



Appeal Decision

Site visit made on 31 October 2022 by T Bennett BA(Hons) MSc

Decision by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2022

Appeal Ref: APP/C5690/D/21/3289151

94 Canonbie Road, London, SE23 3AG

- 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 Mrs Evilina Jones against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/21/122852, dated 27 July 2021, was refused by notice dated 29 September 2021.
 - The development proposed is the construction of a glass balustrade balcony to the first floor rear elevation.
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matter

3. There is some variation between the original description of development as shown on the application form and that used by the Council on the Notice of Decision. Whilst I am satisfied that both versions are seeking to describe the proposed development, I have used the description of development as shown on the decision notice as a more accurate and detailed description of the proposal which I note has also been used in the appeal statement of case.

Main Issues

4. The main issues are the effect of the proposed development on the:
 - Living conditions of the neighbouring occupiers at 92 and 96 Canonbie Road (No 92 and No 96) with regard to privacy.
 - Character and appearance of the host property and street scene

Reasons for the Recommendation

5. The appeal property is a two-storey semi-detached house located in a residential area which comprises detached and semi-detached properties of various ages, styles and sizes. Due to the road incline, the adjoining property at No 92 is set lower than the appeal property, whilst No 96 is set higher.

Living Conditions

6. The proposed first floor rear balcony would extend very close to the boundary of the neighbouring property at No 92. Although the balcony would not be of a sufficient size to allow seating, it would nevertheless permit standing of several people at the balustrade. The elevated position, combined with the higher land levels of the appeal property, would provide an opportunity for direct overlooking into the garden of No 92, over and above what can be experienced currently. Moreover, in order to take advantage of the views towards the city, users of the balcony would be orientated towards the amenity space of No 92 which would further increase the perception of being overlooked.
7. Contrary to the appellant's statement, I found the level of vegetation along the shared boundary with No 92 to be insufficient to act as any form of barrier to prevent overlooking. Taking all the above points into consideration, the balcony would significantly and detrimentally increase the opportunity and ability for overlooking into the private amenity space of No 92, unacceptably and adversely affecting the living conditions of residents of that dwelling.
8. Turning to No 96, the rear elevation of this property is set further back than the appeal property, which would restrict any direct sideways overlooking from the proposed balcony. This, combined with the lower land levels at the appeal property in relation to No 96, means that any overlooking would be limited and would not be to such a degree that results in an unacceptable impact on the living conditions of the occupiers at No 96.
9. Whilst the balcony would allow for elevated views across the garden of the appeal site, due to the relationship, rear boundary treatment and long separation distance between the appeal property and houses at the rear on Liphook Crescent, there would be no adverse impact on living conditions for these properties.
10. For the reasons above, although I have found that the development would not have an adverse effect on the living conditions of No 96 and properties to the rear, it would have a harmful effect on the living conditions of No 92 with regard to privacy. As such, it would conflict with Policy 31 of the Local Plan (2014) (LP) and the Alterations and Extensions Supplementary Planning Document (2019) (SPD). Together, amongst other considerations, these require balconies to maintain privacy.

Character and Appearance

11. As a result of the siting on the rear elevation and the setback nature of the property from the road, the balcony would not be visible within the street. In this regard, given the proposal's siting it would not cause harm to the character and appearance of the street scene.
12. The proposal would see the existing first floor windows replaced with doors. I acknowledge this is not a characteristic feature of rear elevations in the vicinity, but I do not concur with the Council that it would disrupt the rhythm of the rear elevations of nearby buildings. From the rear of the appeal property, I observed a variety of modifications that had been made to the rear of other properties and consequently I could see no rhythm to the buildings that would be disrupted. Furthermore, as the doors would retain the position and match

the style of the existing fenestration, I find the minor alteration would not harm the outward appearance of the host property.

13. Moreover, the balcony would be of a modest scale, protruding approximately 1 metre from the rear elevation and would consist of a frameless glass balustrade. This would provide permeability and reduce any visual impact of the structure against the host property with minimal disruption to the form of the building.
14. For the reasons outlined above, I find that the balcony and doors would not constitute a conspicuous form of development and would not have a harmful effect on the character and appearance of the street scene and host property. It therefore accords with Policy 15 of the Core Strategy (2011), Policy 30 and 31 of the LP and the SPD which amongst other things, require development to respond to local contexts and be of a high quality design. It would also conform with the overarching aims of the National Planning Policy Framework.

Other Matters

15. The appellant has drawn attention to other properties in the street which have balconies, the impact of which I carefully considered and observed on my site visit. With the exception of 43 and 45 Canonbie Road all the examples are sited at the front of the properties and thus are not directly comparable to the appeal before me, with no overlooking of rear amenity space. Whilst balconies at 43 and 45 Canonbie Road are sited to the rear, I do not have the full details of these cases to be sure of the circumstances which led to their approval. Whilst I appreciate the need for consistency in decision making the existence of other balconies does not serve to justify a continuing approach of permitting further harmful development. Consequently, I have assessed the proposal on its own merits and the presence of other balconies does not lead me to alter my recommendation.
16. My attention has also been drawn to a Certificate of Lawful Development (CLD) for a dormer roof extension at No 96, approved in 1999. However, I have been presented with no detailed information or plans, so cannot be sure whether what has been built is the same scheme as that covered by the CLD. In any event, the fact that a development may be lawful, for example if constructed under 'permitted development rights' does not automatically indicate that no harm would arise from it. In my view, the roof terrace at No 96 only serves to demonstrate the harm that can be caused by overlooking and should not be used as a reason to grant planning permission for a balcony at the appeal property.
17. I acknowledge that the additional space provided by the balcony would improve the living conditions of the appellant. However, given its limited scale any benefit in that regard would be modest and does not outweigh the harm that would be caused to the living conditions of the occupiers of No 92.

Recommendation

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

T Bennett

APPEAL PLANNING OFFICER

Inspector's Decision

19. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall dismiss the appeal.

Chris Preston

INSPECTOR