



Appeal Decision

Site visit made on 22 March 2022

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 April 2022

Appeal Ref: APP/H5390/W/21/3285494

109 Colwith Road, London W6 9EZ

- 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 T Crump against the decision of London Borough of Hammersmith and Fulham.
 - The application Ref 2021/01829/FUL, dated 3 June 2021, was refused by notice dated 3 August 2021.
 - The development proposed is the erection of a 1500mm high partly obscured glazed screen around part of the remaining flat roof at second floor level of the existing two storey back addition, in connection with its use as a roof terrace.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the development on the character and appearance of the host building and area, having regard to whether the scheme would preserve or enhance the character or appearance of the Crabtree Conservation Area (the CA), and
 - the effect of the development on the living conditions of the occupiers of neighbouring properties, with particular regard to any overlooking and loss of privacy.

Reasons

Character and appearance

3. The CA consists mainly of a series of linear residential streets set within a broad grid pattern. The roads are generally fronted by terrace properties with a consistent and rhythmical appearance often with an attractive pattern of double height bay windows. The significance of the area includes the cohesive character of the rows of these mainly two storey Victorian and Edwardian properties with their distinctive and attractive appearance.
4. The section of Colwith Road which includes the appeal property forms one of a run of maisonettes within the CA. The road frontage to the terrace displays many of the rhythmical double height bays and architectural detailing which typify the positive aspects of the wider CA. The rear of this terrace has a series of two storey projections with a generally consistent height and brick appearance. These rear projections are legible and contribute to the character

of the rear of the terrace. However, there has been added a mix of rear additions and alterations to many of the properties. These include single storey extensions, mansard roof additions and some roof terraces formed on the top of the two storey projections. There is little consistent appearance to the additions and alterations and this affects the original cohesive character and appearance of the rear of this terrace. The effect of these changes is to reduce the contribution that the rear elevations of this part of Colwith Road makes to the significance of this part of the CA.

5. 109 Colwith Road is the upper floor maisonette within one of these terrace buildings. The rear of the property benefits from a mansard roof addition that includes an extension over part of the two storey rear projection. The extension incorporates a Juliet balcony with glass panel that prevents access onto the remaining part of the flat roof.
6. To the side, 105/107 Colwith Road has a modest external roof terrace area which is screened by obscure glazed panels. This roof terrace is positioned alongside the mansard roof extension at No 109. In this direction, there are other roof terraces which I could see at my site visit and which generally appeared to have some screening with glazed balustrades and which were also set back fairly close to the main building and did not extend across all of the two storey projections. It appeared, from my observations at the site visit, that at least one property in this direction, was utilising the majority of the flat roof of the two storey projection as a roof terrace but this area was enclosed by a post and rail fence and therefore did not have the formality and appearance of the other terraces. On the other side of the appeal property, the two storey rear projection at 113/115 Colwith Road has a roof terrace that extends across much of this upper area and is bounded by railings.
7. The rear elevations of some parts of the buildings towards this end of Colwith Road, including sections of the appeal property, are visible from parts of Rainville Road as well as from some of the windows and parts of the gardens of adjoining properties, including those within Skelwith Road.
8. In terms of the appeal scheme, the proposed roof terrace would be bounded by 1.5m high glass balustrading. In angled views from Rainville Road, some neighbouring gardens and from the rear of some properties in Skelwith Road, parts of the side and rear of the proposed balustrading would be visible. However, the glass panels would be set back from some parts of the roof edge and would be seen with a backdrop of the more modern additions which have been added to No 109. The roof terrace would also be experienced in the general context of the other glass enclosed roof terraces nearby and the more open roof terrace at No 113/115.
9. Taking all these matters into account, the proposed roof terrace, with the fairly light weight appearance of the balustrading, would be a small additional component within this built environment. It would not look out of place in the wider surroundings with the range of existing roof terraces. The balustrading and roof terrace would be visually associated with the existing opening of the Juliet balcony and the roof terrace area would appear subservient to the host property. While the majority of the flat roof would be covered, the additional physical impact from the proposed roof terrace would be limited and the resulting addition would not appear over dominant or be visually incongruous in

this setting. The legibility of the original building with the two storey rear projection would not be materially affected by the proposal.

10. I am conscious of the duty to pay special attention to the desirability of preserving or enhancing the character or appearance of any land or buildings in a Conservation Area¹. However, for the reasons explained, the addition of the roof terrace area and associated works, with the particular design and impact in this case, would not harm the character and appearance of the CA or adversely affect its significance as a heritage asset.
11. Accordingly, I conclude that the proposal would not harm the character and appearance of the host building, area or CA. It follows that the scheme would not conflict with Policies DC1, DC4 and DC8 of the Hammersmith and Fulham Local Plan (February 2018) (the Local Plan) which seek, notably in these respects, that all alterations and extensions should be compatible with the scale and character of existing development, neighbouring properties and their setting.

