



Appeal Decision

Site visit made on 15 April 2024

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 May 2024

Appeal Ref: APP/N5660/W/23/3326756

126 Flat 4 Cavendish Road, Lambeth, London SW12 0DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Branko Mansicevski (Tecton Design and Build) against the decision of the Council of the London Borough of Lambeth.
 - The application Ref is 22/04562/FUL.
 - The development proposed is two roof terraces over existing first floor roof spaces, with surrounding glazed railings, for use by the second floor flat.
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Decision

1. The appeal is allowed and planning permission is granted for two roof terraces over existing first floor roof spaces, with surrounding glazed railings, for use by second floor flat at 126 Flat 4 Cavendish Road, Lambeth, London SW12 0DE in accordance with the terms of the application, Ref 22/04562/FUL, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 01, 02, 03, 04, 05, 06, 07, 08 and 09, except in respect of the details of the balustrade for Terrace R1 as shown on Plan No. 09.
 - 3) Notwithstanding the details shown on the approved plans, Terrace R1 shall not be brought into use until revised balustrade details for Terrace R1 have been submitted to and approved in writing by the local planning authority. The submitted details shall demonstrate that the balustrades would not encroach onto the roof of 124 Cavendish Road. The balustrades on Terrace R1 shall thereafter be erected in accordance with the approved details prior to the first use of Terrace R1 and retained as such thereafter.
 - 4) The development hereby permitted shall not be brought into use until glazed screens have been erected in accordance with details that have first been submitted to and approved in writing by the local planning authority. The submitted details shall include the locations and dimensions of the glazed screens and shall demonstrate that the screens shall be fitted with obscured glass or obscured glazing film over the entirety of the glass to a minimum obscurity equivalent to Pilkington Texture Glass Level 3. Once erected, the glazed screens shall thereafter be retained in accordance with the approved details.

Preliminary Matters

2. The description of development is taken from the decision notice and the appeal form insofar as it describes development, as it is more concise than the description on the application form.
3. Since the application was determined, the Council has adopted the Lambeth Design Guide (July 2023) (Design Guide) which replaced the Building Alterations and Extensions Supplementary Planning Document (2015). I have taken the Design Guide into account in my consideration of the appeal.

Main Issues

4. The main issues are:
 - The effect of the development on the character and appearance of the host property and local area, and
 - The effect of the proposal on the living conditions of the occupants of neighbouring properties, with particular regard to noise.

Reasons

Character and appearance

5. The host dwelling is located on the second floor of a three-storey end of terrace property which has been subdivided into flats. The rear of the host property comprises a mix of one, two and three storey elements creating a stepped elevation with a variety of roof types. The property backs onto gardens and, beyond that, to other residential buildings. Roof terraces are not a common feature in the local area. However, Policy Q11 of the Lambeth Local Plan 2020-2035 (LP) does not preclude roof additions where they would not harm the architectural integrity of the original building or its group.
6. The proposed terraces would be modest in size and would be sited beneath the main eaves level of the existing property. Consequently, there would be no alterations to the roofscape within the wider terraced group. Moreover, proposed terrace R2 would be positioned towards the side of the existing building and would be set back well behind the projecting rear walls of the property. Therefore, views of terrace R2 from Cavendish Road and nearby rear gardens would be limited to partial views at an oblique angle. Whilst terrace R2 would be sited close to 128 Cavendish Road, the nearest windows are obscured glazed which would limit any direct views of the terrace.
7. Proposed terrace R1 would be more exposed to views from nearby gardens given its elevated position within a prominent part of the rear façade of the existing building. However, given its modest size, it would not be overly dominant when observed in context with the host building, which is significantly larger in scale.
8. The submitted plans show the proposed balustrade on terrace R1 would project over part of the roof of the neighbouring property at 124 Cavendish Road. This would be a poorly designed feature that would fail to integrate harmoniously with the existing building and would disrupt its relationship with the neighbouring property. However, the appellant has stated that the balustrade design could be altered to remove this element of the proposal. I am satisfied that the suggested amendment would be a minor detail that could be dealt with

through a condition to ensure the position of the balustrade is sympathetic to the host property and the neighbouring building. Therefore, the position of the balustrade would not be an impediment to planning permission being granted.

