



Appeal Decision

Site visit made on 11 December 2023

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 January 2024

Appeal Ref: APP/N5660/W/23/3323802

52 Leander Road, Lambeth, London SW2 2LJ

- 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 Razor Investments Ltd against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 22/03775/FUL, dated 21 October 2022, was refused by notice dated 19 December 2022.
 - The development proposed is replacement of first floor rear window with French doors and the erection of a roof terrace, with a 1.7m obscure glazed balustrade above the ground floor rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for replacement of first floor rear window with French doors and the erection of a roof terrace, with a 1.7m obscure glazed balustrade above the ground floor rear extension at 52 Leander Road, Lambeth, London SW2 2LJ in accordance with the terms of the application, Ref 22/03775/FUL, dated 21 October 2022, subject to the following conditions:
 - 1) The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this permission.
 - 2) The development shall be carried out in accordance with the following approved plans:
CP-2022-45 | E-01; CP-2022-45 | P-10 (Rev A);
CP-2022-45 | P-20 (Rev A); CP-2022-45 | P-30 (Rev A); and
CP-2022-45 | P-02 (Rev A).
 - 3) Unless explicitly required by any other condition of this approval, all new external work, finishes and work of making good shall match the materials, colour, texture, profile and finished appearance of those used on the existing building.
 - 4) The balustrade hereby approved shall be obscurely glazed and shall be installed in accordance with the details shown on the approved plans prior to the roof terrace hereby approved being first brought into use. The obscurely glazed balustrade shall be retained as such thereafter.

Preliminary Matters

2. I have removed the words “of 52 Leander Road” from the description of the development in both the banner heading and my formal decision as this does not form part of the development.
3. Amended plans (*CP-2022-45 | P-10 (Rev A)*; *CP-2022-45 | P-20 (Rev A)*; *CP-2022-45 | P-30 (Rev A)*; and *CP-2022-45 | P-02 (Rev A)*) have been submitted with the appeal. The amended plans show the proposed obscurely glazed balustrade would be sited inside the existing parapet roof above the ground floor extension. Thus, reducing the size of the roof terrace and the overall height of the balustrade in comparison to the plans submitted with the original planning application.
4. The Council has commented that these plans did not form part of its assessment of the planning application and the revised location of the balustrade has not removed the harms identified. Nevertheless, I do not consider that the Council, or other parties, would be prejudiced by my acceptance of these amended plans as part of the consideration of this appeal. I have proceeded on this basis.
5. The Council’s second reason for refusal makes reference to Policy H5 of the Lambeth Local Plan 2020 - 2035. However, this policy relates to housing standards for new residential development where new dwellings are created. As the proposal does not relate to the creation of a new dwelling this policy is not relevant to this appeal.
6. Subsequent to the Council issuing its decision, the revised National Planning Policy Framework (the Framework) was published on 19 December 2023. The amendments to the Framework do not affect the matters that are in dispute in the determination of this appeal.

Main Issues

7. The main issues are:
 - the effect of the proposed development on the character and appearance of the area, including the appeal property;
 - the effect on the living conditions of the occupiers of neighbouring properties with regard to privacy, outlook, odours, noise and disturbance; and
 - whether the proposal would provide satisfactory living conditions for future occupiers, with particular regards to outlook.

Reasons

Character and appearance

8. The appeal relates to a three-storey, end terrace property at 52 Leander Road. The property is split into three flats, with one flat located on each floor. The appeal property, as well as the other terraced properties in this row, has an existing three-storey rear outrigger shared with the adjoining neighbour, and these outriggers are an original feature.

9. Attached to the rear of the outrigger is a flat roofed single-storey extension which serves the ground floor flat, and a number of other properties within this row have single-storey extensions of varying depths, sizes and design. These single-storey extensions create a somewhat irregular pattern at ground floor level, however at first and second floor levels the rear of the outriggers in this row remain largely unaltered.
10. The appeal proposal seeks to create a first-floor roof terrace, to be used by the occupiers of the first-floor flat, above the existing single-storey flat roofed rear extension. The proposed roof terrace would be enclosed by a 1.7m high obscurely glazed screen and it would be accessed via a set of new French doors that would replace an existing window in the first-floor rear elevation of the outrigger.
11. The Council's Building Alterations & Extensions Supplementary Planning Document (2015) (SPD), states that balconies are not a characteristic feature of Lambeth's pre-Second World War building stock, and these features have the potential to significantly alter the architectural composition and appearance of the host building or its group. The SPD goes on to state that as a general design rule balconies should be limited to rear elevations, and glazed balustrades should have an obscured or fritted treatment to protect amenity.
12. Whilst acknowledging that roof terraces are not a feature of this row of properties, being located to the rear, at first-floor level and having an obscure glazed balustrade, there is no substantive evidence to persuade me that the prevailing character and appearance of the appeal property, or the surrounding area, would be materially harmed by the introduction of a terrace and glass balustrade at first floor level.
13. The proposed balustrade would be set inside the parapet wall, and therefore back from the edges of the existing single storey extension, and this would reduce its visual impact. In addition, the proposed balustrade would predominantly obscure views of the new set of French doors to be installed in the rear elevation of the outrigger.
14. Furthermore, whilst the proposal would be visible from windows and outdoor areas situated to the rear of a number of nearby properties, it would not be visible from the highway or other public vantage points. I am therefore satisfied that the proposal would not result in an overly dominant, bulky or incongruous development. On the contrary, it would be a subservient addition that would not detract from the character and appearance of the host property or surrounding area.
15. As such, I find no conflict with Policies Q2, Q5, Q8 and Q11 of the Lambeth Local Plan 2020 - 2035 (LP), insofar as they together seek to ensure, amongst other things, that the visual amenity from adjoining sites and the public realm is not unacceptably compromised; that poorly-detailed built forms will be resisted; that local distinctiveness is sustained and reinforced; and developments have a design which positively respond to its surroundings. I also find no conflict with the Council's SPD.

