



---

# Appeal Decision

Site visit made on 14 December 2022

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: 19 January 2023

---

**Appeal Ref: APP/L5810/W/22/3301835**

**Flat 2 and 3, 118 Richmond Hill, Richmond,, London, TW10 6RJ**

- 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 Sean Harper against the decision of Richmond Upon Thames London Borough Council.
  - The application Ref 22/0436/FUL, dated 10 February 2022, was refused by notice dated 20 April 2022.
  - The development proposed is the alterations to existing balcony to include the installation of metal railing and decking planters.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. As the proposal is located in the Richmond Hill Conservation Area (the CA), I have had regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). Accordingly, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA.

## Main Issues

3. The main issues are the effect of the proposed development upon the living conditions of the occupiers of neighbouring properties with regard to loss of privacy; and the character and appearance of the CA.

## Reasons

### *Living Conditions of Neighbours – Privacy*

4. This application site is located on Richmond Hill and consists of two flats on the upper ground floor level. The balconies for each respective flat extend above the lower ground floor extension.
5. The balconies are built around the roof features of that extension, including a rooflight and plumbing vent. The balcony for flat 2 extends up to the rooflight, such that it is possible to view parts of the living area of the property below from the edge of that balcony, resulting in a loss of privacy. The balcony for flat 3 extends further towards the edge of the roof, such that there is a clear view of the neighbouring adjacent garden, resulting in a loss of privacy for that occupier. From both balconies, there is an unobstructed view of the garden of the property below them, resulting in a loss of privacy.

6. The Appellant believes that the prevailing pattern of development, specifically in relation to the long established use of window openings, balconies and roof terraces creates a mutual sense of overlooking, which has become an intrinsic element of the local living environment. In relation to windows, the extent of the overlooking that is possible is inherently different for balconies which encourage extended periods of sitting out, leading to a materially more harmful form of direct overlooking. Therefore, they cannot be equated in the same manner. In relation to balconies and roof terraces, the existing balconies do not benefit from planning permission and are in breach of the conditions applied to the construction of the single storey rear extension. It is noted that the only use that the Council permitted for this roof space was as a means of escape in an emergency or for maintenance. As such, they cannot be afforded significant weight in the assessment of the proposed development, nor can they be considered as an established aspect of local living conditions.
7. The Appellant points out that roof terraces exist at other locations on the upper floors of no.118. However, I am not aware of the particular circumstances of those developments and the Council state that there is no planning history to demonstrate the lawfulness of those roof terraces. In any event, I must consider the appeal scheme on its own merits, and in the context of the current policy regime which requires roof terraces to not raise unacceptable overlooking issues to nearby occupiers. Whilst there may be other balconies in the area which have been enlarged, this does not undermine the requirement for the appeal scheme to ensure that the living conditions of neighbouring properties are protected from a loss of privacy.
8. As the planting would not be affixed to the roof, they are given limited weight in terms of their ability to provide permanent screening. Additionally, the plans do not provide any detailed measurements regarding the floorspace of either balcony. Therefore, the proposed development does not provide any certainty that the privacy issues can be sufficiently mitigated.
9. For the reasons given above, the proposed development would harm the amenity of neighbouring occupiers and would therefore not comply with the requirement for development to protect the privacy and living conditions for occupants of existing, adjoining and neighbouring properties, contrary to Policy LP8 of the Richmond Local Plan (2018). Moreover, the proposed development would result in a substantial loss of privacy to adjoining owners and gardens, contrary to 3.2.1 of the House Extensions and External Alterations Supplementary Planning Document (2015).

#### *Conservation Area*

10. The proposed development would replace the current obscured glass fence around the balconies with a more traditional metal balustrade. Additionally, the depth of the terrace would be set back from the current perimeter, albeit there is no detail regarding the specific dimensions of this alteration on the plans. Nonetheless, the fundamental principle of the proposed development is the construction of two balconies on a rooftop area.
11. The CA covers an area which encompasses Richmond Hill and significant sections of the highways and properties around it. The significance of the CA at Richmond Hill is characterised by the exceptional quality of its 18th century architecture and its distinctive groups of fine later Regency and Victorian housing. These buildings share a common use of face brickwork in a limited

palette of colours. Decorative iron railings for front boundaries are typical characteristics of residential buildings, which gives the street a generally open and attractive appearance. Given the above, I find that the significance of the CA, insofar as it relates to this appeal, to be primarily associated with the proposed alteration to the uniform period appearance of buildings within the CA. The proposed development would not contribute positively to the CA, as the balconies would be incongruous with the overall setting of the period design of the housing.

12. Accordingly, the proposed development would be inconsistent with the period qualities of the CA. It would therefore harm the wider character and appearance of the CA as a whole, affecting the scale and rhythm of the properties in the area. Given the above, I find that the proposal would fail to preserve the significance of the CA. Consequently, I give this harm considerable importance and weight in the planning balance of this appeal.
13. Paragraph 199 of the National Planning Policy Framework 2021 (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. Given the appearance of the balconies, I find the harm to be less than substantial in this instance, but nevertheless of considerable importance and weight.
14. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The Appellant has set out personal circumstances and matters as justification for the balconies, which are of a private interest rather than a public interest. In terms of matters related to public interests, none are put forward and accordingly, I find that there are no public benefits which are sufficient to outweigh the harm that I have identified.
15. I conclude that the proposal would cause less than substantial harm to the significance of the CA as a designated heritage asset and would not preserve the character or appearance of the CA.

## **Conclusion**

16. For the reasons given and having regard to the development plan as a whole and all other material considerations above, I conclude that the appeal should be dismissed.

*S Lo*

INSPECTOR