



Appeal Decision

Site Visit made on 30 July 2021

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th August 2021

Appeal Ref: APP/Y5420/W/20/3264226

Flat 5, 41 Nelson Road, Hornsey, London N8 9RX

- 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 D Powley against the decision of London Borough of Haringey.
 - The application Ref HGY/2020/1157, dated 19 April 2020, was refused by notice dated 15 June 2020.
 - The development proposed is a balcony and extant permissions.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 20 July 2021, the Government published its revised Framework. It replaces the previous version published in February 2019. The Framework represents the Government's up-to-date planning policies for England and how they should be applied.
3. The circumstances of this appeal are such that it has not been necessary to seek comments from the parties on the revised Framework.

Background

4. The proposed development is for a balcony and extant permissions. It is in addition to an extant planning permission¹ for the construction of a part single-storey, part two-storey, part-three storey rear extension to 41 Nelson Road. The evidence shows that the sole difference between the previous application that was granted planning permission, and that subject to the appeal is the provision of a proposed balcony to the top floor flat that would sit on top of the proposed extension. This is the matter in dispute.
5. Although the whole of the development is before me, I have confined my consideration of the appeal to the proposed balcony. From the evidence before me, I have no reason to come to a different view from the Council in relation to the remainder of the development as per the extant consent.

Main Issue

6. The main issue is the effect of the proposed balcony on the living conditions of the occupants of 39 and 43 Nelson Road with regard to privacy.

¹ HGY/2019/2885

Reasons

7. The appeal site is part of a three-storey terrace building that has been subdivided into six self-contained flats. It is located in a predominantly residential area that is also made up of terraced properties.
8. The proposed balcony would be sited on top of a flat-roof section of the two-storey part of the proposed extension. It would be at the second-floor level and would be sited forward of the existing rear elevation of the building. It would overlook, and be clearly visible from, the rear gardens of 39 and 43 Nelson Road. Due to its siting, the proposed balcony would allow for wider ranging views of the rear gardens of properties either side, from an elevated position. This would result in an unacceptable level of overlooking, and perception of overlooking, leading to a significant loss of privacy to the gardens of 39 and 43 Nelson Road.
9. The appellant has demonstrated how a solid screen would restrict views from the balcony into neighbouring gardens. Although this could be secured by condition, I consider that it would, however, only marginally alleviate the harm that I have identified, which, given the height of the balustrade would not prevent future occupants standing at the edge of the balcony and overlook the gardens below.
10. The Council consider that the balcony would allow for views back towards the habitable room windows of the neighbouring properties. The appellants evidence, as shown in the report by David Maycox & Co. (10 November 2020), demonstrates that such views would not be readily possible. From my consideration, any such views would require future occupants to lean out over the balcony and look behind them. I therefore find that harm from such views would be unlikely to materialise, and given the angles and relative siting, would not cause unreasonable harm either way.
11. I acknowledge that the balcony would provide a small amount of outdoor amenity space for the flat it is intended to serve. Although this is a benefit of the development, it does not outweigh the harm I have identified.
12. I therefore conclude that the proposed balcony would cause significant harm to the living conditions of the occupants of 39 and 43 Nelson Road with regard to privacy. It would be contrary to Policies DM1 and DM12 of Haringey's Local Plan – Development Management DPD (2017) which require, amongst other things, that developments must ensure a high standard of privacy and amenity for neighbours and avoid overlooking.
13. Since the original decision The London Plan 2021 has been published by the Mayor of London. The policies contained in The London Plan 2021 replace those of The London Plan 2016 referred to in the Council's original decision and as such those policies are no longer relevant.

Conclusion

14. For the reasons given above, and having had regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR