



Appeal Decision

Site visit made on 21 February 2022

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9TH March 2022

Appeal Ref: APP/T5720/W/21/3285258

Flat 2, 98 Alexandra Road, Wimbledon, London, SW19 7LE

- 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 George Osbourne against the decision of the London Borough of Merton Council.
 - The application Ref 21/P1790 dated 2 May 2021, was refused by notice dated 29 July 2021.
 - The development proposed is obscured, glazed balcony at first floor level.
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Decision

1. The appeal is allowed and planning permission is granted for an obscured, glazed balcony at first floor level at Flat 2, 98 Alexandra Road, Wimbledon, London, SW19 7LE in accordance with the terms of the application ref: 21/P1790, dated 2 May 2021, subject to the following conditions:
 - 1) The development to which this permission relates must be begun not later than the expiration of three years, beginning with the date of this decision;
 - 2) The development hereby permitted shall not be carried out otherwise than in complete accordance with the following approved plans: location plan (TQRQM21120195446232) and drawing no. 21.110.01 (existing and proposed floor plans and elevations);
 - 3) Before the development is first occupied a schedule and samples of all materials to be used, including insulation and acoustic measures to be used between the base of the proposed decking, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the materials will be maintained for the lifetime of the development.

Main Issue

2. The main issue is the impact of the proposal upon the residential amenity of neighbouring properties with regard to noise, activity, and overbearingness.

Reasons

3. The appeal site is a first floor flat and proposes a first floor roof terrace with obscure glazing over an existing flat roof rear extension. The Council confirm that condition 3 (03/P0615) was placed upon the flat roof in question when the appeal site was split into two flats. I do not have the original reasoning or assessment for this condition before me within this appeal. I find that this condition does not prevent use as a roof terrace indefinitely. The condition wording is clear that the flat roofed areas of the appeal site could not be

utilised for such a purpose without prior written consent of the Council. The condition wording is designed to allow the Council the opportunity for control over, and consideration of, future proposals which should be considered upon their own merits based upon the facts of the case put forward.

4. At the time of my site visit I noted that there is a full length glazed door in the rear elevation, from the kitchen, which has fitted metal rails across it. Whilst this does currently prevent physical access to the flat roof it does still allow for the doors to be left completely open which would in turn allow for an element of noise to be heard as a result general activity or entertaining within the kitchen of the existing flat at the appeal site.
5. I note that objections, and the Council, both raise concern with regard to extra noise and activity. Despite this I have no evidence before me to suggest that the noise or activity, resulting from use of the proposal, would be beyond a level which would be any more noisy, audible or disruptive than comparable use of the neighbouring residential amenity spaces (gardens) within the immediate area even taking into account proximity to windows. I do not find that use of an outdoor amenity space, in conjunction with existing residential flat, would be uncharacteristic within a dense residential area. I do note an objection which confirms that the proposal would be located over the top of an existing bedroom but consider that the natural use of the proposed terrace, i.e. people walking or moving about on it (which would serve a single residential dwelling), could be appropriately mitigated by conditions requiring insulation as has been offered by the appellant within their personal statement.
6. Overall, I have no evidence to suggest that natural use of the proposed terrace would result in noise which would be at an intrusive level which would be unacceptable in a densely populated residential area as part of a building which has already be subdivided into flats.
7. When stood in the existing kitchen door I find there are already clear views available into the neighbouring gardens including, for example, into the seating area under a gazebo on one side and the patio area at the end of the garden under the wooden frame the other side. There is already a high degree of overlooking and general impacts upon privacy as a result of the existing intensive layout. Whilst the proposal is located within an elevation position on a flat roof, which has potential to offer closer views, I do not find the proposal would offer intrusive views or a loss of privacy as proposed due to the glazed screens. The screens are proposed at 1750mm of roof level (1500mm off parapet upstand). I find that this is demonstrated on the proposed plans, shown by the illustrative person for scale, to be of a sufficient height to maintain privacy for neighbouring properties during use of the proposal.
8. The Council have not raised issue with regard to privacy or overlooking in their refusal reason. Taking into account the site context, and application of a condition to confirm details of insulation and acoustic measures to be used between the base of the proposed decking, I have no evidence before me to conclude that the proposal would result in unacceptable noise or disturbance for neighbouring residential properties. Amenity would not be unduly diminished.
9. I note that the privacy screening has been considered to cause an overbearing increased sense of enclosure towards 99 Alexandra Road adjacent. The proposed screens would be on the boundary with 99 Alexandra Road; however,

the proposal is for glazing which I find would limit the sense of enclosure compared to if the proposal had suggested more solid forms of boundary treatment. In addition the proposal would be for a short length of the adjoining garden where the main lawn and socialising area appear to be at the end of the garden away from the appeal proposal. The existing single storey extension (upon which the proposal is proposed) already exceeds the height of the rear patio doors to the adjacent property which I find limits the proposals impact given the existing site context with regard to overbearingness.

10. The proposed plans state that the glass would be smoked or obscured with the application form stating obscure, smoked, glazed screening. I have no further details before me but I am satisfied an appropriate finish could be secured by condition. I consider a materials condition reasonable to ensure a satisfactory finish which both maintains privacy, through use of the screens, but also prevents a sense of overbearingness for the adjacent property.
11. Subject to conditions as outlined I find the proposal would be consistent with Merton's Local Plan Sites and Policies Plan 2014 Policy DM D2 which requires proposals to ensure the living conditions of existing and future occupiers are not unduly diminished and ensure appropriate provision of amenity space and privacy to adjoining buildings and gardens.

Other Matters

12. I note comments regarding how the Council have handled and determined the application, however, this is a matter which is outside the scope of this appeal. I have determined the proposal upon its own merits based upon the evidence before me. The appellant has referenced a structure at 33 Woodside; however, I have no further information before me to enable me to attribute weight to such a structure for example whether that structure in fact benefits from planning permission. Notwithstanding this, each case must be considered on its own merits.
13. I note that an objection is raised with regard to loss of light. The Council have not included loss of light within their refusal reason and I have no evidence before me to conclude there would be loss of light as a result of the proposed glazing nor that there would be items falling down from above.

Conditions

14. A condition requiring the development to be in accordance with the approved plans is required in order to control and define the development which is granted consent. A time condition is attached to comply with section 51 of the Planning and Compulsory Purchase Act 2004. A condition requiring submission of the materials to be utilised, including acoustic and insulation specifications, is required to ensure both a satisfactory appearance and protect the amenity of neighbouring resident in the flat below.

Conclusion

15. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Eleni Randle

INSPECTOR