

# Appeal Decision

Site visit made on 4 June 2024

**by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI**

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

**Decision date: 1<sup>st</sup> July 2024**

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## **Appeal Ref: APP/N5660/W/23/3330339**

### **Flat 2, 33 Killieser Avenue, London SW2 4NX**

- 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 Omar Syed against the decision of the Council of the London Borough of Lambeth.
  - The application, Ref. 23/01863/FUL, dated 9 June 2023 was refused by notice dated 3 August 2023.
  - The development proposed is a roof terrace to the rear.
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## **Decision**

1. The appeal is allowed and planning permission is granted for a roof terrace to the rear at Flat 2, 33 Killieser Avenue, London SW2 4NX in accordance with the terms of the application, Ref. 23/01863/FUL, dated 9 June 2023 and subject to the following conditions:
  - 1) The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this Decision;
  - 2) The development shall be carried out and thereafter retained in accordance with the application form and the following approved plans and document: OS Based Location Plan; Drawing No. Series 23153: Plan Nos: /03; /04; /05; /09; /10; /11; /12; /13; 14/; 16; Fire Safety Statement D12;
  - 3) All works of making good to the retained fabric shall be finished to match the adjacent work with regards to the methods used and to material, colour, texture and profile.

## **Main Issues**

2. The main issues are (i) the effect of the glazed screen on the character and appearance of the host building and the Telford Park Conservation Area ('the CA') and (ii) the effect of the use of the roof terrace on the living conditions for nearby occupiers as regards noise and disturbance.

## **Reasons**

3. Turning firstly to issue (i), I saw on my visit that Flat 2 is a first floor flat in one half of a pair of semi-detached houses with No. 35. The Officer's Report refers to the CA as comprising a series of roads with late C19th Queen Anne style
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dwelling, including in Killieser Road. In addition to the road frontages, I also note that extensive green open space and the tennis club, which can be seen in rearward views from the appeal premises, make a particularly positive contribution to the character and appearance of the CA. However, large flat roof rear extensions at Nos. 33 & 35 and nearby do not make such a contribution and it is these that not only form the base of the proposed terrace but also comprise its immediate setting.

4. Moreover, the restriction of the roof terrace length to 4.2m and the width of 4.9m well away from No.35 is a modestly sized area that with its enclosure by a 1.7m glazed screen of the simplest 'lightweight' design would make little difference. This is because, as the appeal statement explains, the position of the terrace would not affect the prevailing siting, orientation, layout and physical relationship between built forms. I therefore take the view that a combination of its siting, restricted size and its acceptable appearance would mean that the terrace would have no discernible effect on the CA.
5. Furthermore, in his detailed personal statement that forms part of the grounds of appeal the appellant has explained how, when compared with the original half width projection, the greater height, width and depth of this addition granted permission in 2017 and built in 2019 for the benefit of the ground floor Flat 1 and for the ground floor of No. 35 has significantly reduced the outlook of the garden areas of Nos. 33 & 35 from the windows of his first floor flat. This effect on living conditions for the existing and any future occupiers of Flat 2 merits weight in my decision as to the appropriateness of an accessible outdoor space.
6. If the appeal scheme had been to form a roof terrace over the full width and depth of the extension roof that adjoins the rear wall of Flat 2 (as no doubt anticipated by condition 9 on the 2017 consent), the Council's objection would carry significantly more weight as regards the effect on the character and appearance of the host building and the CA.
7. However, this is not the case in this appeal and for the above reasons I conclude on the first issue that there would be no harmful conflict with Policies Q5, Q11 & Q22 of the Lambeth Local Plan 2020-2035 (2021) ('the Local Plan') or with Government policy in Section 16: 'Conserving and Enhancing the Historic Environment' of the National Planning Policy Framework December 2023 ('the Framework').
8. As regards the second issue of a potential increase in noise and disturbance for neighbours, I have had regard to the objections from the occupiers of Nos. 29 & 35. However, the appellant and his family have lived in the property for over 20 years and has been using a similar space on the flat roof for this period without complaint. The appeal application is tantamount to little more than for the authorised use of this space and for the provision of a glazed screen to provide safety for family members including of the older generation.
9. The appellant's statement explains that the option of light frosted glass and balustrade posts to either side would ensure that the roof terrace will not lead to a loss of light whilst ensuring privacy and safety and I agree that this is appropriate.

10. From all that I have seen and read I do not consider that the continued use of part of the roof closest to the flat's bedroom window as shown on the application plans and as opposed to extending to cover the whole area would lead to noise and disturbance. The potential for such an effect, as in all instances, is rather more due to the extent of occupiers' consideration for their neighbours. And whilst an elevated siting can sometimes make a difference, I am not persuaded that the particular circumstances of this case are such as preclude the appeal scheme. I therefore find that there would be no harmful conflict with Local Plan Policy Q2 or with Framework paragraph 135f).
11. As on balance I have concluded on the appellant's favour on both main issues, I shall allow the appeal and grant planning permission subject to the Council's suggested conditions. A condition requiring the development to be carried out in accordance with the approved plans is needed for the avoidance of doubt and is in the interests of proper planning. A condition stipulating appropriate details for the fixing of the structure to the existing fabric of the building will safeguard visual amenity.

*Martin Andrews*

INSPECTOR