



Appeal Decisions

Site visit made on 22 March 2022

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2022

Appeal A Ref: APP/H5390/W/21/3278812

Flat 4, 66 Hammersmith Grove, London W6 7HA

- 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 Mrs Nicola Barry against the decision of London Borough of Hammersmith and Fulham.
 - The application Ref 2021/00677/FUL, dated 1 March 2021, was refused by notice dated 6 May 2021.
 - The development proposed is the erection of a 1.2m-high glass balustrade to the rear and 1.7m-high translucent glass screens to the sides of the flat roof of the existing back addition at second floor level, in connection with its use as a roof terrace; replacement of existing door and guardrail in the rear roof extension with a new door, and formation of steps leading to the proposed roof terrace to provide access.
-

Appeal B Ref: APP/H5390/W/21/3285148

Flat 4, 66 Hammersmith Grove, London W6 7HA

- 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 Mrs Nicola Barry against the decision of London Borough of Hammersmith and Fulham.
 - The application Ref 2021/01943/FUL, dated 12 June 2021, was refused by notice dated 22 September 2021.
 - The development proposed is the erection of a 1.2m-high opaque glass balustrade to the rear and 1.7m-high translucent glass screens to the sides of the flat roof of the existing back addition at second floor level, in connection with its use as a roof terrace; replacement of existing door and guardrail in the rear roof extension with a new door, and formation of glazed steps leading to the proposed roof terrace to provide access.
-

Decisions

1. **Appeal A** - The appeal is allowed and planning permission is granted for the erection of a 1.2m-high glass balustrade to the rear and 1.7m-high translucent glass screens to the sides of the flat roof of the existing back addition at second floor level, in connection with its use as a roof terrace; replacement of existing door and guardrail in the rear roof extension with a new door, and formation of steps leading to the proposed roof terrace to provide access at Flat 4, 66 Hammersmith Grove, London, W6 7HA in accordance with the terms of the application, Ref 2021/00677/FUL, dated 1 March 2021, and subject to the conditions in the attached schedule.
2. **Appeal B** - The appeal is allowed and planning permission is granted for the erection of a 1.2m-high opaque glass balustrade to the rear and 1.7m-high translucent glass screens to the sides of the flat roof of the existing back addition at second floor level, in connection with its use as a roof terrace; replacement of existing door and guardrail in the rear roof extension with a

new door, and formation of glazed steps leading to the proposed roof terrace to provide access at Flat 4, 66 Hammersmith Grove, London, W6 7HA in accordance with the terms of the application Ref 2021/01943/FUL, dated 12 June 2021, and subject to the conditions in the attached schedule.

Preliminary Matters

3. Both appeal schemes include the provision of steps leading from an amended opening to the Juliet balcony located within the rear of the mansard roof. The steps would lead down to a lower level, flat roofed area. This area of flat roof would be used as a roof terrace and would be bounded by glass panels. The two appeal schemes are similar and the Appeal B proposal is an amended scheme following refusal by the Council of the Appeal A scheme. The changes incorporated into the Appeal B scheme include glazed steps and that the 1.2m rear, glass balustrade would be opaque glazed rather than clear glass.
4. The appeal statements suggest that I could consider, through a condition attached to a planning permission, alterations to the design and detail of each proposal, if considered necessary. These suggestions include the raising of the 1.2m section of the glass balustrade to 1.5m in height. However, I consider that this would materially alter the proposal, as well as conflicting with the description of the development, such that it would potentially prejudice those who have considered and commented on the proposals. I will therefore determine the appeals based on the submitted information and details.

Main Issues

5. While I will consider the merits of each scheme separately, as both schemes were refused for essentially the same reasons and are similar in most details, I will consider the appeals together. The main issues are:
 - the effect of each 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 Hammersmith Grove Conservation Area (the CA), and
 - the effect of each development on the living conditions of the occupiers of neighbouring properties, with particular regard to any overlooking.

Reasons

Character and appearance

6. Hammersmith Grove is a tree lined and linear road that includes characteristic London Plane trees. The road consists mainly of substantial and attractive residential properties which the Hammersmith Grove Conservation Area Character Profile explains was part of a major early 19th Century residential development. Included within the residential make-up of the CA are a series of Victorian terraces. The Character Profile details that these terraces are located either side of Hammersmith Grove and are visible over a long distance because the street is wide and straight, so their visual impact upon the character of the CA is considerable.
7. These terraces make an important contribution to the significance of the CA and, in particular, because of their age and the generally consistent and rhythmical pattern of windows and bays. The frontages to these runs of buildings form a striking and attractive feature within the street scene.

