



Appeal Decision

Site visit made on 22 May 2024

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2024

Appeal Ref: APP/H5390/C/23/3318582

4 Bishops Road, London SW6 7AB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Michael Clifford against an enforcement notice issued by the Council of the London Borough of Hammersmith & Fulham.
 - The notice was issued on 1 February 2023.
 - The breach of planning control as alleged in the notice is the installation of railings around the flat roof of back addition at second floor level.
 - The requirement of the notice is: Remove from the land the railing situated around the flat roof of the back addition at second floor level.
 - The period for compliance with the requirement is: Three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the installation of railings around the flat roof of back addition at second floor level at 4 Bishops Road, London SW6 7AB, as shown on the plan attached to the notice.

Procedural Matters

2. Since the appeal was lodged, a revised version of the National Planning Policy Framework (the Framework) was published (December 2023). However, the parts of the Framework most relevant to the appeal have not substantially changed from the previous iteration. Consequently, it has not been necessary for me to seek further comments from the main parties in this respect. I have determined the appeal accordingly.
3. The Council failed to attend the pre-arranged site visit at the appointed time, and I therefore carried out an access required site visit. The Council subsequently confirmed that they had no objection to the appeal being determined on that basis.

Ground (a) – the deemed planning application

Main Issues

4. The main issues are the effect of the development on:

- The character and appearance of the host property and surrounding area; and
- The living conditions of occupiers of neighbouring residential properties, with particular regard to noise and privacy.

Reasons

Character and Appearance

5. Bishops Road is residential in character, consisting predominantly of two-storey terrace dwellings with third storey accommodation contained within their roof space. The properties along this stretch of Bishops Road back onto a commercial site which is broadly triangular in footprint and largely filled by single storey buildings. The commercial site is enclosed on all sides by terraced housing on Bishops Road, Dawes Road, and Gironde Road.
6. No 4 Bishops Road is an end of terrace property that has been converted into self-contained flats and includes a two-storey outrigger with a flat roof. The flat roof of the outrigger is accessed via a steep ladder and hatch in the ceiling. The development before me relates to the railings that have been installed around its perimeter to facilitate its safe use.
7. The black metal railings installed are of a slim, simple design which are not visually harmful and do not detract from the host building. By virtue of their height and design, the railings do not add significant bulk or appear as visual clutter, but instead soften the otherwise stark appearance of the flat roofed outrigger.
8. While visible from the rear of some of the closest neighbouring properties, given their location to the rear of the property, the railings are not visible from Bishops Road and are not prominent in the wider street scene. Views of the railings are possible from Dawes Road through the gap between the Mitre Public House and 81 Dawes Road. However, these views are fleeting and by virtue of their design and materials, the railings do not appear as an unsympathetic addition or out of context in their surroundings.
9. I therefore conclude that the development does not result in harm to the character and appearance of the host property or surrounding area. Accordingly, I find no conflict with Policies DC1 and DC4 of the Hammersmith & Fulham Local Plan (adopted February 2018) (HFLP) which seek, amongst other things, to ensure that developments are compatible with the scale and character of existing development and are subservient and do not dominate the host building in bulk, scale, materials, or design.

Living Conditions

10. The appellant states that the flat roof of the two-storey outrigger has been used as a roof terrace for over 35 years. This is further evidenced by the existence of a Lawful Development Certificate (LDC) which was granted on appeal¹ for the "*Existing use of second floor flat roof as a roof terrace*" on the 31 January 2022. It is also apparent from the submissions of both parties that the railings subject of this appeal were installed around 2020, some six years after previous railings had been removed from the flat roof.

¹ APP/H5390/X/21/3275244

11. Despite the existence of the LDC confirming that the existing use of the flat roof as a roof terrace was lawful, the Council considers that the installation of the railings increases the likelihood that the flat roof will be used as a roof terrace. This increased use of the roof is considered to cause an increase in overlooking and noise disturbance to the occupiers of adjacent properties.
12. Given the area's built-up nature, mutual overlooking is already possible between numerous properties, including from second and third storey rear windows and other nearby roof terraces. The roof terrace at No 4 provides an area akin to a small garden space, and during my site visit I observed that it was possible to see into some neighbouring gardens on both Bishops Road and Dawes Road.
13. However, these views were generally distanced and oblique, or only possible when standing by the railings and intentionally observing downwards. Although the railings allow users to sit or stand closer to the edge of the flat roof than if they were not in existence, the views afforded are little different to those already available from the roof terrace and given the dense urban grain of the locality are not unusual or uncommon.
14. Rear windows at roof level are present at both the immediately adjoining properties 2 Bishops Road and 6 Bishops Road. Although these windows can be seen from the roof terrace, in the case of No 6 these views are at an oblique angle and partially obscured, and I was unable to obtain any direct views into the window. Whilst the windows at No 2 are in closer proximity and there is a degree of overlooking, the use of the property and whether the windows serve any habitable rooms is less clear. Nevertheless, although the railings do not provide any screening, the existing situation has not been made materially worse by their installation.
15. I appreciate because of the elevation of the roof terrace, there is the potential for the prospect of noise transmission. However, the size of the roof terrace does not lend itself to being used by a large gathering of people. Moreover, this is a developed residential area, and there is very little evidence that it is somehow a particularly quiet area, especially given the nearby commercial site and Mitre Public House, or how any significant harm arises through the installation of the railings and the incidental residential use of the roof terrace. I therefore do not accept that the development results in any significant increase in noise and disturbance for neighbouring occupiers.
16. Overall, given the context of the appeal site and the existing use of the flat roof as a roof terrace, I consider that the living conditions of the occupiers of neighbouring properties are not significantly harmed by the development. I therefore find no conflict with Policies HO11 and DC4 of the HFLP, or guidance contained within Key Principle HS8 of the Hammersmith & Fulham Planning Guidance Supplementary Planning Document (February 2018). These seek, amongst other things, to ensure that developments do not have a detrimental impact on the amenities of neighbouring properties, including privacy enjoyed by neighbours.

Conditions

17. No conditions have been suggested by the Council and as the development appears to be completed, I agree that there is no need for any.

Conclusion

18. For the reasons given above, I conclude that the appeal succeeds on ground (a) and planning permission is granted for the development described in the enforcement notice. In these circumstances the appeals on grounds (f) and (g) do not fall to be considered.

David Jones

INSPECTOR