Living conditions

12. There are views out from the rear opening of the Juliet balcony including towards some reasonably nearby properties. However, because of the intervening position of the flat roof and the adjoining flat roof area of No 105/107, it is not readily and clearly possible to look down or across into the substantive sections of many nearby garden areas of the various properties which are in the vicinity of the appeal site. No 109 has other rear facing windows and the plans show another Juliet balcony which provides some views that face rear and sideways. However, the other Juliet balcony shown on the plans is positioned in the main back wall of the house and is therefore set back fairly well from the main garden areas of most of the neighbouring properties. The other windows are broadly similar to those of the surrounding properties which create a mutual level of intervisibility that would be expected within a built up area.
13. Additionally, No 109 has a rear door from the kitchen which leads via a short platform to a spiral staircase and then down to a section of garden. This door, platform and top of the staircase are at a first floor level and, in particular, there are some clear views from the top of the staircase towards the neighbouring gardens. However, it is probable that those using the platform and staircase would be moving between the garden and living accommodation and would not be as likely to dwell as would be the case with the use of a roof terrace.
14. In terms of the proposed balustrading, the proposed screens would have only an obscure glazed section between 1.0m and 1.5m. This would allow some residents to be able to stand and view over the top of the screen both to the rear and to the sides. This may only be an infrequent occurrence, nevertheless, for some residents of sufficient height standing on the proposed roof terrace, there could be views over the balustrade towards neighbouring properties, in particular their gardens including the more private spaces immediately to the rear of some properties in Skelwith Road. Because of the position of the proposed roof terrace forward more towards the edges of the flat roof than the position of the Juliet balcony window, this would lead to a significantly greater

¹ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

degree of overlooking and consequent loss of privacy in respect of views into neighbouring gardens and towards buildings than occurs from the existing opening in the mansard roof. I have noted the trees and other screening including fences and vegetation in the surrounding gardens, however, they would not be sufficient to mitigate the likely harmful views from the roof terrace that I have identified.

15. Depending on the height and position of a chair or recliner, those seated on the balcony could also potentially look through the unobscured section of the glass panels to the rear and side, down towards the gardens and spaces of some surrounding properties. The rear parapet along the back wall of the two storey projection would not wholly obscure these rear views. The height of the terrace above the level of the adjoining gardens, together with the angle and proximity of view from the roof terrace, would create an additional and undue opportunity for overlooking of the adjoining properties, which would result in an unacceptable loss of privacy.
16. I am also conscious that the terrace at 113/115 Colwith Road already provides a reasonably large and unrestricted space that provides views across and down to neighbouring properties. However, I do not have details of the planning history that justified this addition. Also, I have taken into account the appeal decision² for a property further along Colwith Road that has been drawn to my attention. When considering these matters, it seems that often the relationship and impact of a roof terrace area should be judged in relation to the particular position and nature of the adjoining properties.
17. Even though some schemes may be close to each other within the road the effect of a scheme could be different. Also with the appeal decision in 2017, and I assume the terrace at No 113/115, it appears that these schemes would have been decided prior to the adoption of the Local Plan and the Hammersmith and Fulham Planning Guidance Supplementary Planning Document (February 2018) (the SPD) which provides guidance on the consideration of balconies and terraces. Accordingly, I have considered this appeal proposal on its merits, based on all the information and policy situation presently before me, and therefore I attach limited weight to the other appeal decision and the background that led to the other terraces in the vicinity of No 109.
18. Taking all these matters into account, and having regard to the roof terraces surrounding the site and the mix of screens and positions of these spaces, as well as the position and visibility from the main existing Juliet balcony at No 109, I am still not satisfied that the present scheme has been designed sufficiently to mitigate the likelihood of overlooking to adjoining properties. No planning conditions attached to a decision could overcome this harm.
19. Accordingly, I conclude that the proposed development would unduly affect the living conditions of the occupiers of neighbouring properties, having particular regard to overlooking and the resulting loss of privacy. As a consequence, the scheme would not accord with Policies DC4 and HO11 of the Local Plan and Key Principles HS7 and HS8 of the SPD which seek, in these respects, amongst other things, that for applications for alterations and extensions account will be taken of good neighbourliness, in particular, the amenities of the neighbouring properties.

² Appeal Ref: APP/H5390/W/17/3174827 - 67 Colwith Road, London W6 9EZ – decision dated 7 November 2017

20. This reason for refusal also references Policies DC1 and DC8 of the Local Plan. However, as these policies are mainly related to design, heritage and conservation, rather than amenity issues, they are not directly related to this main issue concerning the effect of the development on the living conditions of the occupiers of neighbouring properties.

Conclusion

21. The proposed scheme would provide an additional and convenient outside amenity space. This would provide improved living conditions for the occupants of the appeal property. However, the occupants already have access to some garden space and I attribute the benefits of the scheme limited weight in the overall analysis.
22. The scheme would not harm the character and appearance of the area, including the CA. However, I consider this effect neutral and therefore this is not a material benefit of the scheme.
23. The effect on the living conditions of the occupiers of neighbouring properties by way of overlooking and the resulting loss of privacy would be unduly harmful and in the context of this scheme is a matter of substantial weight. This harm would outweigh the benefits of the scheme and the proposed development would not comply with the identified policies in the Local Plan and SPD. The harm is such that the scheme would not accord with the development plan when considered as a whole and there are no material considerations that indicate that a decision should be made otherwise.
24. For the reasons given above, I conclude the appeal should be dismissed.

David Wyborn

INSPECTOR