8. The appeal site lies within one of these terraces within the CA. 66 Hammersmith Grove is divided into flats and the appeal site consists of the top floors, including the accommodation within the mansard roof. While the front elevation of this terrace is typical of the attractive and rhythmical form of buildings in the road, the rear elevation of this long run of buildings has been more altered.
9. The rear of some of the properties have had roof additions, and quite a few have had a mixed range of rear additions and projections. Most of these projections have flat or lean-to roofs. These projections range from one to four storeys, have a mix of designs and are sometimes of limited architectural quality. The rear elevations of these buildings are not especially visible from public locations, although they are experienced by residents from the rear gardens of their properties. As a consequence of the extent of visibility and the range of alterations and additions, the rear of the buildings make only a moderate contribution to the character and significance of this part of the CA.
10. No 66 is one of the properties within this terrace where the rear has been fairly substantially altered. When viewed from the rear, on the ground floor there is a single storey projection with a flat roof. On the first floor, extensions span the width of the building and are made up of two different designs. One section continues vertically and is four storeys in height. It is the flat roof of this taller element which is proposed for the roof terrace. The rear roof form of No 66 has also been altered with a mansard roof addition and a Juliet balcony.
11. There are some other higher level, flat roofs to the rear additions in the vicinity of the appeal site and I saw at my site visit that the flat surface above the four storey addition at 72 Hammersmith Grove is used as a roof terrace. This space is enclosed by a glass balustrade. While the access from the main part of that property onto this space is more level with the surface of the roof terrace than would be the case with the appeal scheme, the appearance and visual effect of the terrace at No 72 is not substantially different from that proposed at No 66. The changes to No 72 were granted planning permission¹ in 2012. The planning conditions require that the sides of the terrace have a 1.7m high obscure glazed screen, with the elevation facing out to the rear having a 1.1m high glass balustrade.
12. I also saw at my site visit that a little further along the terrace there appears to be another enclosed roof terrace similar to the example at No 72. This seems to have been added since the appeal was lodged as this addition does not appear to be shown in the photographs submitted with the appeal documents. While I have noted this roof terrace area, as I do not know the circumstances that led to this addition, I have attributed limited weight to its presence.
13. At No 66, the area of flat roof which is intended to be enclosed would provide a reasonably small space. The 1.7m translucent panel to each side and the panel to the garden side (translucent with Appeal B) would be noticeable but would constitute a reasonably minor addition in both height and breadth in relation to the existing building which is of quite a large size. The panels would project up from the existing elevations of the four storey rear projection and therefore maintain the vertical emphasis of this existing part of the building. The balustrading would be seen in most views against the backdrop of the existing property, including in the context of the mansard roof. The balustrading has

¹ Council Ref 2012/02490/FUL

been designed to appear as a reasonably light weight structure mainly of glass. In most views, including from the garden areas, the balustrading would have a minor and unassuming presence that could be absorbed as part of the rear of the host building without it appearing conspicuous or at odds with the mix of additions and alterations that typify this and some of the other buildings.

14. The steps down from the altered opening in the mansard roof would also be a reasonably minor component of the proposal in the overall context of the rear elevation. With the likely angle of views from adjoining properties and the gardens, together with the partial screening effect of the glass panels, the steps, including the hand rail, either alone or in combination with the other elements of the roof terrace, would not appear discordant with the host building or wider residential buildings. I consider that both schemes, with their variations in design, would be acceptable in this respect. The additions, for both of the appeal schemes, would therefore integrate with the established pattern and character of development in this run of residential buildings, which already includes a broadly similar roof terrace with balustrading at No 72.
15. I am mindful 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 Area². In this case, the schemes, in either form, would not be visible from the road frontage in Hammersmith Grove and both the additions would preserve the character and appearance of the rear elevation of the host property, wider terrace and the CA. There would be no adverse impact on the significance of the CA.
16. In the light of the above analysis, I conclude that the effect of either scheme would be to have an acceptable impact on the character and appearance of the host building and area, and would preserve the character and appearance of the CA and its significance. Accordingly, both schemes would comply with Policies DC1, DC4 and DC8 of the Hammersmith and Fulham Local Plan (2018) (the Local Plan), Key Principle CAG3 of the Hammersmith and Fulham Planning Guidance Supplementary Planning Document (2018) (the SPD) and the National Planning Policy Framework which seek, amongst other things, that extensions and alterations should be compatible with the scale and character of existing development and should be subservient and not dominate the parent building.

