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# Appeal Decision

Site visit made on 5 February 2024

**by A Berry MTCP (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 February 2024**

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**Appeal Ref: APP/N5660/W/23/3324624**

**144 Victoria Rise, Lambeth, London SW4 0NW**

- 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 City Planning Ltd against the decision of the Council of the London Borough of Lambeth.
  - The application Ref 23/00390/FUL, dated 6 February 2023, was refused by notice dated 3 April 2023.
  - The development proposed is the erection of a second floor balcony (second floor flat).
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## Decision

1. The appeal is allowed, and planning permission is granted for the erection of a second floor balcony (second floor flat) at 144 Victoria Rise, Lambeth, London SW4 0NW in accordance with the terms of the application, Ref 23/00390/FUL, dated 6 February 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: S7-01, S7-03, S7-11, S7-21
  - 3) All new external work and finishes and work of making good shall match the existing adjacent original work in respect of the materials, colour, texture, profile, and finished appearance, except where otherwise indicated on the drawings hereby approved.
  - 4) The balcony hereby approved shall not be used or accessed, other than for emergency egress, until the privacy screen shown on the approved plans S7-03, S7-11, S7-21 has been fully implemented. The approved privacy screen shall be retained thereafter.

## Procedural Matters

2. The description of development in the banner heading above has been taken from the Council's decision notice and the appellant's appeal form, as this more accurately describes the proposed development than the description contained within the planning application form.
3. Since the appeal was lodged, a revised National Planning Policy Framework ('the Framework') has been published. This has not raised any new matters which are determinative to the outcome of this appeal.
4. The Council's reason for refusal refers to the Building Alterations & Extensions Supplementary Planning Document, adopted 2015. However, I have been informed that this document was superseded by the Lambeth Design Guide

Part 4: Building Alterations, Extensions and Retrofit in August 2023 ('the Design Guide'). It is mandatory for me to take account of the most relevant and up to date information in reaching a decision, therefore I have dealt with the appeal on this basis. The appellant had the opportunity to comment upon the Design Guide during the appeal process and has therefore not been prejudiced.

5. During the appeal process, the appellant has checked the accuracy of the drawings submitted with the planning application and has indicated that the 'Proposed Section' drawing (Ref S7-31) is incorrect. The remaining drawings are accurate and therefore I have assessed the proposal against these drawings. Furthermore, the appellant has confirmed that the sunlight and daylight assessment was based on the external positioning of the balcony as shown on the elevational drawings and therefore its conclusions are not affected. Accordingly, the Proposed Section drawing is not determinative to my assessment.

### **Main Issues**

6. The appellant has submitted a letter<sup>1</sup> with their appeal to address the Council's third reason for refusal in respect of daylight and sunlight. The information demonstrates that the room within the first floor flat beneath the proposed balcony would receive daylight and sunlight in excess of BRE Guidelines. Accordingly, the Council (in their Appeal Statement) has conceded their third reason for refusal.
7. Consequently, the main issues are the effect of the proposed development on:
  - a) the character and appearance of the surrounding area; and
  - b) the living conditions of the occupiers of the second floor flat within 142 Victoria Rise, with particular regard to overlooking and noise and disturbance.

### **Reasons**

#### *Character and Appearance*

8. The appeal site comprises an imposing five storey property on the eastern side of Victoria Rise that is subdivided into flats. The properties along this side of the road form a terrace but appear as pairs due to the set back of the adjoining flat roofed projections from the front elevation. The surrounding area is residential, characterised predominantly by terraces of 4-5 storeys in height, marginally set back from the pavement by entrance steps and basement lightwells, with gardens to the rear. A terrace of dwellings of 4-5 storeys in height is located to the rear of the appeal site and therefore, the rear elevation of the appeal building is not visible from the public realm.
9. The appeal site has been extended to the rear with staggered projections that reduce in depth at the lower ground floor and ground floor. A terrace has been created on top of the rear projections for the ground and first floor flats, while the flat within the roof space has access to a roof terrace. Consequently, there is an absence of symmetry to the rear elevation of the appeal building. The terraces to the ground and first floors have an obscure glazed screen of 1.7m

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<sup>1</sup> Letter produced by Model Environments Ltd, dated 28 June 2022

in height surrounding their perimeter. The appeal property is located on the second floor of the building. It is proposed to construct a balcony across part of the rear elevation that would be accessed via patio doors from the living area of the flat. The balcony would measure 5sqm and an obscure glazed screen of 1.7m in height would be erected around its perimeter.

