



Appeal Decision

Site visit made on 9 May 2022

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th June 2022

Appeal Ref: APP/E5330/W/22/3290357

2C Westbrook Road, Kidbrooke, London SE3 0NS

- 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 Nathalie MacDermott against the decision of Royal Borough of Greenwich Council.
 - The application Ref 21/3628/F, dated 8 October 2021, was refused by notice dated 3 December 2021.
 - The development proposed is described on the application form as the "installation of external staircase and railings to enable use of the first-floor flat roof as a terrace (retrospective) in conjunction with a proposed associated privacy screen at roof level".
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Decision

1. The appeal is dismissed.

Procedural Matter

2. As described in the banner heading above, part of the development for which planning permission is sought has already been carried out. A metal staircase and railings have been installed to facilitate the use of a flat roof (which, notwithstanding the wording in the description, is above the existing first floor part of the building and so is effectively at second floor level) as an outdoor terrace. The final element of the development, which has not been carried out, is the installation of a privacy screen. I was able to access the roof and view the staircase and railings at the time of my site visit, and am therefore considering those elements of the scheme retrospectively on that basis.

Main Issues

3. The main issues are the effects of the proposed development on:
 - The character and appearance of the area; and
 - Living conditions for neighbours, with particular regard to loss of privacy.

Reasons

Character and appearance

4. The appeal property is a first floor flat, occupying the upper part of a small block of two flats built as an infill development in approximately the late 1960s or early 1970s. The block has a pitched roof facing Westbrook Road, but flat roofs to the rear and, in common with the adjoining house No 2A, a simple rectilinear form. The surrounding area is predominantly residential, albeit of somewhat different styles to the appeal property; Westbrook Road itself is

characterised by typical 1930s semi-detached houses, while Kidbrooke Park Road to the west of the appeal site is dominated by older and larger detached and semi-detached villas, although I understand that many of these have now been converted into flats.

5. The appeal property already has a roof terrace, at first floor level at the rear of the building. An external metal staircase has been erected connecting the existing terrace to the higher flat roof, on two sides of which open metal railings have been installed, creating a second terrace. The railings and staircase are on flat-roofed parts at the rear of the building, and as a result of their siting they are largely, although not completely, imperceptible from public viewpoints. The railings on the east side elevation are clearly visible when heading west towards the appeal property along Westbrook Road; in these views however their scale and form means that they sit comfortably behind the front pitched roof and its parapet walls, to the extent that they could quite easily be perceived as an original part of the building's design. While balconies and roof terraces are not a common feature of the surrounding area, given the particular design and form of the appeal property I do not consider that the creation of a roof terrace is incongruous in this instance.
6. The proposed privacy screen, which has not yet been installed, would be around 1.7m in height, and would be a wood-plastic composite decorative trellis. It would rise a short way above the front roof ridge, although again as it would be set towards the rear of the site it would have a very limited impact on public views from Westbrook Road in front of the appeal property.
7. In views from the east, it would be seen against the backdrop of the roof of the buildings on Kidbrooke Park Road. It is possible that it would be visible against the sky at certain times of the year when approaching from the direction of Kidbrooke Park Road, although at the time of my site visit that particular view was severely limited by the deciduous trees which were in full leaf. In neither case would the screen be an especially prominent or intrusive feature.
8. The privacy screen would be more visible from the upper floor rear windows of properties on Kidbrooke Park Road. Although there seems to me to be no fundamental reason why a well-designed screen of the size and siting proposed could not be acceptable in terms of its effect on the character and appearance of the area, the small single drawing of the screen which was submitted was lacking in detail and so does not provide sufficient certainty in this respect. However, in my view this is a matter which, had the development been acceptable in all other respects, could have been addressed by a condition requiring the submission and approval of further design details.
9. I conclude that the staircase and railings which have been installed are not harmful to the character and appearance of the area. The proposed privacy screen would, subject to a condition as described in the previous paragraph, also not cause significant harm to the character and appearance of the area. The development as a whole would therefore comply with Policies DH1 and DH(a) of the 2014 Royal Greenwich Local Plan Core Strategy ("the LPCS") LPCS, and with Policy D3 of the London Plan 2021. Among other things, these policies seek to ensure that development is well-designed, takes account of the layout and character of the surrounding area, and require that residential extensions and roof alterations should be limited to a scale and design appropriate to the building and locality.