Living conditions

17. The proposed terrace would be close to the windows of nearby residential accommodation. However, I agree with the Council that the side screens would be satisfactory in minimising any overlooking and privacy issues from the use of the roof terrace area in relation to the windows of the adjoining properties.
18. I have also found no reason to disagree with the Council's conclusion that with the 1.7m-high obscured screens neither scheme would result in an undue loss of light or outlook for occupants of the neighbouring properties given the limited depth of the terrace and the translucent material of the side screens.
19. The roof terrace would create a fairly small external area to be used in association with Flat 4 and the modest size of the space would be unlikely to be able to accommodate many people. Consequently, this would assist with

² Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990

limiting any undue noise and disturbance to neighbouring occupiers from the use of the proposed roof terrace. In this respect, the size of the roof terrace would comply with the guidance in the SPD that balconies and terraces should be no bigger than 15 square metres to help reduce noise and disturbance to neighbours. I have noted the comments regarding the present transmission of noise around and within the terrace from the upper floor of the existing flat but do not consider that the provision of this external space, with its particular location and characteristics, would have a material impact on the existing situation.

20. The reason for refusal, however, identifies concerns including with the views over, and in the case of Appeal A through, the 1.2m section of the balustrade and from the proposed steps which link from the top floor. It is argued that this arrangement would lead to overlooking. The location of the steps would be fairly central within the rear elevation of No 66 and they would be reasonably close to the main rear wall of the building. As a consequence, for those occupants of the flat when they would be walking down or up the steps, and potentially could see over the 1.7m screens, the fairly restricted angle would be unlikely to result in harmful views towards the windows of neighbouring properties.
21. At my site visit I was able to stand next to the clear glass balustrade of the existing Juliet balcony and look down into the gardens of the adjoining properties. Because the flat roof (which is the area proposed to be used as a roof terrace) is set down, it does not especially interrupt the angled views down into the gardens. Furthermore, the doors of the Juliet balcony open fully and this allows open views which would be reasonably similar to those views from the edge of the proposed roof terrace. The presence of anyone standing or sitting close to the Juliet balcony of Flat 4 would be perceptible by neighbouring residents using areas of their gardens in the properties to the rear and surrounding the appeal property. Additionally, there is already another roof terrace reasonably nearby and more generally quite a few windows of the residential terrace also face out towards these garden areas. The gardens of the properties in this residential terrace in the vicinity of the appeal site already experience being overlooked to a reasonable extent.
22. The proposed roof terrace and steps would provide a small area for the occupants of Flat 4 to use and sit, and this would also allow them to look out to the rear, mainly across the wider area, but also potentially down to the garden areas. It would also be possible for those sitting to have some outward views through the clear glass balustrade with the scheme under Appeal A.
23. However, I am conscious of the factors that I have analysed above and also, in particular, of the quite elevated position of the proposed roof terrace and therefore the separation distance down to the rear garden areas, the small size of the roof terrace, the restrictions on some views provided by the side screens and the existing views down into the adjoining gardens from the present Juliet balcony with its clear glazed screen which would be broadly similar to those from the proposed roof terrace. In these circumstances, any overlooking from the proposed roof terrace and steps would not unacceptably increase that over the existing situation. Accordingly, I am satisfied that there would not be an undue adverse effect on the living conditions for the occupiers of the neighbouring properties when they were using their garden space.

