



Appeal Decision

Site visit made on 18 October 2022

by Emma Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st December 2022

Appeal Ref: APP/A5270/W/22/3299256

95A Westfield Road, West Ealing, London W13 9JD

- 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 Ms Jane Spriggs-Upsena against the decision of London Borough of Ealing.
 - The application Ref 220289FUL, dated 31 January 2022, was refused by notice dated 3 March 2022.
 - The development proposed is described as 'Retention of balustrading to loft conversion'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The balustrade has been erected and therefore I am considering the appeal retrospectively. The plans before me appear to reflect the development as constructed, as such the appeal is determined on the basis of the submitted plans.
3. The description of the development refers only to the balustrade, however the erection of the balustrade, together with the size of the area enclosed enable the use of the balcony as outdoor space. I have considered the appeal on this basis.

Main Issues

4. The main issues are:
 - the effect of the development on the character and appearance of the area; and
 - the effect of the development on living conditions of the occupiers of 97 Westfield Road and 39 and 41 Sydney Road, having particular regard to privacy.

Reasons

Character and appearance

5. The appeal property occupies a prominent position at the end of a row of terraced properties at the junction of Westfield Road and Brisbane Road. The surrounding area includes residential development made up of 2 storey, semi-detached and terraced dwellings of a range of styles. Whilst rear dormer

windows are a common feature in the roofscape of the area, roof level balconies are not.

6. The existing dwelling comprises white rendered walls and a tile hung façade to the second floor rear roof extension. The timber balustrade extends around almost the full extent of the existing 2 storey flat roof outrigger to the rear of the property. By virtue of its scale, siting, design and materials, the timber balustrade presents as an anomalous addition to the existing building which consequently detracts from the appearance of the building. Moreover, there is a likelihood of items, including domestic paraphernalia being placed on the balcony which could appear out of place in an elevated position. The balcony is therefore an alien feature in the roofscape which is visually intrusive by reason of its height, projection and siting, and is at odds with the character and appearance of the area.
7. I note the recent investment in the property and that the appellant feels this has elevated its quality and appearance, however this would not overcome the harm I have identified above.
8. In light of the above, I therefore conclude that the development is harmful to the character and appearance of the area. Accordingly, it conflicts with Policy D3 of the London Plan 2021 (the LP) in so far as it seeks to ensure that development should enhance local context by delivering buildings and spaces that positively respond to local distinctiveness and Policy 7.4 of the Ealing Development Management Development Plan Document 2013 (DPD) which requires development to complement, among other things their building pattern, scale, materials and detailing. It also fails to reflect advice in the Council's Supplementary Planning Document 4 Residential Extensions which indicates that the design of all roof extensions should respect the design of the original dwelling, and materials should match or complement those of the original house.
9. The Council's refusal reason also refers to Policy D4 of the LP. However, I do not find conflict with Policy D4, which focuses principally upon processes which assist in ensuring the delivery of design quality. The content of this policy is largely irrelevant to the specific harm I have identified. In addition, Policy 7A of the DPD refers to sources of operational emissions that may harm amenity. From the evidence before me this policy is not directly relevant to the appeal proposal given that the balcony does not generate noise over and above outdoor space at a residential property.

Living conditions

10. The site is in an urban setting where a degree of overlooking of both windows and garden areas is commonplace. Even taking into account the fact that the balcony provides the ability for users to stand close to the edge of the projecting first floor roof, the view of adjoining gardens from the balcony is not significantly different to that from the existing first and second floor windows in the property.
11. However, the main difference is that whilst a view from an existing window may be possible, it is less likely to be one that is lingered over. A balcony is likely to be used for extended periods and would be likely to give a much more pronounced feeling of unwelcome and intrusive surveillance. The balcony is in an elevated position in close proximity to the side and rear boundaries of the

site and the neighbouring rear gardens of the ground floor flat at 97 Westfield Road (No 97) and 39 and 41 Sydney Road (No 39 and No 41). Due to the height of the balustrade this allows users of the balcony uninterrupted views across the rear gardens of these properties.

12. In light of the above, I find that the balcony gives rise to an unacceptable loss of privacy to occupiers of neighbouring properties at Nos 97, 39 and 41 with particular regard to their private rear gardens. Consequently, the development would harm the living conditions of these neighbouring residential occupiers, having particular regard to overlooking of gardens. The development is therefore contrary to Policies D3 and D6 of the LP and 7B of the DPD, which require development to achieve appropriate levels of privacy, as well as advice in the SPD which highlights that development should avoid overlooking, including from balconies.

Other Matters

13. Whilst I understand the benefits the balcony brings and the appellant's desire for an area of outdoor space, particularly during a pandemic, these are private benefits to the appellant and therefore of limited weight having regard to the need for the planning system to operate in the wider public interest.
14. During the application process the appellant indicated a willingness to negotiate with the Council with regards to the balustrade design and/or materials, in an attempt to overcome concerns raised. The appellant has suggested that an obscure glass screen could be erected to prevent any direct overlooking to the side and rear and potential harm to living conditions. However, even if such an approach was acceptable having regard to overlooking, there is no certainty of the suitability of this approach without compromise to the local built environment. In any case the appeal process should not be used to evolve a scheme in the interests of not prejudicing the ability of main or other parties to make comment. I have therefore determined this appeal on its individual planning merits on the basis of the appeal proposal before me.
15. I note the suggestion that the balustrade is required for safety reasons and to provide privacy to the occupiers of the property, however from the evidence before me I am not satisfied that the appeal proposal would be the only way to achieve these aims.
16. The occupiers of neighbouring properties have not objected to the proposal, subject to the erection of an appropriate screen. However, the appeal proposal does not include a privacy screen and the absence of objection does not in itself render the scheme acceptable.
17. The appellant has drawn my attention to roof terraces near to the appeal site at Seaford Road and Leighton Road. However, they differ in scale and site contexts to the appeal proposal. As such, they have a different effect on the character and appearance of the area to that which has been erected at the appeal site and in any event their presence does not justify the harm which I have identified.

Conclusion

18. For the reasons given, the appeal scheme conflicts 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.

Emma Worley

INSPECTOR