



Appeal Decision

Site visit made on 11 December 2023

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 February 2024

Appeal Ref: APP/T5150/D/23/3325786

7 Bayford Road, Brent, London NW10 5DP

- 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 Andrew Anthony against the decision of the Council of the London Borough of Brent.
 - The application Ref 23/1111, dated 6 April 2023, was refused by notice dated 31 May 2023.
 - The development proposed is the erection of a roof terrace.
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Decision

1. The appeal is allowed and planning permission is granted for the use of roof terrace to the rear outrigger to dwelling house at 7 Bayford Road, London NW10 5DP in accordance with the terms of the application, Ref 23/1111, dated 6 April 2023, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2114/20A Rev A30-03-23 Plans, Rear Elevation, Location and Block Plans
 - 3) The 1.8 metre high frosted glass screens hereby permitted shall remain frosted at all times and be retained thereafter.
 - 4) Notwithstanding condition 2, prior to the erection of the 1.1 metre high railing hereby permitted, details of the colour of the railing shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained in accordance with the approved details.

Procedural Matters

2. For the sake of clarity, I have added the words 'use of' to the description of development set out on the Council's decision notice. This more accurately describes the proposal than that used on the application form and shown in the above banner heading.
3. Only the original applicant has the right of appeal. However, it is clear from the submitted evidence that the agent, Zenah Hearn, made the appeal on behalf of the applicant and can proceed on that basis.

Main Issue

4. The main issue is the effect of the use of the outrigger as a roof terrace on the living conditions of neighbouring occupiers, with particular regards to privacy.

Reasons

5. No 7 is a two-storey terraced house with dormer to the rear, set within a predominantly residential area of similar properties. The adjoining properties No 5, has a stepped dormer extension which projects outwards from the main rear elevation above the existing outrigger, with No 9 when viewed from No 7 appearing to be free from any extension to the rear elevation. Berens Road is located to the rear, with properties appearing to be of a similar scale and proportion to No 7. A number of properties on Berens Road have dormer extensions of varying sizes, with two properties also providing roof terraces above the two-storey outrigger.
6. The proposed roof terrace to No 7 would be accessed via a doorway set within the dormer and project approximately half the depth of the two-storey outrigger roof. The frosted glass screens to each side would prevent direct views into and across the adjoining properties on Bayford Road. The frosted glass screens and chimney stack would also restrict wider angled views of Berens Road when standing within the roof terrace. The 1.1 metre-high metal railing would allow some views across the rear towards properties on Berens Road. However, I am mindful that the existing outrigger projects further than the proposed roof terrace and has a bedroom window on the first floor. The sole outlook from this room is across the rear gardens and rooms of those properties within Berens Road and offers the occupier unrestricted views throughout the year. Whilst overlooking from windows may be different from overlooking from an external space, given the restricted depth of the roof terrace, the distance between the metal railing and those properties on Berens Road, and the fact that it would most likely be used in dry weather, the proposal would not result in any greater overlooking or loss of privacy to neighbouring properties than the relationship between the existing dwellings.
7. I noted during my visit, a number of roofs of nearby properties being used as terraces. The Council advises that these are historic and do not benefit from planning permission. These developments do however form part of the established character of the area and form part of the site context. The presence and use of other comparable roof terraces lends weight to my conclusion that the proposal is acceptable.
8. I therefore conclude in this circumstance that the proposed roof terrace would not be harmful to the living conditions of the neighbouring occupiers. As such there would be no conflict with Policies DMP1 and BD1 of the Brent Local Plan 2019-2041 (2022) which seeks, amongst other matters, good levels of internal and external amenity. There would also be no conflict with SPD2, which seeks to ensure, amongst other matters, roof terraces do not harmfully impact adjoining residents.

Other Matters

9. I accept that noise may be audible when the terrace is in use and that the balustrades may be unsightly to residents opposite. However, the Council have raised no concerns regarding these issues. Given the restricted size of the

terrace and the distance between it and neighbouring properties on Berens Road, I have no reason to take a different view from the Council on the matter of noise. With regards to the appearance of the metal railings, a condition relating to the colour of the railings would ensure that the character and appearance of the area is maintained. The effect of development on property values is not a planning consideration. Based on the information before me these matters would not justify dismissing the appeal.

Conditions

10. The Council has suggested conditions in the event that the appeal was allowed. I have considered these in light of the National Planning Policy Framework and Planning Practice Guidance. In addition to the standard time limit, a condition specifying the plans is necessary in the interests of certainty.
11. Frosted glass screens and metal railings are not part of the existing building, so the matching materials condition is not needed. However, in the interests of the character and appearance of the area, a condition to the colour of the railings is required. To protect the amenity of nearby residents a condition is also necessary to ensure the frosted glass screens are retained in situ.

Conclusion

12. I conclude that the proposal would not adversely affect the living conditions of neighbouring occupiers and would comply with the development plan taken as a whole. There are no material considerations to indicate a decision otherwise than in accordance with the development plan. For the above reasons, I conclude that the appeal should succeed.

L Clark

INSPECTOR