

Appeal Decision

Site visit made on 14 December 2021

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5TH January 2022

Appeal Ref. APP/L5810/D/21/3282793
7 March Road, Twickenham TW1 1BW

- 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 Ms Xenye Pretorius against the decision of the Council of the London Borough of Richmond upon Thames.
 - The application ref. 21/2086/HOT, dated 9 June 2021, was refused by notice dated 5 August 2021.
 - The development proposed is described on the application form as "*Roof terrace*".
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Decision

1. The appeal is dismissed.

Main issue

2. The sole main issue is the effect of the proposed roof terrace upon the amenity and living conditions of the neighbours at surrounding residential properties on March Road, Latham Road and Whitton Road with regard to the potential for overlooking and loss of privacy.

Reasons

3. The appeal concerns a 2-storey, semi-detached house. It has additional accommodation in the roof space and a flat-roofed, single-storey rear extension which has recently been further extended to one side. The roof terrace would be built out over the whole flat roof of the original ground floor rear extension and would be provided with 1.7 m high solid white painted metal privacy screens along its northern and southern sides.
 4. The surrounding built environment and back garden layouts on March Road, Latham Road and Whitton Road can be fairly described as close-knit. Most of the back gardens converge around a rear service lane leading from March Road. The open spaces within the rear gardens at nos 6 and 7 March Road are modest. I have not been referred to any other similar sizeable rear roof terraces in the immediate surrounding residential area. Indeed, I saw only a handful of Juliet-style balconies which have no real outer platform.
 5. Standing on the subject flat roof, I was able to see that the users of the proposed roof terrace, standing, or even sitting, close to the proposed metal balustrading along its rear edge, where the privacy screens would have little mitigating effect, would have commanding views from an elevated level down
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into many of the rear gardens of nearby properties on March Road, Latham Road and Whitton Road. Some of that overlooking would be across short distances and could be for sustained periods given that the roof terrace would be large enough for sitting out and may become preferable to the rather enclosed outdoor space in the rear garden. On warm days and evenings, such use would be likely to coincide with when neighbours are also attempting to enjoy their rear gardens, thereby exacerbating the overlooking I have found.

6. I have based my assessment above on the assumption that the users of the roof terrace would adopt reasonable patterns of behaviour and that the privacy screens would be in place. The rear gardens at no. 6 March Road, nos 4-8 Latham Road and nos 20-26 Whitton Road would be the worst affected. In the unlikely event that the future users may be tempted to deliberately look around or over the proposed privacy screens then of course the adverse overlooking effects would be intensified and relate to more properties.
7. I have not excluded the rear gardens of the properties on Whitton Road from my concerns. Even allowing for the intervening separation distances and outbuildings and the slightly angled orientation of those properties, the elevated position of the roof terrace relative to a number of the rear gardens there would still result in an invasive sense of overlooking, distinct from the mutual intervisibility currently available between the opposing properties.
8. More generally, overlooking from the balcony or roof terrace would of a different character to that from within the bedroom, even if, hypothetically, the property was extended so that there was a rear-facing bedroom window in the same place as the back edge of the proposed roof terrace. Sizeable and elevated viewing platforms like this, in a situation where they are not common features, and the presence of people outside, regardless of where they might be actually looking, combine to create a much more intrusive feel and the disturbing psychological perception of being overlooked. The actual and perceived loss of privacy for the occupiers of various nearby residential properties on the 3 identified roads would be unacceptable.
9. I have given some thought to whether a condition could be imposed requiring further details of the privacy screening to be provided to the Council for approval before the terrace is brought into use. I have reservations about such an approach. To require a fully effective screen could result in a material change to what is proposed which interested parties may wish to comment upon and could effectively negate some of the purposes in seeking a roof terrace in the first instance.
10. The objections lodged by the occupiers of several nearby residential properties and the guidance on privacy and space between buildings found in the Council's Supplementary Planning Document titled House Extensions and External Alterations 2015 (SPD) add weight to the decision I have reached in this case. Moreover, one of the third parties, correctly in my view, refers to section 3.2.1 of the SPD which states that using the roof of an extension as a balcony will normally be unacceptable. To my mind, this precautionary approach should apply to extensions that are being proposed and equally to extensions that have already been built, where a balcony or roof terrace is sought at a later date, as in the case at no. 7 March Road. I have found that the surrounding

residential environment is not conducive to this roof terrace so that approach is apt in the circumstances of this particular case.

11. I find on the main issue that the proposed roof terrace would be harmful to the amenity and living conditions of the neighbours at surrounding residential properties on March Road, Latham Road and Whitton Road with regard to the potential for overlooking and loss of privacy. This places the proposal in conflict with the aims of Policy LP 8 of the Council's Local Plan 2018 which requires development to protect the amenity and living conditions of the occupants of adjoining and neighbouring properties and, more specifically, seeks to ensure balconies do not raise unacceptable overlooking issues. The policy is not inconsistent with the National Planning Policy Framework.

Conclusion

12. My finding on the main issue is decisive to the outcome of this appeal. There is conflict with the development plan. The harm cannot be properly mitigated by the imposition of planning conditions and it is not outweighed by other material considerations. For the reasons given above and taking into account all other matters raised, I conclude that this appeal should not succeed.

Andrew Dale

INSPECTOR