9. The proposed materials, including metal and glass balustrades with glazed screens, would ensure the development would have a lightweight and discrete appearance that would not erode the appearance of the host property and the wider terrace. In that regard, the proposal would accord with the Design Guide insofar as it acknowledges that the creation of roof terraces on existing flat roofs is possible under Policy Q11 of the LP, but advises, amongst other things, that the design of balustrades should ensure the proposal integrates well with the character of the host building.
10. I have had regard to the presence of Juliet balconies on nearby dwellings, which I observed on my site visit. Whilst some Juliet balconies have the effect of preventing adjacent roofs from being used as terraces, I am not persuaded their presence indicates that roof terraces are unacceptable as a matter of principle.
11. I conclude that the proposed development would not cause harm to the character and appearance of the host property and local area. Accordingly, there would be no conflict with Policy Q11 of the LP insofar as it does not preclude additions, including roof additions, where they would not harm the architectural integrity of the original building or its group. Moreover, there would be no conflict with Policy Q5 of the LP insofar as it expects the local distinctiveness of Lambeth to be sustained and reinforced through new development.

Living conditions

12. The proposed roof terraces would be sited in an elevated position above a bedroom and main living area of the first floor flat. Therefore, concerns have been raised about noise effects, including from the use of the proposed terraces for noisy gatherings as well as the transmission of noise to the internal accommodation in the first floor flat below.
13. There is limited evidence before me to indicate that the proposed terraces would be used for any purpose other than as residential amenity space. Therefore, noise arising from the development would be similar to other outdoor residential amenity spaces in the local area. Moreover, given the modest size of the proposed terraces, it is unlikely they would be used for large gatherings. Furthermore, it is reasonably likely that any noise emanating through the proposed doors would be similar to noise levels from the existing windows in the host dwelling.
14. I have not been provided with a noise assessment to demonstrate the effect of noise transmission to the first floor flat. However, some noise transmission is inevitable between attached dwellings and there is no substantive evidence before me to indicate it would be unacceptably acute on the roof terrace. Therefore, I am not persuaded that a noise assessment is necessary.
15. I conclude that the proposed development would not cause harm to the living conditions of the occupants of neighbouring properties, with particular regard to noise. Therefore, there would be no conflict with Policy Q2 of the LP insofar as it expects the adverse impact of noise is reduced to an acceptable level.

Other Matters

16. I have had regard to third party concerns about increased privacy and overlooking. However, the privacy of the occupants of No 128 would be safeguarded by the obscured glazing in the existing facing windows. Moreover, whilst some overlooking of gardens would be available from the proposed terraces, mutual overlooking is a common feature of the area and views from the proposed development would not be significantly different from views from the existing windows in the host property. The proposed obscured glazed screens, which could be secured through condition, would further reduce any potential for unacceptable overlooking. For this reason, I do not find it necessary to secure any additional screening, including through planting.
17. The reflection of light from the proposed doors and balustrades would be similar to the reflection from other doors and windows in this residential setting, and would not be harmful. Moreover, there is no substantive evidence before me to indicate that the proposed development would increase water run-off. Therefore, no undue harm would arise through flooding.
18. The appeal site is located within reasonably close proximity of public green spaces. However, I have found no unacceptable harm would arise in respect of the main issues. Therefore, even if there was no demonstrable need for the development, in this case it would not be an impediment to planning permission being granted.
19. Concerns have been raised that the proposal would set a precedent for similar developments to come forward in the local area. However, I have considered the appeal proposal with regard to the specific features of the proposed scheme as well as the characteristics of the host property and surrounding area. These factors are unlikely to be directly replicated for other potential proposals, which would be considered on their own merits.

Conditions

20. The Council has provided a list of suggested conditions, which I have considered against the tests set out in paragraph 56 of the National Planning Policy Framework and the Planning Practice Guidance. Where appropriate, I have adjusted the wording of the conditions to improve precision and enforceability.
21. In addition to the standard time limit condition, I have included a condition defining the permitted plans to provide certainty.
22. I have included a condition requiring the submission of revised balustrade details for terrace R1, to address concerns raised about any overhang of the neighbouring roof. This condition is necessary to protect the character and appearance of the area.
23. A condition is included requiring details of the obscured glazed screens to be submitted to the Council for approval. This condition is necessary to protect the living conditions of the occupants of neighbouring properties.
24. The Council suggested a condition requiring that the external materials would match the existing building. However, the proposed materials are indicated on the submitted plans and would not match the existing building. Therefore, I

have not included the Council's suggested condition as it would be unnecessary.

Conclusion

25. The proposed development would be in accordance with the development plan when read as a whole. The material considerations do not indicate a decision should be made otherwise than in accordance with the development plan. Therefore, for the reasons given above I conclude that the appeal should be allowed.

E Catcheside

INSPECTOR