



Appeal Decision

Site visit made on 12 July 2022

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2022

Appeal Ref: APP/H5960/W/22/3292811

15 Smallwood Road, London SW17 0TN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Mark Barocas against the decision of the Council of the London Borough of Wandsworth.
- The application Ref 2021/5312, dated 19 November 2021, was refused by notice dated 21 January 2022.
- The application sought planning permission for demolition of existing property and outbuildings and erection of two-storey building plus roof and basement with front and rear lightwells to create 1 x 3-bedroom, 2 x 2-bedroom and 2 x 1-bedroom one person flats with associated outside amenity space, refuse and cycle storage without complying with a condition attached to planning permission Ref 2021/3345, dated 21 October 2021.
- The condition in dispute is No 2 which states that: The development shall be carried out in accordance with the reports, specifications and drawings detailed [01, 11 rev A, 12 rev A, 13 rev A, 14 rev A, 15 rev A, 16 rev A, 17 rev A, 18 rev A, 19 rev A, 20 rev A, 21 rev A, 22 rev A, 23 rev A, 24 rev A, FIRE SAFETY REPORT: 15 Smallwood Road, FLOOD RISK ASSESSMENT: 15 Smallwood Road, Daylight and Sunlight Assessment for planning (Job No: 3939, Issued: June, 2021, Issue: 1)].
- The reason given for the condition is: To ensure a satisfactory standard of development and to allow the local planning authority to review any potential changes to the scheme.

Decision

1. The appeal is dismissed.

Background and Main Issues

2. Planning permission was granted for the demolition of the existing end of terrace property and its replacement with a two storey building plus a roof extension and basement with lightwells to create five flats with associated outdoor space. The approved plans show a first storey rear projection with a roof terrace above, and a single storey flat roof component projecting beyond this. The proposal would involve the formation of a roof terrace on top of part of this single storey component, surrounded by a 1.7 metre high obscured glazed balustrade. Access to the proposed roof terrace would be from the kitchen/dining/lounge area of the flat that it would serve.
3. Taking the above background into account, the main issues are the effects that varying the condition would have on:
 - the living conditions of residents with regard to privacy; and

- the character and appearance of the host property and surrounding area.

Reasons

Living Conditions

4. Despite the fact that the roof terrace would be set back from the end of the single storey part of the building, its position, size and elevated height would result in users being able to look directly into the outdoor amenity areas that would serve the ground floor flats. There would also be the potential for views into the rear outdoor areas of the adjacent properties at 11 and 17 Smallwood Road, although such views would be at a somewhat greater distance. The roof terrace would afford views towards the properties to the rear, but given the separation distance, there would not be an unacceptable degree of overlooking for residents of these dwellings.
5. The presence of rear facing windows at upper levels means that the outdoor amenity areas for the ground floor flats and the adjacent properties at nos. 11 and 17 would not be particularly private. However, the roof terrace would introduce a further elevated and projecting vantage point which would afford its users a more open view. The proposed balustrade would restrict views from the roof terrace to an extent. However, its siting would mean that it would likely be visible from the outdoor amenity areas of the ground floor flats and the adjacent properties, and consequently, residents of those properties would still have a perception of being overlooked when in their outdoor amenity area. The proposed roof terrace would therefore substantially reduce privacy and detract from the enjoyment of these outdoor spaces.
6. I note that the proposal would include an obscured glazed balustrade of greater height than that in front of the approved Juliet balcony at first floor level. However, the Juliet balcony would be set further back. In addition, the roof terrace, although not large, would still be of a useable area to support activities such as sitting or eating out and other social use of the space. Given the likelihood of a more prolonged and social use of the roof terrace, the effect of overlooking, including the perception of being overlooked, would be significantly more intrusive than from views from the rear windows, including the Juliet balcony.
7. The roof terrace at second floor level would be located further from the outdoor amenity areas than the proposed roof terrace in terms of distance and/or height. It would not therefore give rise to the same feeling of being overlooked and perceived loss of privacy.
8. Accordingly, I conclude that the proposal would result in unacceptable harm to the living conditions of residents with regard to privacy. It would therefore conflict with the amenity requirements of Policy DMS1 of the Wandsworth Local Plan Development Management Policies Document, 2016 (the DMPD).

