



Appeal Decisions

Site visit made on 26 September 2022

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2023

Appeal A: APP/C5690/C/21/3289315

14 Adamsrill Road, London, SE26 4AN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ("the Act").
- The appeal is made by Maria Alejandra Jimenez-Lopez against an enforcement notice issued by the Council of the London Borough of Lewisham.
- The enforcement notice was issued on 24 November 2021.
- The breach of planning control alleged in the notice is the unauthorised installation of a door facilitating a terrace at first floor level to rear elevation above the roof of the single storey rear extension without planning permission.
- The requirements of the enforcement notice are:
 1. Remove the door at first floor level to the rear elevation and revert back to the original window and wall which was in place before works were undertaken.
 2. Make good all damage resulting from the compliance with the requirements of this notice.
 3. Remove all materials, debris, waste and equipment resulting from compliance with the above requirements of this notice from the land.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on grounds set out in section 174(2)(a) and (g) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is dismissed.

Appeal B: APP/C5690/W/21/3289304

14 Adamsrill Road, London, SE26 4AN

- The appeal is made under section 78 of the Act against a refusal to grant planning permission.
- The appeal is made by Mrs Alejandra Jimenez against the decision of the Council of the London Borough of Lewisham.
- The application Ref. DC/21/121474, dated 22 April 2021, was refused by notice dated 8 July 2021.
- The development proposed is the enlargement of window opening at first floor level at the rear of 14 Adamsrill Road SE26 and the installation of an external door and formation of a roof terrace.

Summary of Decision: The appeal is dismissed.

Preliminary Matters

1. The installation of the door, subject of the enforcement notice in Appeal A, also forms part of the development for which planning permission is sought in Appeal B. As such, I will deal with both appeals together in order to avoid unnecessary duplication.

Appeal A, ground (a)/deemed planning application, and Appeal B

Background

2. Planning permission (Ref. DC/18/106638) was granted in 2018 for a single storey extension to the ground floor flat (No. 16). One of the conditions imposed on the permission prohibited formation of any door providing access to the roof and any use of the roof area as a balcony, roof garden or similar amenity area.

Main Issue

3. The main issue is the effect of the development upon the living conditions of occupiers of neighbouring properties, with particular regard to privacy, and upon the character and appearance of the area.

Reasons

4. No. 14 (first floor flat) and No. 16 each have open garden areas with shared access and can be overlooked from the flats' rear windows. A similar relationship exists at the adjacent pair of flats at Nos. 18 and 20.
5. The appellant argues that this layout of flats and rear gardens results in a closer living relationship with a degree of overlooking between neighbours, which she describes as having more of a community feel, and that expectation of privacy is already compromised and needs to be accepted by existing and future occupiers.
6. However, as I saw during my visit to the appeal site, occupiers of Nos. 16 and 20 making use of their rear garden would experience, both in perceived and real terms, a much reduced level of privacy from people sitting out on the roof terrace, as opposed to being seen from behind existing windows. The terrace is at a raised level and provides additional overlooking to those existing from rear windows. It would also be perceived as overbearing and intrusive in terms of its direct relationship with the rear garden of No. 16. Although I acknowledge it is not the intention to provide a 'viewing platform' the terrace would nonetheless be perceived as such, discouraging use and enjoyment of rear gardens.
7. While I find use of low level planters and foliage to be a minimal and acceptable form of screening, which does not result in harm to the character and appearance of the host building or to the wider area, it does not prevent overlooking or the perception of being overlooked. In this regard, the Council's adopted SPD¹, in summary, states that planning permission will not normally be granted for roof terraces unless they are adequately enclosed with screening to ensure that "overlooking is not possible". That is not the case here.
8. While glazing or some other more solid form of screening could be secured by a planning condition, I am not convinced that such screening would appear unobtrusive or integrate well with the overall design and character of the host property, or with the character and appearance of the wider area.
9. To conclude, I find that the development results in significant harm to the living conditions of occupiers of neighbouring properties. As such, it thereby

¹ Supplementary Planning Document: 'Alterations and Extensions' (2019)

conflicts with Policy 15 of the Lewisham Core Strategy (2011), Policy 31(2.c) of the Lewisham Development Management Local Plan (2014), and Policy D3 of the London Plan, which, taken together, seek to ensure new developments, including roof terraces, are of high quality design which are sensitive to local context, and do not result in any significant loss of privacy and amenity.

10. Consequently, planning permission will be withheld in relation to the whole of the development in Appeal B. Also, since the door facilitates use of the flat roof as a terrace, I will uphold the enforcement notice in Appeal A.

Appeal A, ground (g)

11. The ground of appeal is that the period of time for compliance with the enforcement notice requirements falls short of what should reasonably be allowed. The notice requires compliance within 3 months. The appellant seeks a period of 9 months.
12. I am mindful that the harm resulting from the breach of planning control should be remedied as soon as possible. In that context 9 months seems an unduly long period of time in order to complete the necessary remedial works and is unjustified. The appeal on ground (g) therefore fails.

FORMAL DECISIONS

Appeal A

13. The appeal dismissed. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act.]

Appeal B

14. The appeal is dismissed.

Thomas Shields

INSPECTOR