



Appeal Decision

Site Visit made on 7 June 2021 by Hilary Senior BA (Hons) MCD MRTPI

Decision by Martin Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2021

Appeal Ref: APP/T5150/D/21/3270644

25 Bolton Gardens, London, NW10 5RB

- 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 Paul Batt against the decision of London Borough of Brent.
 - The application Ref 20/3973, dated 1 December 2020, was refused by notice dated 24 February 2021.
 - The development proposed is alterations to existing roof to create roof terrace area. Associated internal alterations to add staircase up to roof terrace.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The planning application forms identify the address of the appeal site as being Land next to 23 Bolton Gardens. However, the plans, Notice of Decision, and appeal form indicate the proposal as relating to 25 Bolton Gardens. Whilst I have no doubt that both versions of the address are referring to the same site, agreement between the parties to refer to the site as 25 Bolton Gardens appears to have been reached and adopting this address would therefore appear to be a more accurate description.
4. The appellant submitted amended plans with his appeal statement. These plans include an obscure glazed privacy screen, among other changes. I understand they were originally submitted to the Council for consideration but nevertheless the application was determined using the original plans.
5. Notwithstanding that, in deciding whether to accept these revised plans, I have given consideration to the 'Wheatcroft Principles' (Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]) and whether any prejudice would occur. Third parties have not had an opportunity to comment upon the amended scheme and, for that reason, I consider that they would be prejudiced if I determined this appeal on the basis of the amended plans. Accordingly, I have determined this appeal using the plans originally submitted with the planning application, on which the Council made its decision.
6. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework. Whilst I have had regard to the revised national

policy as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

Main Issue

7. The main issue is the effect of the proposal on the living conditions of the occupiers of 96 Chamberlayne Road with particular regard to privacy.

Reasons for the Recommendation

8. The host property is two storey dwelling, with a lower ground level, so that from the street it appears as a single storey dwelling set behind a brick wall to the boundary. It has an angled profile, with a flat roof and finished in powder coated aluminium.
9. No 96 Chamberlayne Road adjoins the appeal site. It is a 2-storey dwelling with additional accommodation set within the roof space served by front and rear dormer windows. It has a tall window/door at first floor level on the rear elevation and a roof terrace above a rear 2 storey outrigger. The rear elevation of this property is within close proximity to the host dwelling and at present views from these windows/doors and terrace is across the roofscape of it.
10. The roof terrace would be in close proximity to the rear facing windows/doors and roof terrace at No 96. Users of the proposed roof terrace would have views into these features and given the close relationship and likely use of it, including for entertaining and dining, it is likely that there would be a loss of privacy to the rooms that these windows serve, in particular at first floor, which is at a similar level to the proposal. As a consequence, there would be an adverse impact on the quality of the living conditions available to users of this room.
11. It is also recognised that users of the proposal would have clear views of the roof terrace at No 96, which would be likely to reduce the enjoyment and usability of this outside space by occupiers. Whilst there is disagreement regarding the exact distances between the properties, I do not find the variance to be critical as my conclusions that the proposal would be harmful to living conditions for the reasons given above, have been made notwithstanding the distance.
12. For the reasons above I conclude that the proposed roof terrace would result in a loss of privacy to the rear facing rooms and roof terrace of No 96 which would be harmful to the living conditions of its occupiers.
13. This would be in conflict with Policy DMP1 of the Adopted Development Management Policies DPD (2012) which seeks to ensure, amongst other matters that high levels of internal and external amenity are provided, and the Adopted Residential Extensions and Alterations SPD (2018) which has similar aims.

Conclusion and Recommendation

14. The development conflicts with the development plan as a whole and there are no other considerations, including the Framework, that outweigh this conflict. I therefore recommend that the appeal is dismissed.

Hilary Senior

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and the Appeal Planning Officer's report and agree that the appeal should be dismissed.

Martin Seaton

INSPECTOR