Living conditions

10. The Council's 2018 Residential Extensions, Conversions and Basements Supplementary Planning Document ("the SPD") advises that a balcony or roof terrace may be acceptable where it can be demonstrated that the privacy of neighbours will not be affected. In this case, the roof terrace is at approximately the same level as rooms on the second floor of the neighbouring properties at 35 and 37 Kidbrooke Park Road. There is no screening at present between the roof terrace and those properties, and although I have not been provided with an accurate measurement of the separation distance between the two, one neighbour commenting on the planning application suggested that it is around 10m; that does not strike me as a wildly inaccurate estimate. As I saw on my site visit, the terrace in its present form allows clear views into the neighbouring properties' upper floor rooms from a relatively close range, with a consequent significant harmful impact on occupiers' privacy.
11. The privacy screen which the appellant now wishes to install is intended to address this loss of privacy. However, the proposed screen would, at approximately 1.7m, not be sufficiently high to prevent people on the terrace having clear views into the neighbouring properties (to illustrate with a practical example, I am not by any stretch of the imagination unusually tall, but can comfortably see over a 1.7m barrier without needing to stand on tiptoes). The proposed screen is described in the submitted Design and Access Statement as providing some permeability. Again, the submitted drawing of the screen does not provide sufficiently detailed design information to give certainty, but this permeability is likely also to allow a degree of overlooking of neighbouring windows from the terrace.
12. I note the appellant's comments to the effect that the terrace would generally be used by people sitting down, that standing by users would be relatively limited, and so there would be no significant harm to neighbours' privacy. I have no reason to doubt that such a statement reflects the way the appellant already uses the terrace. However, the use of the roof as a terrace and the associated screening would be likely to endure for the lifetime of the property; there is no practical means of controlling standing on the terrace either by the appellant or any future occupier of the appeal property. In any case, the height and permeability of the proposed screen would still be likely to lead to a harmful *perceived* loss of privacy for neighbours.
13. In order to ensure that the terrace could be used without causing significant harm to neighbours' privacy, a screen would need to be taller than that currently proposed, and possibly also of a different (and less permeable) design. While I have found that the scheme as it has been put before me would be acceptable in terms of its effect on the character and appearance of the area, I cannot be certain that the same could be said of a different screen which would provide the necessary privacy for neighbours. For this reason, I consider that it would not be appropriate to impose a condition requiring the submission and approval of details of an alternative privacy screen.
14. The staircase and upper roof terrace allow slightly wider and more elevated views over part of the rear garden of No 39 Kidbrooke Park Road to the south than are possible from the existing terrace at first floor level. The same can be said of No 41 beyond that, although to a lesser extent as that garden is more screened by trees and other vegetation. I note the comments of the Council

that there are no other examples in the area where there is overlooking of rear gardens from a similar height or proximity. I have no reason to doubt that; however, based on my observations on my site visit I do not consider that the additional overlooking of the gardens goes significantly beyond that which might commonly be found even in some reasonably spacious suburban areas of London. While I have also had regard to neighbours' comments on this matter, I find no significant harm to privacy in neighbouring gardens. This finding does not, of course, negate the other harm to privacy which I have found.

15. I conclude that, because of the overlooking of the windows of habitable rooms at the rear of Nos 35 and 37 Kidbrooke Park Road, the development is harmful to privacy for neighbouring occupiers. This harm would not be removed or satisfactorily mitigated by the proposed privacy screen. The development as a whole therefore conflicts with Policy DH(b) of the LPCS, which seeks to ensure that development is only permitted where it does not cause an unacceptable loss of amenity to neighbouring occupiers, including through a loss of privacy.

Other Matters

16. I note the appellant's statement that they have limited mobility as a result of a disability, and the development is intended to provide a convenient, safe and accessible outdoor amenity space. I am sympathetic on this point, but no further evidence has been offered to support it. The flat also already has an outdoor amenity space in the form of its existing terrace, though of course the current scheme would provide additional useful amenity space. This argument can only carry limited weight in my assessment, as personal circumstances rarely outweigh planning concerns. As I have already described above, I am also mindful that it is likely the terrace would remain long after the current personal circumstances cease to be relevant.
17. The appellant has drawn my attention to the amenity space standards set out in the London Plan 2021, and its policies which support the use of roof terraces as one means of providing such space. However, additional factors come into play when considering alterations to an existing building, and that some development plan policies may be supportive of a proposal does not outweigh other planning harm I have found.

Planning Balance and Conclusion

18. I have found the development before me to be acceptable in terms of its effect on the character and appearance of the area. However it has, and would continue to have, a significant adverse effect on neighbours' living conditions arising from a harmful loss of privacy. It therefore conflicts with the development plan taken as a whole.
19. There are no material considerations which indicate that the decision should be made other than in accordance with the development plan. For the reasons given above, the appeal is therefore dismissed.

M Cryan

Inspector