Character and Appearance

9. The proposed roof terrace would not be readily visible from public vantage points. There may be some very limited views through the gap between the property and 11 Smallwood Road. It would be visible from properties on that part of Smallwood Road to the rear. Although such views would be obscured to a degree by intervening vegetation and the flattened development to the rear of the property, I am mindful that the vegetation could be reduced in height at

any time through normal maintenance, or removed. It would also be visible from the rear of a number of nearby properties.

10. While changes have taken place to the rear of the properties on the terrace in which the appeal property sits, one element that has relative conformity is the building line at first floor level when looking along the terrace. By virtue of its siting and location, which would project outwards from the rear elevation at this height, the roof terrace would be an incongruous feature that would detract from the host dwelling and surrounding area. The relatively light weight appearance of the proposed balustrade and the fact that it would be reflective of the approved second storey balustrade would not adequately mitigate this harm.
11. I appreciate that the site is not within a conservation area. However, this does not mean that I should not fully assess the appeal scheme in the interest of the character and appearance of the area, and it does not alter my conclusion on the harm caused.
12. While noting that the second floor roof terrace may be more visible than the proposal, it would sit behind the pitched roof of the first floor addition and would appear as integrated within the mansard roof form. As such, it would not dominate the rear elevation.
13. Both main parties have provided examples of other roof terraces or appeal decisions to support their positions. The parties have also provided views on why they consider the examples presented by the other party are not comparable to this appeal scheme.
14. Based on the information before me, the roof terrace at 1 Gateside Road¹ does not project beyond the rear most building line and appears to have relatively limited visibility from neighbouring properties due to its location relative to the two storey back addition. While it is adjacent to a highway and visible from it, the roof terrace appears as quite a discreet and unobtrusive element due to its positioning adjacent to the two storey back addition.
15. The submitted information illustrates that the roof terrace at 217 Garratt Lane² would extend beyond the two-storey back addition. It is adjacent to a highway and would be visible from the public domain, but is an end of terrace property which may limit the number of nearby residential properties that it would be visible from. Based on the submitted information, the situation with the roof terrace at 2A Ashness Road³ is similar. In addition, it appears that there are a number of similar first floor roof terraces in the vicinity.
16. Full details of the example at 818 Garratt Lane are not before me. However, it does appear to be a mid-terrace property where a roof terrace and 1.7 metre high obscured glazed balustrade was permitted on the roof of a single storey rear extension.
17. There is a property on the terrace in which the appeal property sits with an obscured glazed balustrade at second floor level, and properties further along Smallwood Road at nos. 91 and 93 also have a roof terrace with an obscured glazed balustrade at this level. However, these roof terraces do not appear to

¹ Application reference 2019/3046

² Application reference 2018/1377

³ Application reference 2021/1573

project beyond the rear most building line, which is also the case with the roof terrace at 784 Garratt Lane.

18. The Council has submitted two appeal decisions⁴ relating to first floor roof terraces. The Inspectors for these decisions found unacceptable harm to the character and appearance of the area despite there being only very limited or no views from public vantage points. In both cases, roof terraces did not appear to be a prevalent feature within the immediate vicinity, and in one case the Inspector identified the generally uniform pattern at first floor level. The appellant highlights that these cases are some distance from the site and involve mid-terrace properties.
19. While there are some similarities between the appeal scheme and the examples given, there are also a number of differences. None of the examples therefore offer a direct comparison. In any event, I have determined the appeal scheme on its individual merits.
20. Consequently, I conclude that the proposal would cause some harm to the character and appearance of the host property and the surrounding area. It would therefore conflict with policies PL1 and IS3 of the Wandsworth Local Plan Core Strategy, adopted 2016 (the CS) and Policies DMS1 and DMH4 of the DMPD, which collectively seek to ensure that developments contribute positively to local character amongst other matters. It would also conflict with Policy DMH5 of the DMPD, which requires that alterations and extensions do not harm the street scene or building's appearance amongst other considerations, as well as the advice in the Council's 2016 Supplementary Planning Document: Housing relating to roof terraces.

Other Matters

21. I acknowledge that the roof terrace would provide a small amount of outdoor amenity space for the flat it is intended to serve and that the London Plan 2021 and Policy IS3 of the CS states that for residential development, there should be the provision of outside/amenity space, with roof gardens and balconies being identified in the London Plan as forms of such space. Although this would be a benefit of the proposal, it would not outweigh the harm I have identified.

Conclusion

22. The proposed development would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

F Wilkinson

INSPECTOR

⁴ Appeal references APP/H5960/W/17/3190656 and APP/H5960/W/17/3180191