



Appeal Decision

Site visit made on 4 June 2024

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2024

Appeal Ref: APP/H5390/W/23/3332893

Flat C 691 Fulham Road, Hammersmith and Fulham, London SW6 5UJ

- 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 Charlotte Rissbrook against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref is 2023/01572/FUL.
 - The development proposed is the use of the existing flat roof at the rear of the property as a terrace with new balustrade.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on living conditions for neighbouring occupiers in respect of privacy, with particular regards to 689 Fulham Road, the Garden Room at 691 Fulham Road, and rear gardens near the appeal site.

Reasons

3. The appeal site is a flat (Flat C) within a semi-detached residential property, 691 Fulham Road (No 691). Flat C is served by glazed doors in the second-storey rear elevation of No 691, leading to an area of flat roof. Access to the flat roof is prevented by a balustrade.
4. The ground floor of No 691 has a rear garden, beyond which is a detached dwelling (the Garden Room). Habitable space within the Garden Room is served by glazing that faces back towards the rear elevation of No 691.
5. Number 689 Fulham Road (No 689) is a semi-detached residential property alongside No 691. The upper rear elevation of No 689 includes a habitable room window, broadly level with the glazed doors serving Flat C.
6. The proposal involves using the flat roof at No 691 as a terrace. The flank of the terrace facing No 689 would be bound by a parapet wall and 1500mm tall opaque glass screen, creating an enclosure some 1650mm tall from the terrace deck. The rear of the terrace would be bound by a raised wall and 1100mm tall rails, enclosing a planter.
7. The proposed flank enclosure would not prevent overlooking; it is not uncommon for a person's eyeline to be higher than 1650mm and if someone tall enough to see over the enclosure were to stand next to it, they would have an uninterrupted view of the whole window at No 689. This would significantly

erode the privacy of occupiers of No 689, who would experience entirely new and highly invasive overlooking across a short distance, from an amenity area that could be in frequent use.

8. I appreciate that only part of the room served by the window at No 689 would be visible from the terrace due to the angle of visibility, but I have no evidence that one part of that room is any less entitled to privacy than any other.
9. There is already some overlooking from the glazed doors of Flat C to the windows of the Garden Room, two storeys below. I found during my visit that, even though a sun awning and established greenery at the Garden Room infringed upon the line of sight, it was possible to see into the Garden Room from Flat C.
10. The terrace would bring occupiers of Flat C further rearwards, reducing the overlooking distance and giving a clearer view into the Garden Room, therefore. It would also result in a steeper, more intrusive angle of visibility, creating new and more comprehensive views into the Garden Room. Occupiers of Flat C would far more likely linger on the terrace than at the glazed doors, extending the periods in which overlooking would occur.
11. In addition, occupiers of Flat C would be far more visible and prominent to occupiers of the Garden Room when on the proposed terrace than when looking out of the glazed doors, increasing the perception for occupiers of the Garden Room of being overlooked.
12. In the ways set out above, the proposal would significantly and harmfully increase the extent and effect of overlooking from Flat C towards the Garden Room.
13. The proposed planters would restrict access to the rearmost part of the deck, but they would be narrow and short, and make very little difference in respect of rearward overlooking, therefore. Greenery grown in the planters may interfere with views through and over the proposed rear railings, but I have no evidence it would be a consistent and reliable form of mitigation, and have attributed very little weight to it, therefore.
14. At present, occupiers of Flat C can overlook part of the rear garden of No 689 from the glazed doors. The flat roof at No 691 largely prevents overlooking into the garden of No 691, whilst the flank wall of an outrigger to the side of the flat roof prevents any overlooking of 693 Fulham Road (No 693), and beyond in that direction.
15. The proposal would give occupants of Flat C new views over parts of the gardens at No 691 and No 693, and an increased view over the garden at No 689, in comparison to those available from the existing glazed doors.
16. Flat C has a window in the rear elevation of the outrigger which provides comparable views to those the proposal would allow. Nevertheless, the probability is that occupants of Flat C would spend far more time on the proposed terrace enjoying the views than they would looking out of the outrigger window, which are more likely to be fleeting views. Their presence on the terrace would be far more visible to neighbours.

17. For these reasons, the proposed terrace would increase the frequency and impact of overlooking, and the perception of overlooking, for occupiers of neighbouring gardens.
18. For the reasons set out above, the proposal would harm the living conditions of neighbouring occupiers in respect of privacy, with particular regards to No 689 Fulham Road, the Garden Room at No 691 Fulham Road, and rear gardens near the appeal site. This would be contrary to the aspects of policies DC1, DC4 and HO11 of the Hammersmith and Fulham Local Plan (2018) (the Local Plan) that require development to have no detrimental impact on the privacy enjoyed by neighbours in adjoining properties, and to Key principle HS8 of the Planning Guidance Supplementary Planning Document (February 2018) (the SPD), which seeks to prevent balconies and terraces that result in an additional opportunity for overlooking or a significantly greater degree of overlooking, and consequent loss of privacy.
19. The appellant has drawn my attention to several approved terraces nearby, which I have considered in the context of overlooking. Aside from at 687 Fulham Road (No 687) I see no evidence that any of the terraces create a relationship to neighbouring windows comparable to that which the appeal proposal would create with No 689, or as direct a line of sight into a nearby property as the proposals would create to the Garden Room.
20. Planning application ref 2022/01261/FUL clarifies that the terrace at No 687 was not approved by the Council. I acknowledge the overlooking that terrace causes, but it carries very little weight in my decision as it is not an authorised development, and does not reflect acceptable levels of overlooking, therefore.
21. I have considered the merits of a condition requiring an opaque screen in place of rails at the rear of the terrace, as proposed by the appellant. Notwithstanding whether such a screen would alter the effect of the proposed development on the character and appearance of No 691, it would not be tall enough to prevent overlooking of the Garden Room from the terrace and would not address the harm I have identified above, therefore.

Conclusion

22. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

A Knight

INSPECTOR