10. The screen would reflect the height and design of the existing screens on the roof terraces below. While the proposal would cumulatively add to the presence of contemporary additions to the rear of the property, it would respect the hierarchy of ground and first floor terraces/extensions below. Furthermore, its small scale would appear subordinate and not result in a dominant addition, either individually or cumulatively. In my opinion, the proposal would 'finish' the rear elevation and it would not materially detract from the architectural character and appearance of the existing building.
11. The appeal property forms a group with the even numbered buildings in the terrace between 134-156 Victoria Rise. I acknowledge that the addition of a balcony at second floor level is not representative of other properties in the group. However, the rear elevation of the existing building has already been substantially altered and contrasts with the group's original character and appearance. Furthermore, the rear elevations of the group are not uniform, with alterations to the roofs, a spiral staircase and rear extensions. Consequently, I find that the proposal would not unduly affect the group value of the buildings' rear elevations.
12. In reference to the first main issue, the proposed development would not harm the character and appearance of the surrounding area. It would comply with Policies Q2 and Q11 of the Lambeth Local Plan 2020-2035, adopted 2021 ('the LP') which, amongst other things, seek to ensure that the visual amenity from adjoining sites and from the public realm is not unacceptably compromised, and requires proposals to have a design which positively responds to the original architecture, detailing and fenestration of the host building and other locally distinct forms (such as group characteristics). It would also comply with the Design Guide.

### *Living Conditions*

13. Adjacent to the proposed terrace there is a second floor window to a neighbouring flat within 142 Victoria Rise that serves a room that is frequently used by its occupiers. The proposed balcony would be set away from this window. Below the proposed balcony are the terraces of the ground and first floor flats and the garden of the lower ground floor flat.
14. The 1.7m height of the proposed screen and the use of obscure glazing would adhere to the same restrictions for side windows in the upper floors of dwellings allowed under Part 1 of the General Permitted Development Order<sup>2</sup>. Therefore, it is reasonable to assume that the height and obscure material of the screen would prevent issues of overlooking. Accordingly, the proposed screen would prevent users of the balcony from gaining a view back towards the second floor window within No 142 and of the terraces and gardens below.
15. I acknowledge that the proposed balcony would likely increase noise levels in the surrounding area. However, the occupiers of neighbouring properties and

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<sup>2</sup> Schedule 2, Part 1 of The Town and Country Planning (General Permitted Development) (England) Order 2015

the users of the existing terraces are already subject to noise and disturbance from the existing terraces and surrounding rear gardens. I acknowledge that the proposed balcony would be sited closer to No 142's second floor window and the first floor flat in the appeal building than the existing terraces/gardens. However, the proposed balcony would have a limited floor area and therefore it is unlikely to accommodate more than a small number of people.

Consequently, the proposed balcony would unlikely raise noise levels in the surrounding area to a degree that would unduly affect the living conditions of the occupiers of neighbouring properties.

16. In reference to the second main issue, the proposed development would not harm the living conditions of the occupiers of the second floor flat within 142 Victoria Rise, with particular reference to overlooking and noise and disturbance. It would comply with Policy Q2 of the LP which, amongst other things, seeks to support development if acceptable standards of privacy are provided without diminution of the design quality and the adverse impact of noise is reduced to an acceptable level through the use of attenuation, distance, screening, or layout/orientation.

### **Other Matters**

17. Concern has been raised that the proposed balcony would create a perceived sense of overlooking. However, the existing terraces and gardens are already significantly overlooked by the windows in the rear elevations of the surrounding dwellings. Concern has also been raised that the proposed balcony would create a sense of enclosure and an overbearing effect on the living conditions of the occupiers of the appeal building's first floor flat due to its siting immediately above their terrace and patio doors. While the proposal would have the same depth as the third party's terrace, it would occupy only half the length and therefore the outlook from the terrace would not be unduly affected.
18. A neighbour has stated that they were not notified of the planning application by the Council. However, the occupiers of neighbouring properties objected to the proposal during the application's consultation period, and I have not been provided with evidence to substantiate that the Council's consultation was flawed.

### **Conditions**

19. I have had regard to the conditions suggested by the Council and the tests for conditions set out within the Framework. As a result, I have made amendments to some of the conditions in the interests of clarity and precision. In addition to the standard condition, which relates to the commencement of development, I have specified the approved plans for the avoidance of doubt and in the interests of proper planning, except for the cross section drawing for the reasons previously detailed.
20. I have included a condition requiring the proposal to be constructed in accordance with the submitted details to ensure its external appearance is acceptable. A condition prohibiting the use of the balcony until the approved screen has been constructed and for its retention is necessary to ensure the living conditions of the occupiers of neighbouring properties are not harmed.

## **Conclusion**

21. For the reasons set out above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be allowed.

*A Berry*

INSPECTOR