



Appeal Decision

Site visit made on 10 October 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2023

Appeal Ref: APP/H5390/W/23/3319507

23 Garland Court, Lisgar Terrace, Hammersmith and Fulham, London W14 8FR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Devanshi Ruparel against the decision of London Borough of Hammersmith and Fulham.
 - The application Ref 2022/00780/FUL, dated 16 March 2022, was refused by notice dated 24 March 2023.
 - The development proposed is described as, '*a wheelchair accessible roof terrace with privacy screens for an ambulant user*'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description in the above banner heading has been taken from the original application form. The decision notice does however include erection of new railings to northern, southern and western elevations at fifth floor level in connection with the enlargement of the existing roof terrace; installation of new timber decking to the fifth-floor roof terrace. I have therefore had regard to this.

Main Issues

3. The main issues of the appeal are the effect of the proposed development on the:
 - Living conditions of existing occupiers of neighbouring properties with particular regard to privacy and noise disturbance; and
 - Character and appearance of the host building and surrounding area.

Reasons

Living conditions

4. The appeal site relates to a fifth-floor flat which forms part of a residential block of flats within a residential setting. This block of flats comprises one of ten 5 storey block of flats which are set out in two rows of 5 blocks.
5. The arrangement of the block of flats means that the roof terrace is located in close proximity to windows serving other neighbouring flats particularly those at fifth-floor level. Currently the terrace is set in from the edge of the building meaning that there is sufficient distance from other neighbouring windows and

at an angle to many of the windows where it would not result in harmful impacts in relation to privacy. There is also a privacy screen in place separating the terrace from the neighbouring terrace and windows located directly opposite.

6. The proposed development would however extend to the edges of the roof which would mean that it would be located closer to other neighbouring windows and thus eroding the angled position which would allow for direct views into the windows at fifth floor level and those below which would result in an undue loss of privacy for the existing neighbouring occupiers. Moreover, the proposed development would also remove the privacy screen that separates the terrace from the neighbouring terrace and windows directly opposite. This would allow for direct views of the neighbouring terrace and windows at close range which would be somewhat unneighbourly and thus unacceptable.
7. The existing roof terrace is modest in size, and I note the comments made in relation to noise and disturbance as an enlarged terrace has the potential to be able to accommodate more people and could be used for larger social gatherings which could in turn lead to noise nuisance and disturbance for existing occupiers of neighbouring properties. However, given the residential use of the building, the existing roof terrace could already be used for social gatherings, and I do not have any compelling case to suggest that the increase in the roof terrace would lead to significant levels of noise and disturbance over and above that of the existing or what can otherwise be expected in such a residential setting. To this end, many residential properties including flatted properties benefit from amenity spaces which vary in terms of their overall size and such situations are not uncommon in close proximity to other residential uses. On balance, I do not therefore find that the size increase in this case would result in unacceptable noise nuisance and disturbance to existing residential amenity.
8. I note third party comments regarding the use of the roof terrace for pets which again could lead to noise disturbance. However, similarly to the above, the existing roof terrace in its current form could indeed be used for such purposes should the appellant wish and there is no substantive evidence to suggest that the increase of the roof terrace would have detrimental harm in this regard.
9. My attention has been drawn to previous planning applications under references 2021/03125/FUL and 2021/01964/VAR which relate to roof extensions/alterations. Details provided are however limited in order for me to provide full comment. Notwithstanding, the drawings provided show a very different site context and proposed development to that of the appeal I am considering, and I do not therefore find them comparable based on the limited information provided. In any event, I am considering the scheme in front of me, and I have identified the harm that would arise.
10. For the above reasons, I conclude that whilst the proposed development would not unacceptably harm the living conditions of existing occupiers of neighbouring properties in relation to noise and disturbance, it would unacceptably harm the living conditions of existing occupiers in relation to privacy. The proposed development would therefore be contrary to Policies HO4 and HO11 of the Hammersmith and Fulham Local Plan, 2018 (LP) which together, amongst other matters, requires consideration to be had to existing

residential amenities. For the same reasons, it would also be contrary to Policies HS7 and HS8 of the Hammersmith and Fulham Planning Guidance Supplementary Planning Document, 2018.

