



Appeal Decision

Site visit made on 18 April 2023

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2023

Appeal Ref: APP/H5960/W/22/3309217

4B Herndon Road, London SW18 2DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Aiman Shanks against the decision of London Borough of Wandsworth.
 - The application Ref 2021/3765, dated 8 March 2022, was refused by notice dated 24 May 2022.
 - The application sought planning permission for alterations including erection of rear dormer extension above part of two storey back addition and formation of roof terrace above part of two storey back addition with 1.7m high screen surround without complying with a condition attached to planning permission Ref 2016/5035, dated 17 October 2016.
 - The condition in dispute is No 4 which states that:
The screening/enclosure to the balcony/roof terrace, shown on the approved drawing, shall be completed as approved before any use of the balcony/terrace commences, and retained permanently afterwards as approved unless otherwise agreed in writing by the local planning authority.
 - The reason given for the condition is:
To protect the privacy of neighbours and prevent overlooking in accordance with Council policy DMS1(c).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by interested parties Moni Zaman; Mohammed Mahmudul Haq; Faheem Zaman and Julia Zaman against the appellant Mr Aiman Shanks. This application is the subject of a separate decision.

Preliminary Matters

3. In October 2016 planning permission was granted for alterations to the property including the installation of a walk on balcony. In doing so the Council imposed a condition requiring the installation of an obscure glass balustrade. Based on the submissions and my observations at the site visit metal railings have been installed rather than a surround. The application seeks to remove the requirement for the balustrade.
4. The application has been submitted retrospectively and I have dealt with the appeal on this basis.

Main Issue

5. The main issue is whether Condition 4 is necessary and reasonable having regard to the living conditions of nearby existing occupiers in terms of overlooking and privacy.

Reasons

6. The appeal site comprises a mid-terrace property subdivided into flats. A walk on balcony is located at top floor level enclosed by metal railings. The local area has a tight urban grain which includes terraced properties with limited separation resulting in a degree of mutual overlooking between buildings.
7. I acknowledge that due to the limited separation between properties and roof alterations locally, including at the appeal property, there is a degree of overlooking. However, the development on account of its elevated position and transparent nature affords direct views into No 6 as well as its garden and overlooking of almost the entire rear garden of No 8. This results in an increased sense of overlooking and a significant and unacceptable loss of privacy for the existing occupiers of these dwellings.
8. The appellant has made reference to the presence of other roof extensions in the area. However, based on the evidence before me I am satisfied that the examples referred to are materially different to the scheme before me. Their presence does not justify the harm that I have identified. In any event every appeal must be considered on its own merits and do not lead me to reach a different conclusion on the main issue.
9. Whilst the appearance of the railings may well be sympathetic to the host property this would not outweigh the harm that I have identified.
10. I conclude that the development adversely affects the living conditions of neighbouring occupiers with regard to overlooking resulting in a loss of privacy contrary to Policy DMS 1 of the Wandsworth Local Plan Development Management Policies Document (2016) which, amongst other things, requires developments not to harm the amenity of occupiers and nearby properties through unsatisfactory privacy.

Conclusion

11. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR