev A and Proposed (Option 2) Section C-C – Drawing No 1337NN_PRE:SH14 Rev A.

- 2) Within three months of the date of this permission, details of the proposed obscure glazed screens shall be submitted to the local planning authority. Within two months of the details of the proposed obscure glazed screens being approved by the local planning authority, these shall be installed in the locations shown on the approved plans. Thereafter, the approved obscure glazed screens shall be retained for the life of the development.

Decision Appeal B

2. Appeal B is dismissed.

Appeal A and Appeal B - Procedural Matters

3. The proposals under Appeal A and Appeal B differ in layout and design. I will consider each proposal but, to avoid duplication, I shall evaluate both Appeals together.
4. Part of the development shown under Appeal A and Appeal B has already been undertaken. The submitted proposed drawings show this along with some proposed removals and additions.
5. Although the description of the development on the application forms for both Appeal A and Appeal B refer to balustrades, these are not included in the Council's Decision or on the appellant's appeal forms. Moreover, the balustrades along with part of the existing framework supporting these are shown to be removed on the proposed drawings. Accordingly, I have determined these appeals on the proposed drawings, and this is also reflected in my Decisions.

Appeal A and Appeal B - Main Issues

6. The common main issues are the effect of the proposed development on the character and appearance of the area, and the living conditions of neighbours.

Background

7. Both appeals relate to a roof terrace which serves a residential unit, that is split over lower and upper ground levels. This unit forms part of a small residential development known as Godson Yard. The roof terrace is located above the flat roof of the lower ground floor accommodation and amenity space for the host property and is accessed via a UPVC door at upper ground level.
8. The extant roof terrace has a floor area measuring about 25 sqm which lies between two taller buildings, to the east and west.
9. The proposal under Appeal A seeks to retain a reduced area of about 19.2 sqm of the roof terrace, along with the provision of obscure glazed screens to its north and south elevations. Under Appeal B, the proposal is to retain a lesser area of about 8.1 sqm of the roof terrace, along with the provision of obscure glazed screens around this.

Appeals A and Appeal B - Reasons

Character and appearance

10. Godson Yard is a small mews development which incorporates a series of brick-built buildings with distinct roof forms with appropriately integrated dormer and terrace areas. There are also other roof terraces of various forms in the vicinity of the appeal site.
11. While the façade of the principal building within Godson Yard retains its traditional appearance, the remainder of the development is contemporary in style. The appeal site comprises the flat roof of an existing single storey building which is largely screened from public vantage points and views of it are limited to from within the site and some neighbouring properties.
12. The proposed obscure glazed screens due to their lightweight construction and simple form would not detract from the subordinate nature of the existing flat roofed section of the host property and would complement the contemporary style of the Godson Yard development. These screens would also largely conceal the timber decking and any paraphernalia associated with the roof terrace. As such, the proposal would not result in any unacceptable visual clutter. Furthermore, the overall extent of the roof terraces as proposed under Appeal A and Appeal B would be modest, relative to the scale and massing of nearby buildings.
13. UPVC doors are not uncommon to the Godson Yard development and due to its recessed location along the rear of a building, the existing UPVC door does not compromise its appearance.
14. For the above reasons, the proposed developments under Appeal A and Appeal B would not harm the character and appearance of the area and accord with Policy DES 1 of the Council's Unitary Development Plan, adopted January 2007 ('UDP'). This requires developments to be of the highest standards of architectural quality, that improve the quality of adjacent spaces around or between buildings. I also find no conflict with Policy DES 5 of the UDP which amongst other things requires that developments reflect the style and details of the existing building.

Living conditions of neighbours

15. In respect of both proposals, although views towards the upper floor rear facing windows of the host building are available from the roof terrace, these are not direct due to the higher levels of these windows, and this arrangement does not cause any unacceptable loss of privacy.
16. In respect of Appeal A, the installation of the obscure glazed screens around the proposed roof terrace would eliminate any overlooking of other neighbouring properties and their amenity areas.
17. For both proposed schemes, the siting and form of the proposed screens would not result in any undesirable sense of enclosure to windows of 237 Kilburn Park Road ('No 237') or unacceptably limit sunlight and daylight to this or any other nearby properties.
18. However, the proposal under Appeal B does not incorporate any screening along part of the shared boundary with No 237. Consequently, the use of this

area to access the roof terrace would result in overlooking of a rear facing window and amenity areas associated with No 237, resulting in the unacceptable loss of privacy for its occupants.

19. The proposed roof terraces would function as outdoor amenity spaces for an existing flat and such areas are not uncommon for residential units. It is also not unusual for these to be used for smoking and recreational activities. However, activities associated with the use of outdoor amenity areas have the potential to generate noise and disturbance, and while I have noted the concerns raised by neighbours regarding these matters, for both proposed schemes, the overall useable area of the extant roof terrace is being reduced, which limits the nature and extent of activities that could be undertaken from these area.
20. Therefore, despite the elevated position of the roof terrace, I have no reason to consider that the level of activity associated with the use of the proposed reduced external amenity areas need cause any more of a nuisance than that generated at any of the other outside domestic amenity areas in the vicinity.
21. Based on the above reasons, the use of the proposed roof terrace under both Appeal A and Appeal B would not harm to the living conditions of neighbours, specifically with regard to noise disturbance. I therefore find no conflict with Policy S32 of Westminster's City Plan adopted November 2016 ('WCP') and Policy ENV 6 of the UDP, which seek to safeguard against noise pollution.
22. In respect of Appeal A, I also find no conflict with policies ENV 13 of the UDP and S29 of the WCP. Together, these policies aim to protect the amenities of neighbours with regard to daylight and sunlight and require that developments should not result in a significant increase in the sense of enclosure or overlooking.
23. Nevertheless, for the above reasons, the proposal under Appeal B would harm the living conditions of the occupiers of No 237 with regard to overlooking and loss of privacy. This is in conflict with policies ENV 13 of the UDP and S29 of the WCP.

Other Matters

24. Given the outdoor nature of the proposed roof terrace and the amount of floor space proposed for each scheme, the extent of enclosure associated with these would not unacceptably compromise their quality as outdoor amenity spaces.
25. Notwithstanding Condition 6 of planning permission 06/03823/FULL, I have found that the proposal for a roof terrace under Appeal A, would not harm the privacy and the environment of occupiers of neighbouring properties.
26. Applications for any other roof terraces would have to be assessed on their merits, having regard to the relevant considerations specific to each property at that time. As such, my findings in relation to Appeal A would not set a precedent. Furthermore, if Appeal A is allowed it would not prejudice the Council from pursuing enforcement action in respect of the existing roof terrace at the appeal site, which is different in design and scale to the scheme submitted under Appeal A.
27. There is nothing in the appellant's 'Personal Statement' which alters my findings on the planning merits of the proposal submitted under Appeal B.

Conditions (Appeal A)

28. I have considered the conditions put forward by the Council in light of the requirements of the Planning Practice Guidance and the National Planning Policy Framework. As the development has already begun, it is not necessary to specify the standard implementation condition. I have included a condition specifying the relevant drawings as this provides certainty. The requirement for the details of the proposed obscure glazed screens and the implementation and retention of these is necessary in the interests of safeguarding the privacy of neighbours, and the appearance of the development and area.

Conclusion

29. For the above reasons, I conclude that Appeal A should be allowed.

30. The proposal under Appeal B would not harm the character and appearance of the area. Nevertheless, it would harm the living conditions of neighbours, for this reason and overall conflict with the development plan, I conclude that Appeal B should be dismissed.

M Aqbal
INSPECTOR