Living conditions of neighbouring occupiers

16. Given the back-to-back terrace character of this residential area, there is currently an element of overlooking between dwellings, predominantly from

first and second floor windows into neighbouring gardens, and the introduction of a first-floor roof terrace has the potential to increase overlooking. However, the provision of a 1.7m high obscurely glazed balustrade would ensure that there would be limited opportunities for overlooking towards neighbouring properties.

17. Interested parties have suggested users of the proposed terrace could potentially "eavesdrop" on neighbours. However, the potential for overhearing conversations at adjoining properties would not be significantly greater than under the current situation when windows are open, or through use of the ground floor rear garden area. Consequently, the proposal would not result in a loss of privacy for neighbouring occupiers.
18. With regard to noise and disturbance, I note that owing to its elevated position, any noise from the terrace may project above neighbouring boundary treatments, and whilst the proposed balustrade may attenuate some noise, it would not fully mitigate this. Nevertheless, the proposed terrace would be modest in size, and whilst it could accommodate a group of people, due to its size and being accessed from a bedroom rather than living room, it is unlikely that such events would be a regular occurrence. Furthermore, similar noise and disturbance issues can currently arise in this area from the use of rear garden areas at ground level.
19. In respect of odour, being accessed off a bedroom it is unlikely that the proposed terrace would be frequently used for cooking. In any case, given the back-to-back terrace nature of the area, cooking smells could be experienced between existing properties through open windows, extraction systems and the use of garden areas for cooking.
20. In view of the above, in the absence of any firm evidence to the contrary I do not consider that the modest sized roof terrace would lead to a significant increase in noise, disturbance and odours that would be harmful to the living conditions of neighbouring occupiers.
21. With regard to the outlook currently enjoyed from the first-floor window in the rear elevation of the outrigger at number 54 Leander Road (No. 54), the proposed 1.7m high balustrade would clearly be visible from this window. However, the top of the proposed balustrade would be at a similar height to the top of this neighbouring window and thus an outlook above the balustrade would be maintained.
22. In addition, the projection of the balustrade from the rear of the outrigger is relatively modest and being obscurely glazed, and therefore semitranslucent, it would not result in the same sense of enclosure as a solid wall or fence would provide. As such, it is not considered that the proposal would result in an unduly harmful impact upon the outlook enjoyed from the first-floor window situated in the rear elevation of No. 54.
23. I conclude that the proposed development would not result in an unacceptable harmful impact upon the living conditions of the occupiers of neighbouring properties with regard to privacy, outlook, odours, noise and disturbance. The proposal therefore complies with LP Policy Q2 and the guidance contained within the SPD which seek, amongst other things, to ensure that developments provide acceptable standards of amenity including levels of privacy, outlook and noise.

Living conditions of future occupiers

24. The Council's second reason for refusal also raises a concern that the inclusion of a 1.7m high obscurely glazed balustrade would restrict the outlook from the opening in the bedroom from which the proposed terrace would be accessed, unacceptably impacting upon the quality of the accommodation.
25. Whilst the proposed balustrade would be obscurely glazed, it would still appear as somewhat transparent and allow some light to pass into this bedroom. According to the submitted drawings the top of the proposed glazed French doors would sit slightly higher than the top of the proposed balustrade and therefore occupiers of this bedroom would enjoy an outlook, albeit one towards roofs and sky, over and above the balustrade.
26. In addition, occupants of this bedroom would have an outlook onto the roof terrace, and the provision of a modestly sized outdoor amenity space for the occupants of this flat, where there is presently no access to a balcony or garden, is in itself a benefit and would likely result in an improvement to their living conditions.
27. In conclusion, the proposal would not cause material harm to the living conditions of the future occupiers of this flat / bedroom with regard to outlook and complies with LP Policy Q2 and the guidance contained within the SPD, which seek amongst other things, to ensure that developments provide acceptable standards of amenity including an adequate outlook.

Other Matters

28. Interested parties have commented that the proposed development would result in overshadowing and loss of light. Given the orientation of the proposed development in relation to the adjoining neighbour, its modest size and the materials proposed, it is not considered that the proposal would result in any significant levels of overshadowing or loss of light.
29. I note the comments from interested parties in respect of litter, opportunities for crime and antisocial behaviour, which they consider could all increase as a result of the appeal proposal. However, I have been provided with no substantive evidence to dismiss the appeal on these grounds.

Conditions

30. The Council has provided a list of suggested planning conditions, some of which I have edited to improve precision and enforceability.
31. In addition to the standard time limit condition, I have attached a condition specifying the approved plans to provide certainty, as well as a condition which requires the external works to be carried out using materials that match those used on the existing building in order to safeguard the character and appearance of the area. To protect the living conditions of neighbouring occupiers a condition has been included requiring the proposed balustrade to be obscurely glazed and to secure its retention in perpetuity.

Conclusion

32. For the reasons given above, and having regard to all matters raised, the proposed development would accord with the development plan when taken as a whole and there are no material considerations that indicate it should be

determined other than in accordance with it. I therefore conclude that the appeal should be allowed.

R Major

INSPECTOR