Character and appearance

11. As set out above, the block of flats comprises one of ten 5 storey block of flats which are set out in two rows of 5 blocks. They all share a uniformity of design, scale, rhythm and massing with one row sat behind the other. The main frontage and entrance for the row the appeal site relates faces directly onto Lisgar Terrace.
12. The appeal site is not located within the Conservation Area (CA) but it does sit directly adjacent to the Olympia and Avonmore CA. The regimented layout and clear rhythm of development of the blocks of flats is a key element in defining its character and is highly visible from public viewpoints including from the CA.
13. The host property like some of the other flats currently benefits from a roof terrace which consists of simple black painted metal railings which is set back from the building edge and is modest in size. Whilst these are largely hidden from view, railings can be seen when approaching the site along Lisgar Terrace and other balconies, balustrades and railings on other nearby buildings at high level can also be seen in the immediate vicinity of the site. As a result, such features clearly form part of the character of the area.
14. The proposed development seeks to enlarge the roof terrace area outwards from its current set back position which would stretch to the edges of the roof and would be enclosed by railings. I appreciate that this is a deviation from previously approved plans relating to roof terraces and although it would extend a reasonable distance from the rear elevation, it would have a low height and the railing form including the gaps between would help to break up its built form on the building.
15. It would also be located within an elevated position at fifth floor level some distance from street views where it would not be readily visible to most. Additionally, the arrangement of this block of flats means that the roof terrace itself sits along part of the building that is set in from the rest of the building almost in a H shape. This helps to screen views upon approaching the flats along Lisgar Terrace and views of the railings would largely only be apparent for a very small section of Lisgar Terrace to the direct north and from the detached block of flats located to the south. As a result, the development would have a limited effect on the street scene and, in any event, would not appear discordant when viewed in context of the diverse appearance of other balconies, balustrades and railings which front Lisgar Terrace and are more visible within the street scene.
16. For the above reasons, I find that the development would not unacceptably affect the character and appearance of the host building and surrounding area even taking into account the close proximity of the nearby CA. As such, it would comply with Policies DC1 and DC4 of the LP which together, amongst other matters, explains that all development within the borough, should create a high-quality urban environment that respects and enhances its townscape context and heritage assets.

Other Matters

17. I note comments relating to an opportunity to raise the value of the property and extend its longevity that forms part of the area's long term housing stock including energy efficiency measures. However, this has not affected my findings in relation to the above main issues.
18. I also note the accessibility of the appeal site in relation to transport links, employment, and amenities. The property is also not a listed building and I appreciate that the proposed development would not add to the existing overshadowing impact of this area. Again, such matters would not change my findings in relation to the above main issues.
19. The increased roof terrace would provide a safe and accessible space creating a more adaptable and accessible home for the appellant and thus increase levels of living quality. I have had due regard to the particular circumstances that have been put forward in this case. However, this would not be sufficient to outweigh the harm identified in relation to the living conditions of existing occupiers of neighbouring properties in terms of privacy.
20. In considering this appeal, I have had due regard to the Public Sector Equality Duty (PSED) set out under Section 149 of the Equality Act 2010, in particular the need to eliminate discrimination against persons with the protected characteristics of age and/or disability, advancing equality of opportunity for those persons and fostering good relations between them and others. Following careful consideration of the family circumstances, I am satisfied that the impact of dismissing the appeal is proportionate and necessary.

Planning Balance

21. The scheme would unacceptably harm the living conditions of existing occupiers of neighbouring properties in terms of privacy. It would therefore conflict with the development plan when considered as a whole. Although the proposal would not result in harm to character and appearance or the living conditions of existing occupiers of neighbouring properties in terms of noise and disturbance, the absence of harm is a neutral factor in the overall balance. There are no material considerations, either individually or in combination, that outweighs the identified harm and associated plan conflict.

Conclusion

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

N Teasdale

INSPECTOR