



Appeal Decision

Site visit made on 18 October 2022

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 9th November 2022

Appeal Ref: APP/C5690/D/22/3303605

49 Lewisham Park, Hither Green, Lewisham SE13 6QZ

- 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 Richard Jones against the decision of the Council of the London Borough of Lewisham.
 - The application Ref: DC/22/125964 dated 14 March 2022, was refused by notice dated 9 May 2022.
 - The development proposed is the installation of safety railings to an already long established roof terrace on the rear elevation to provide safe use of the area. The terrace is currently protected by a wall just under half a meter in height. The proposal increases the height to meet current Building Regulations Part K standards in line with the existing railings.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of metal railings to the flat roof at the rear elevation for use as a roof terrace at 49 Lewisham Park, Hither Green, Lewisham SE13 6QZ in accordance with the terms of the application, Ref: DC/22/125964 dated 14 March 2022 subject to the following conditions:
 - 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: 3306/PL/001; 3306/PL/002; 3306/PL/101; 3306/PL/102 and 3306/PL/107.
 - 3) The materials for the proposed railings shall accord with the details shown on Plan 3306/PL/102.

Preliminary Matters

2. The Council amended the description of development as set out on the application forms and shown on the header above to refer to *installation of metal railings to the flat roof at the rear elevation of 49 Lewisham Park*. The Appellants have argued against this amendment on the basis that it removes from the description the fact that, in their opinion, there is a long established roof terrace in existence, and the proposal is intended to provide for safe use with the erection of safety railings.

3. There is no definitive information before me to conclude the established use of the flat roof area as a roof terrace and there are separate procedures for such an application. Nonetheless and as seen at my site visit, there is a door leading out of the room at second floor level directly onto the flat roof which has, as existing, a low parapet around the edge. Although the Council has referenced a report dating from 2006 into an unauthorised loft conversion, there is nothing before me to indicate that the use of the flat roof as a roof terrace has been restricted under any permissions or consents granted.
4. Whether or not the roof terrace is lawful is not before me, but I have no information to indicate that with or without the installation of railings, the area could not be used as a roof terrace, particularly given the existence of a door leading out from the second floor directly onto the flat roof.
5. I therefore propose to use the Council's description of development in my decision, namely *the installation of metal railings to the flat roof at the rear elevation*. For the avoidance of doubt, I shall add to this description *for use as a roof terrace*. I do not consider that any party is prejudiced by my amending the description in this way.

Main Issues

6. The main issues in this appeal are:
 - a) The effect of the proposal on the living conditions of the neighbours, with particular regard to overlooking and loss of privacy and noise disturbance, and
 - b) The effect of the proposal on the character and appearance of the host property and on the Lewisham Park Conservation Area.

Reasons

Issue a) Neighbours' Living Conditions

7. The appeal property is an attractive and substantial semi-detached Edwardian dwelling on the south side of Lewisham Park and facing at the front onto the open space of Lewisham Park. The street has dwellings on the south and east side only, primarily comprising large Victorian and Edwardian dwellings, some of which have been subdivided into flats. The appeal site lies within the Lewisham Park Conservation Area.
8. It is not clear the extent to which the existing flat roof area has been used as a roof terrace, although as already noted, there is a full length door opening onto the flat roof area from the upper floor. Even if already used, the introduction of railings may intensify the use of the flat roof area.
8. I agree that there would be views over the adjoining gardens from the roof terrace but there are already extensive views across neighbouring gardens from a number of the rear windows in the appeal property. In addition, there are views across neighbouring gardens from rear windows in other houses nearby as well as existing roof terraces. There are railings to a similar dormer extension which continue around the flat roof area on the adjoining semi-detached pair at No 50. There is a similar form of development at No 47. Whilst it is appreciated that there is not evidence of planning permissions for all these works it would appear from the evidence before me, which has not been

disputed by the Council, that the dormer to the appeal property was undertaken around 2006 and the works at No 50 following a grant of permission in 2010. The rear gardens to the properties on either side and in the vicinity of the appeal property are therefore already the subject of overlooking from the rear windows and roof terraces of surrounding properties.

9. In the particular circumstances of this case, I do not consider that the proposed enclosure of the flat roof with railings would materially increase the amount of overlooking and loss of privacy to neighbours, particularly in their rear gardens. There is also no evidence before me to indicate that there would be likely to be a material increase in noise disturbance which would be harmful to the living conditions of the neighbours in their houses and rear gardens, when account is taken of the existing situation.
10. I therefore conclude that the proposed erection of railings to the flat roof for its use as a roof terrace would not materially harm the living conditions of neighbours. There would be no conflict with Policy 15 of the Lewisham Core Strategy 2011, Policy 31 of the Lewisham Development Management Local Plan 2014 (DM Local Plan) as well as the National Planning Policy Framework, including Paragraph 130f) all of which, amongst other matters seek a high standard of design which respect the amenities of existing and future occupiers.
11. The Council's Alterations and Extensions SPD 2019 advises that permission will not normally be granted for the creation of roof terraces because of potential harm to the living conditions of neighbouring residents. However, in the particular circumstances of this case and my findings on this issue I consider that there would be justification for an exception to be made to this part of the SPD.

Issue b) Character and Appearance

12. The property, as existing, has railings to the rear dormer roof extension which serve as a Juliette balcony and the proposal would continue similar railings around the flat roof area. There are railings to a similar dormer extension which continue around the flat roof area on the adjoining semi-detached pair at No 50. There is a similar form of development at No 47. As set out above, there is not evidence of planning permissions for all these works but it would appear from the evidence before me, which has not been disputed by the Council, that these works were undertaken some time ago.
13. These are substantial brick built, Edwardian houses with traditional layouts, materials and pattern of fenestration. The railings would be small scale and lightweight in form and appearance. As a result, they would not detract from the proportions of the rear elevation or screen the architectural form of the dwelling. I do not therefore consider that they would be an incongruous addition to the dwelling; they would not harm the character or appearance of the dwelling.
14. The Lewisham Park Conservation Area is focussed on the open space and the residential dwellings which surround the park, mainly on its southern and eastern side. The built form comprises mainly semi-detached pairs of substantial Victorian and Edwardian dwellings, and these contribute to the significance of the Conservation Area together with the open space they face onto. A number of the three storey Victorian dwellings have railings to their

front elevations above the ground floor bay windows, enclosing small terraces and sitting out areas. These would appear to be original in form.

15. Given that railings are found in the Conservation Area on a number of the buildings, including on front elevations, together with my finding that the proposed railings at the appeal property would respect the character and appearance of the property, I am satisfied that the proposal would not detract from the significance of the Lewisham Park Conservation Area. It would preserve the character and appearance of the Conservation Area. There would be no conflict with Policy 15 and Policy 16 of the Lewisham Core Strategy, Policy DM 30, Policy DM31 and Policy DM 36 of the Lewisham DM Local Plan, and the Council's Alterations and Extensions SPD as well as the National Planning Policy Framework and in particular Section 16, all of which amongst other matters seek a high quality of design which respects the local context and the significance of heritage assets.

Other Considerations

16. I have taken into account that the Council has refused applications for roof development work, including roof terraces along Lewisham Park and one of the refusals was upheld at appeal. However, in the particular circumstances of this case and for the reasons set out under my main issues, they do not persuade me to a different view.

Conditions

17. I agree with the Council that the approved plans should be listed for the avoidance of doubt and in the interests of good planning. To protect the character and appearance of the existing building and of the Conservation Area, the proposed materials should accord with those shown on the approved plans.

Conclusion

18. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

L J Evans

INSPECTOR