



Appeal Decision

Site visit made on 12 February 2024

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 March 2024

Appeal Ref: APP/N1920/W/23/3322286

39 Watford Road, Radlett, Hertfordshire WD7 8LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr & Mrs Jonathan Wall against the decision of Hertsmere Borough Council.
 - The application Ref 23/0089/VOC, dated 18 January 2023, was approved on 11 May 2023 and planning permission was granted subject to conditions.
 - The development permitted is the application for variation of condition to allow for removal of condition 3 (removal of glass balustrade) following grant of permission 22/0403/HSE.
 - The condition in dispute is No 3 which states that: The existing glazed balustrade installed on the first floor roof terrace indicated on plan no. 327:33 Rev A shall be removed by 16th September 2023.
 - The reason given for the condition is: To satisfactorily protect the privacy levels of neighbouring dwellings from perceived overlooking. To comply with Policies SADM3 and SADM30 of the Site Allocations and Development Management Policies Plan 2016 and Policy CS22 of the Hertsmere Core Strategy 2013.
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Decision

1. The appeal is allowed and the planning permission Ref 23/0089/VOC for the application for variation of condition to allow for removal of condition 3 (removal of glass balustrade) following grant of planning permission 22/0403/HSE at 39 Watford Road, Radlett, Hertfordshire WD7 8LG granted on 11 May 2023 by Hertsmere Borough Council, is varied by deleting condition 3 and substituting it for the following condition:
 - 3) Within six months of the date of this decision, the existing glazed balustrade installed on the first floor roof terrace indicated on plan no. 327:33 Rev A shall be removed.

Preliminary Matter

2. The extension has been substantially completed. However, the stainless-steel balustrade has not yet been installed. I shall make my decision against the plans submitted with the application and as listed on the decision notice.

Background and Main Issue

3. The appeal site comprises a detached two-storey dwelling. Planning permission has been granted for development including a single-storey extension to the rear of the dwelling under reference 20/1074/HSE. This permission was subsequently amended under reference 22/0403/HSE to alter the roof design and accommodate a roof terrace with a stainless-steel balustrade and glass balustrade, subject to conditions. This included, at condition 3, that the glass

balustrade shall be removed by 16 September 2023. Application reference 23/0089/VOC sought to remove condition 3 in order to retain the glass balustrade.

4. The main issue is whether the condition is reasonable and necessary having regard to the living conditions of the occupiers of No 37 Watford Road (No 37), with regard to privacy.

Reasons

5. The roof terrace is positioned away from the site boundaries, including the boundary with No 37. A stainless-steel balustrade would be set in from the outside edge of the roof terrace, which is enclosed by a glass balustrade. The proposed stainless-steel balustrade, in addition to condition 5, aims to ensure that access to the roof terrace is confined to the area enclosed by the stainless-steel balustrade.
6. The glass balustrade is visible from the rear patio and garden of the dwelling at No 37. Although access would be restricted beyond the stainless-steel balustrade, the presence of the glass balustrade gives the impression that it is the edge of the roof terrace when viewed from the rear garden and patio at No 37. Consequently, the retention of the glass balustrade would result in a continued perception of being overlooked to the detriment of the privacy of the occupants of No 37.
7. The dwelling at the site has a large window within the first floor rear elevation adjacent to the boundary with No 37. Although this window, and the smaller side facing windows, result in overlooking of the neighbouring property, the presence of the glass balustrade would add to this existing harm.
8. The appellant suggests that the glass balustrade is required for safety purposes, however there is no substantive evidence before me to demonstrate that the balustrade is necessary in addition to the stainless-steel balustrade. The maintenance of the flat roof could be carried out safely without the balustrade through the use of appropriate equipment when necessary.
9. Condition 4 requires the retention of the stainless-steel balustrade once constructed and condition 5 restricts the use of part the roof terrace between the balustrades. Whilst these conditions are technically enforceable as well as being reasonable and necessary to prevent overlooking, breaches would be difficult to detect, particularly if there is a future change of ownership at the site or at No 37. Furthermore, these conditions would not overcome the harm that I have identified resulting from the perception of overlooking.
10. The National Planning Policy Framework states that any conditions should only be imposed where they meet the six tests, as set out in Paragraph 56. As such, due to the specific site circumstances, I conclude that the condition requiring the removal of the glass balustrade is reasonable and necessary and meets the size tests set out in the Framework. Given that the condition required the removal of the glass balustrade by 16 September 2023, I shall substitute the disputed condition to require removal of the balustrade within six months of this decision.

Other Matter

11. The removal of the glass balustrade would have cost implications for the appellant. However, there is no substantive evidence before me that the works would be of significant cost. Furthermore, the weight I attribute to this is limited as the consequences would have been less likely to arise had permission been obtained before the balustrade had been installed.

Conclusion

12. For the reasons given above, I conclude that the appeal should be allowed and I vary the planning permission by deleting and substituting the disputed condition in order to require removal of the glass balustrade within six months of this decision.

J Pearce

INSPECTOR