



Appeal Decision

Site visit made on 22 April 2022

Decision by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 28 July 2022

Appeal Ref: APP/H5960/W/21/3287014

43 Eardley Road London SW16 6DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Maker Properties Ltd against the decision of Wandsworth Council.
 - The application Ref 2021/3734 dated 6 August 2021, was refused by notice dated 1 October 2021.
 - The application sought permission for alterations including excavation to enlarge basement including formation of front lightwell; erection of two-storey extension and single storey rear extension in connection with conversion of property from a house into 1 x 1 bedroom, 1 x 2 bedroom and 1 x 3 bedroom without complying with conditions attached to planning permission Ref 2016/3999 dated 22 September 2016.
 - The conditions in dispute are Nos. 3 and 4, which state that:
 - 3) *The development shall be carried out in accordance with the approved drawings and specifications, unless approved otherwise in writing by the local planning authority.*
 - 4) *The roofs of the extension hereby permitted shall not be used as a balcony, roof garden, sitting out area or for any purpose of a similar nature without the prior written consent of the local planning authority.*
 - The reasons given for the conditions are:
 - 3) *To ensure a satisfactory standard of development, and to allow the local planning authority to review any potential changes to the scheme.*
 - 4) *To protect the privacy of neighbours and prevent overlooking, in accordance with Council policy DMS1.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The balcony to which this appeal relates has already been constructed. I have dealt with the appeal on this basis.
3. Permission 2016/3999 was granted for alterations at the property in connection with its conversion to three flats, subject to conditions that they would be carried out in accordance with approved plans, and that the extension roof would not be used as a balcony.

Main Issues

4. The main issues are whether conditions 3 and 4 attached to planning permission 2016/3999 are reasonable and necessary with regards to: the

character and appearance of the surrounding area; and the living conditions of occupiers of neighbouring properties, with particular regard to privacy.

Reasons

Character and appearance

5. The appeal site comprises a two storey, semi-detached property in a residential area, with properties sharing a similarity in scale and benefitting from rear gardens. Despite the variety of rear elevations, the balcony at the appeal property is the only example of a such a feature among the immediate group of dwellings. Combined with its elevated positioning this results in it being a noticeable and prominent addition, where it reads as incongruous. Its presence fails to respect the character and pattern of development within the immediate locality, appearing jarring.
6. The appellant indicates that overall improvements have been made to the property. In addition, the finish of the walls of the balcony match those of the existing dwelling, and that it is overall modest in scale. However, the balcony remains out of place in the immediate context. While the wooden balustrade retains an openness, and is not overly tall or bulky, it remains visually obtrusive at this raised level and as such fails to successfully integrate with the dwelling or the surrounding development. It further serves to highlight the presence of the balcony, setting the dwelling apart from neighbouring properties.
7. For the reasons given conditions No. 3 and 4 attached to planning permission 2016/3999 are reasonable and necessary, having regard to the character and appearance of the surrounding area. The development therefore conflicts with Policies DMS1 and DMH5 of the Wandsworth Local Plan Development Management Policies Document (2016) and the Wandsworth Local Plan Housing SPD (2016), which seek to promote good design.

Living conditions

8. Despite the depth of the projection I further observed that due to the elevated position of the balcony and the lack of solid screening, clear views are afforded both of surrounding rear gardens and into windows on the rear elevations of immediate neighbouring properties. As a result, the balcony leads to both actual and perceived overlooking of these spaces such that neighbouring occupiers' use and enjoyment of their gardens and rear habitable rooms would be unduly impacted.
9. While the balcony serves a single flat and its modest dimensions limit the nature of its use, it represents the only outdoor space for exclusive use by the occupiers of this flat. As such, it is likely to be in regular use for prolonged periods of time, particularly during good weather when others are also likely to spend time outside in their rear gardens.
10. While the installation of a screen may be able to address the impact on neighbouring living conditions, 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 with regards to the character and appearance of the surrounding area.

11. For the reasons given conditions No. 3 and 4 attached to planning permission 2016/3999 are reasonable and necessary, having regard to the living conditions of occupiers of neighbouring properties, with particular regard to privacy. The proposal therefore conflicts with Policies DMS1 and DMH5 of the Wandsworth Local Plan Development Management Policies Document (2016) and Wandsworth Local Plan Housing SPD (2016), which seek to ensure adequate living conditions.

Other Matters

12. The concerns raised in relation to how the application was considered by the Council have not had a bearing on my decision. I have considered the appeal on its own merits based on the evidence before me and my observations of the site.
13. I acknowledge that no objections were received from neighbouring residents. Notwithstanding that point it is necessary to ensure that adequate living conditions for neighbouring occupiers are maintained. A lack of third party objection to a scheme is not a reason to allow a development that is unacceptable.

Conclusion

14. For the reasons set out above, I conclude the appeal should be dismissed.

C Rafferty

INSPECTOR