24. Furthermore, while it would assist with preventing views from a seated position, I do not consider that the rear, 1.2m section of the glazed balustrade would have to be obscure glazed in respect of Appeal A because I have found views from the proposed roof terrace acceptable as a whole.
25. In coming to these conclusions, I have very carefully considered the objections from neighbouring residents. However, based on my site visit and all the evidence before me, I consider that the schemes, in the circumstances of this case, would not cause undue harm to the living conditions of the occupiers of neighbouring properties, including when using their gardens.
26. I have noted the argument that the effect and intensity of use of the roof terrace at No 72 is different because that property is a single dwelling with a garden and that roof terrace is accessed off a bedroom. However, the roof terrace at No 72 has the potential for unrestricted use by those occupants and it is a matter for the residents of each accommodation to decide how their space would be utilised and how often. The situation at No 72 does not lead me to a different conclusion on the appeal schemes, because the effect of either proposal at Flat 4 of No 66 would be acceptable in its own right for the reasons explained.
27. Accordingly, I conclude that both schemes for the provision of an external roof terrace would not unduly affect the living conditions of occupiers of neighbouring properties, in particular in regard of any unacceptable level of overlooking. It follows that there is no conflict with Policies DC4 and HO11 of the Local Plan and Key Principle HS8 of the SPD which seek, notably, that alterations and extensions should ensure good neighbourliness in particular regarding the amenities of neighbouring properties.

Conditions

28. I have had regard to the conditions suggested by the Council for each appeal and the advice in the Planning Practice Guidance. I have amended the wording where necessary in the interests of clarity or to meet the six tests in the Guidance. In each case, the statutory time limit is required and a condition specifying the approved plans is necessary in the interests of certainty.
29. It is necessary for a condition to require that the obscure glazed privacy screens be installed prior to first use of the roof terrace and thereafter retained. With Appeal B, I have added the wording that the 1.2m screen is also obscured glazed as this forms part of that proposal and in the interests of certainty.
30. The Council has suggested a condition that requires the roof of the existing extension not to be used as a terrace or open amenity area. However, that is the purpose of both the appeal proposals and such a condition would negate the benefits of the approval. My attention has not been drawn to another flat roofed rear extension associated with either scheme and therefore it would not be reasonable or necessary to attach this suggested condition to the approval.
31. A condition is necessary to ensure that the development accords with the specified materials and is thereafter retained with those approved materials in the interests of the character and appearance of the CA.

Conclusion

32. For the reasons explained above, both appeal proposals would have an acceptable impact on the character and appearance of the area and would not unacceptably harm the living conditions of the occupiers of neighbouring properties. Both schemes would comply with the development plan when considered as a whole and there are no considerations that indicate otherwise. Accordingly, I conclude that the appeals should succeed and planning permission should be granted for both proposals.

David Wyborn

INSPECTOR

Schedules of Conditions

Appeal A APP/H5390/W/21/3278812

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans dated February 2021: Drawing Nos 01 - Location Plan, 10 - Proposed Loft Plan, 11 - Proposed Rear Elevation and 12 - Proposed Section AA.
- 3) The roof terrace hereby approved shall not be first used until the privacy screening has been installed as shown on approved Drawing Nos 10, 11 and 12. The privacy screens shall achieve a minimum level of obscurity equivalent to Pilkington Texture Glass Level 3 and shall have a height of 1.7m above the finished floor level of the terrace along the north and south elevations. The privacy screens shall thereafter be permanently retained as approved.
- 4) The development hereby approved shall be carried out and completed in accordance with the materials (including colour and finish) specified on the drawings hereby approved. The development shall be permanently retained in accordance with the approved details. Any works of making good to existing elevations shall be carried out in materials to match the elevation to which the works relate.

Appeal B APP/H5390/W/21/3285148

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans dated June 2021: Drawing Nos 01 - Location Plan, 10 - Proposed Loft Plan, 11 - Proposed Rear Elevation and 12 - Proposed Section AA.
- 3) The roof terrace hereby approved shall not be first used until the privacy screening has been installed as shown on approved Drawing Nos 10, 11 and 12. The privacy screens shall achieve a minimum level of obscurity equivalent to Pilkington Texture Glass Level 3. The privacy screening shall have a height of 1.7m above the finished floor level of the terrace along the north and south elevations and 1.2m above the finished floor level of the terrace along the rear elevation. The privacy screens shall thereafter be permanently retained as approved.
- 4) The development hereby approved shall be carried out and completed in accordance with the materials (including colour and finish) specified on the drawings hereby approved. The development shall be permanently retained in accordance with the approved details. Any works of making good to existing elevations shall be carried out in materials to match the elevation to which the works relate.