



Appeal Decision

Site visit made on 18 May 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2022

Appeal Ref: APP/H5960/W/21/3285590

38 – 42 Upper Tooting Road, Tooting Bec SW17 7PD

- 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 M Khalid against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref 2021/1522, dated 30 March 2021, was refused by notice dated 22 June 2021.
 - The development proposed is the installation of an external metal staircase to the rear of the Chicken Cottage restaurant, for maintenance purposes
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Decision

1. The appeal is dismissed.

Main Issues

2. There are two main issues. These are the effect of the proposed development on a) the privacy of the occupiers of 2A Mandrake Road and 1 Fircroft Road; and b) crime and personal safety

Reasons

Living Conditions

3. The appeal property is in commercial use and backs onto residential plots on Mandrake Road and Fircroft Road. The proposal would not be directly adjacent to the boundary with No. 2A Mandrake Road or No. 1 Fircroft Road. However, it would provide access to the flat roof of the appeal property, which sits perpendicular to these dwellings.
4. Due to the elevated position of the roof, and despite a level of natural screening at No. 1 Fircroft Road, clear views into the back garden and rear habitable windows of No. 2A Mandrake Road and No. 1 Fircroft Road would be possible. This would result in a significant loss of privacy for the occupants of these dwellings through both actual and perceived overlooking from people accessing the roof, into otherwise private rear gardens. This would accordingly impede resident's enjoyment thereof.
5. The appellant has stated that the staircase would only be used for the purposes of maintenance, once or twice a year. However, I have no substantive evidence before me that this would be the case. In addition, it is difficult to envisage how use of the staircase for roof access could be adequately monitored or controlled, such that any condition addressing this could be enforced. In any event, based on my observations on site, I am not

convinced that a solution for maintenance access that avoids the harm identified could not be found.

6. While the installation of a screen may go some way to allaying my concerns, I have no details or plans before me as to what such a screen would comprise and as such cannot be certain that it would mitigate the harm identified. In addition, in the absence of these details I cannot be certain that a screen would not create additional issues such as, for example, harm to the character and appearance of the area. Due in particular to the proximity of the closest first floor rear window of No. 2A to the appeal property, any such screen would need to be of a considerable height to ensure there would be no adverse impacts on the privacy of residents at No. 2A. This in turn could unduly harm the outlook of the residents of this dwelling, such that it would not represent a suitable solution.
7. For the reasons given above the development would have a significant adverse effect on the living conditions of neighbouring residents at No. 2A Mandrake Road and No. 1 Fircroft Road, with particular regard to privacy. As such, it would fail to accord with Policy DMS1(c) and DMS1(j) of Wandsworth Local Plan Development Management Policies Document (2016), which seek to ensure adequate living conditions.

Crime and Personal Safety

8. Concerns have been raised that the proposal would result in an increase in crime and anti-social behaviour, given the accessibility of the neighbouring gardens and the outbuilding of No. 2A Mandrake Road from the roof at the appeal site.
9. I acknowledge the comments of interested parties regarding gatherings in the vicinity of the site and on the roof of the appeal property. However, despite the semi-urban location of the site there is no substantive evidence before me to suggest that it falls within a high crime area.
10. In addition, there is a reasonable amount of natural surveillance of both the roof at the appeal property and of the neighbouring residential properties due to the many dwellings surrounding the site with views of these areas. It therefore appears to me that this would serve as a deterrent to crime or antisocial behaviour in the vicinity, rather than encourage it.
11. With this in mind, the proposal would not have an unacceptable effect on crime or personal safety. As such, it would comply with Policy D11 of the London Plan 2021 and Policy DMS1(j) of Wandsworth Local Plan Development Management Policies Document (2016), which seek to ensure that development provides a safe and secure environment.

Conclusion

12. I have found that the proposal would not have adverse effects on crime and personal safety. However, as a lack of harm this would not outweigh the significant adverse effects identified on the living conditions of residents at No. 2A Mandrake Road and No. 1 Fircroft Road with regards to privacy. These adverse effects would lead to conflict with the development plan and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance therewith. The appeal should therefore be dismissed.

C Rafferty

INSPECTOR