



Appeal Decision

Site visit made on 24 January 2023

by Emma Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2023

Appeal Ref: APP/N5660/W/22/3304806

148 Telford Avenue, Lambeth, London SW2 4XQ

- 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 John Wyse against the decision of the London Borough of Lambeth.
 - The application Ref 22/01254/FUL, dated 6 April 2022, was refused by notice dated 22 June 2022.
 - The development proposed is the construction of a steel staircase with infilled balustrades to create a rear access and fire escape to the garden and replacement enlarged sliding window and removal of 2no chimneys.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposed development on the planning application and appeal forms differs from that on the Council's decision notice. The description on the decision notice more concisely describes the appeal proposal, I have therefore used this description in the banner heading above.
3. Amended plans have been submitted as part of the appeal. These show a spiral staircase with a 1.8m high privacy barrier to the rear elevation of the property in lieu of the external staircase shown on the appeal proposal. The revised scheme also includes the removal of the gate in the proposed fence between the rear gardens of the properties. 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. Given that the Council and interested parties have not had the opportunity to comment on the revised proposals, an injustice would occur should I determine the appeal on the basis of the amended plans. I have therefore determined the appeal having regard to the plans which were before the Council when it made its decision.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of the occupiers of 144 Telford Avenue (No 144) and 150 Telford Avenue (No 150) having particular regard to overlooking.

Reasons

5. The appeal site includes a 2 storey end of terraced property which lies at the end of a row of properties of similar appearance. It is located within a

predominantly residential area opposite a church. The building has been subdivided into 2 flats, the appeal relates to 148 Telford Avenue (No 148), which is the first floor flat, above No 150 which is at ground floor level.

6. The appeal proposal consists of the provision of an external staircase and a first floor door to the side elevation of the building. This would enable access to No 148 from the garden to the rear of the property. The proposal also includes the replacement of the existing first floor rear window with a larger opening and the erection of a boundary fence between the rear gardens of No 148 and 150 which are currently open.
7. The neighbouring property at No 144 is a first floor flat. It has openings to the rear elevations and 2 openings to the side elevation of the outrigger which face the appeal site, the nearest of which would be in close proximity to the proposed first floor entrance door and landing at the top of the staircase. This would allow users of the access a direct view into the first floor window at No 144, which I am told serves a habitable room, resulting in a loss of privacy to the occupiers.
8. The site is in an urban setting where a degree of overlooking of both windows and garden areas is commonplace. However, due to the elevated position of the proposed staircase and landing, and siting immediately adjacent to the side boundary of the site, it would be likely to give a much more pronounced feeling of unwelcome and intrusive surveillance than existing nearby windows. Moreover, it would allow users of the staircase uninterrupted views across the adjoining rear gardens and would give rise to a greater degree of overlooking of the rear garden below No 144 and the garden of No 150 to the rear of the host property.
9. Whilst I note the appellant's willingness to install a 1.8 m barrier on the landing of the proposed staircase to prevent any overlooking of the neighbouring property, the full details of such an installation are not before me such that I am unable to adjudge the potential suitability of this approach.
10. The proposal includes a pedestrian gate in the proposed fence between the rear gardens of No 148 and No 150 for maintenance purposes and to provide a means of fire escape. I note the Council's concern that this would lead to a loss of privacy to the occupiers of No 150, having regard to the ground floor windows at the property. However, given that the existing rear gardens are currently open, and the appellant has no other means of access to their land other than across the adjoining garden at No 150, the proposal would not differ from the current arrangements with regards to privacy. Furthermore, any permission or right of access which may be required from an adjoining landowner to use the gate would be a private matter between the relevant parties.
11. I conclude therefore that the proposed development would cause harm to the living conditions of the occupiers of Nos 144 and 150 through loss of privacy. Accordingly, the proposal would conflict with the aims of Policy Q2 of the Lambeth Local Plan 2020-2035 which seeks to ensure that development proposals safeguard amenity, having regard to privacy and overlooking.

Other Matters

12. I understand the appellant's aspiration to provide a more direct and safe access to secure outdoor space to the rear of the property. However, this would not outweigh the harm I have identified. Whilst the occupants of No 150 have not objected to the proposal, the absence of objection does not in itself render the scheme acceptable.
13. I am told that an amended planning application has been submitted following the refusal of the appeal proposal, however, this has no bearing on my decision. Whilst my attention has been drawn to a number of examples of similar developments nearby, the precise details are not before me such that I am unable to draw direct comparisons with the appeal scheme. In any case, each development proposal must be considered on its own merits in recognition of the individual case and site circumstances to hand.

Conclusion

14. The proposal would conflict with the development plan, when read as a whole. Material considerations have not been shown to carry sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

Emma Worley

INSPECTOR