

Appeal Decision

Site visit made on 11 January 2023

by K E Down MA(Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd February 2023

Appeal Ref: APP/J4423/D/22/3308608

3 Linnet Way, Sheffield, S6 6GE

- 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 Adam Stier against the decision of Sheffield City Council.
 - The application Ref 22/01595/FUL, dated 23 April 2022, was refused by notice dated 5 October 2022.
 - The development proposed is to install grade 316 stainless steel upright post inclusive of glass clamps and 12mm clear toughened glass infill panels on existing flat roof (carried out already). Remove existing window and replace with a door of similar type to the existing external doors and raise the level of the stone header to accommodate a door/doorframe (not carried out).
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Decision

1. The appeal is dismissed.

Main Issue

2. There is one main issue which is the effect of the proposed roof terrace on the living conditions of occupiers of the adjoining residential property to the east (2 Skylark Close) with respect to overlooking and privacy.

Procedural matter

3. The submitted plans are not consistent in that the site plan and block plan show the proposed roof terrace on the eastern side of the rear elevation, close to the property to the east (2 Skylark Close). However, the elevations and floor plans are handed and show the roof terrace on the western side of the rear elevation of the dwelling. Since the roof terrace is above an existing flat roof projection and much of the work has been completed it is clear that the site and block plans are correct but the elevation and floor plans are not. Nevertheless, my conclusion on the main issue would be the same whether the roof terrace was on the eastern or western side of the rear elevation. I am therefore satisfied that the evidence before me is sufficient for me to determine the appeal.

Reasons

4. The appeal dwelling and its immediate neighbours are moden, detached two and 2.5 storey houses set on a small estate of dwellings of similar age and
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design. The appeal dwelling is larger than its immediate neighbours and has a flat roofed, single storey projection off the rear elevation on its eastern side and close to the boundary with 2 Skylark Close. Glass balustrades have been erected around this flat roof and patio furniture had been placed on the flat roof at the time of my site visit.

5. Policy H14 of the Sheffield Unitary Development Plan (UDP), 1998, expects development in residential areas not to deprive residents of privacy. This is reflected in paragraph 130 of the National Planning Policy Framework (NPPF) which expects developments to create places with a high standard of amenity for existing and future users. In addition, Guideline 6 of the Council's Supplementary Planning Guidance: Designing House Extensions (SPG), expects development to protect and maintain minimum levels of privacy.
6. From the proposed roof terrace there would be significant overlooking of the garden of 2 Skylark Close, including over an area to the rear of the two storey projection which has large patio doors opening onto the garden. In addition, there are two side windows in No 2, a clear glazed window serving a dressing room and an obscure glazed but opening window serving a bathroom. Both of these windows lie close to the proposed roof terrace and views into them can be gained at close quarters.
7. Although the bathroom window is obscure glazed it is very close to the roof terrace. If it was open when people were using the roof terrace, both of which are most likely during good weather, the sense of lost privacy would be acute.
8. The appellant points out that views over the garden at No 2 are already possible from windows in the appeal dwelling. However, at first floor the only bedroom window would have limited views due to its proximity to the shared boundary and the two storey rear projection at No 2. At roof level, views can be gained from a roof light. However, given the position and angle of the roof light it is unlikely that material loss of privacy from casual overlooking would occur. Overall, I therefore agree with the Council that the extent of view from the proposed roof terrace together with the likely frequency of use of the terrace, particularly in good weather, and the length of time occupiers might be expected to sit out, would lead to a significantly greater level of overlooking and loss of privacy.
9. It is concluded on the main issue that the proposed roof terrace would have a materially harmful effect on the living conditions of occupiers of the adjoining residential property to the east (2 Skylark Close) with respect to overlooking and privacy. In consequence, it would conflict with UDP Policy H14, the NPPF and the SPG.
10. The appellant suggests that the side window serving the dressing room in No 2 is unauthorised. The matter is the subject of an enforcement investigation by the Council. However, even if this window was found to have been installed without planning permission and was required to be removed this would not alter my conclusion on the main issue because an unacceptable level of overlooking and loss of privacy to the garden and bathroom window would remain.
11. The appellant explains that the balustrades were originally erected to prevent his young children from falling if they climbed out of the window which is

relatively small and raised well above floor level. Nevertheless, whilst I accept that the appellant is reluctant to lock the window and remove the key due to fire safety concerns, in my view it should be possible to find a satisfactory way to prevent children accessing the flat roof via the window, thus eliminating the risk of falls.

12.The appellant goes on to say that the patio furniture has been placed on the roof terrace for display purposes only. This conflicts with the evidence of the neighbouring occupier at No 2 who states that the roof terrace has been used regularly in warmer weather. In any case, it is clear from the appeal proposal, including the proposed replacement of the window with a door, that the intention is to use the area as a roof terrace and sitting out area in the future.

13.Finally, the appellant states that he could stand on the flat roof and get the same views into the neighbouring house and garden without the need for planning permission. That may be so. However, it is unlikely this would occur frequently or that people would remain standing on the flat roof for extended periods of time.

14.For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

KE Down

INSPECTOR