



Appeal Decision

Site visit made on 4 March 2022

by G Ellis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2022

Appeal Ref: APP/H5390/D/21/3289372
34 Walham Grove, London SW6 1QR

- 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 Eloy Gutierrez against the decision of the London Borough of Hammersmith and Fulham.
 - The application Ref 2021/02624/FUL, dated 9 August 2021, was refused by notice dated 4 November 2021.
 - The development proposed development is wrought iron balustrade to rear terrace.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the living conditions of the occupiers of the neighbouring properties with regards to privacy and noise and disturbance.

Reasons

3. The mid terrace property has an existing lower floor projection to the rear on which the proposed balustrade would be sited. This would create an enclosed terrace area at an upper ground floor level and would be positioned alongside a similar terrace to No.35. To the other side the terrace would for the most part be adjacent to the two-storey projection but would extend beyond by approximately 1m and would align with the neighbour's (No.35) wrought iron balustrade.
4. The Council's Planning Guidance, Supplementary Planning Document (SPD) explains at that *planning permission will not be granted for roof terraces or balconies if the use of the terraces or balcony is likely to cause harm to the existing amenities of neighbouring occupiers by reason of noise and disturbance; or, if it would result in an additional opportunity for overlooking...*(key principle HS8 Residential development – balconies and terraces).
5. Planning permission has recently been granted for other works to the property (Council reference 2021/1178/FUL) which includes changing the ground floor window to French doors with a Juliet balcony and includes a condition restricting the use of the roof as a terrace for amenity purposes. Notwithstanding this, that consent has not been implemented and this proposal

is only for the balustrade. The terrace would therefore be accessed via the existing sash window and the roof includes 3 raised skylights which reduces the usable space. As such, and whilst the terrace would be slightly larger than the guidance in the SPD of 15sqm, in my view, the potential for gatherings and the generation of increased levels of noise and disturbance would be limited. There is also an existing level of mutual overlooking over the rear gardens due to windows and existing terraces, including at roof level. Therefore, I do not find that the general outlook to the rear would result in a material loss of privacy to the neighbours. Views towards the windows in the rear elevation of No.33 would also be at an oblique angle and beyond the rear projection.

6. However, the use of the roof space as a terrace would allow for direct intervisibility between the two terraces. No.35 also has windows in the side of its rear projection facing towards the terrace as well as in the rear elevation. Users of the roof terrace would therefore be afforded the opportunity for close views into these windows. In this regard, the roof terrace would cause an unacceptable intrusion and loss of privacy to the occupiers of No.35, and whilst the neighbour supports the proposal this does not lead me to a different view.
7. The planning background to the terrace at No.35 is not clear from the information before me, but I agree with the Council that screening of an effective height is likely to have adverse visual impacts and therefore is not something which could be left to a condition. I also acknowledge, as seen on my site visit, that other properties in Walham Grove have terraces of a similar size and position, and thereby understand the appellant's desire to replicate this feature. However, the authorisation of these other structures is a separate matter, and I have considered the proposal on its own merits having regard to the development plan.
8. In conclusion, I find that the development would unacceptably harm the living conditions of the occupiers of 35 Walham Grove through reduced levels of privacy. Thus, the development would be contrary to Hammersmith and Fulham Local Plan policies DC4 and HO11, and the SPD which seek good neighbourliness, and that privacy enjoyed by neighbours is not harmfully impacted by development.

Other matters

9. The appeal site lies within the Walham Grove Conservation Area (CA). As such, section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of the CA. The significance of the CA which covers the street is derived from the appearance and unity of the terraced and semi-detached properties.
10. The Council found that the design and scale of the balustrade would not be out of keeping with the property and I have no reason to disagree with that assessment. Given the extent, nature, and location of the development, which is not visible from the public domain and only has a limited prominence from the private domain, the impact on the character and appearance of the area would be neutral. Therefore, the significance of the CA would be preserved.

Conclusion

11. For the reasons set out and having regard to all other matters raised the appeal is dismissed.

G Ellis

INSPECTOR