



Appeal Decision

Site visit made on 12 November 2024

by A Veevers BA(Hons) Dip(BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2024

Appeal Ref: APP/L5810/W/24/3342743

64 Sheen Road, Richmond, Surrey TW9 1UF

- 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 Dr Richard Hennebry, Richmond Orthodontics, against the decision of the Council of the London Borough of Richmond Upon Thames.
 - The application Ref is 23/2955/FUL.
 - The development proposed is railings to the rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for railings to the rear extension at 64 Sheen Road, Richmond, Surrey TW9 1UF in accordance with the terms of the application Ref: 23/2955/FUL, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan dated 1 November 2023 and hand drawn plan labelled 'Existing Railing'.
 - 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no seating shall be provided on the roof of the single storey rear extension to the building, and the roof shall not be used other than as an emergency access or for the removal of waste.

Preliminary Matters

2. The description of development provided on the planning application form read 'A railing shaped 7 that completed the existing current railings for safety reasons as the fire exit is across this flat roof down the stairs. No change of use'. The Council changed the description to that in the banner heading above. This description is more precise and was used by the appellant for the purposes of the appeal. Consequently, I am satisfied that no party will be prejudiced by my use of it.
3. In the decision notice, the Council has referred to Policy LP 8 in its adopted development plan, the London Borough of Richmond Upon Thames Local Plan, July 2018 (adopted LP) as well as Policy 46 in its emerging draft Richmond Local Plan, June 2023 which has reached its Regulation 19 stage (emerging LP) and has been submitted for examination. However, it is not clear to me from the information provided whether there are any unresolved objections to policies in the emerging LP that may be relevant to this appeal. This therefore limits the weight that I can afford to such policies in accordance with Paragraph 48 of the National Planning Policy Framework (Framework).

4. The site is located in the Sheen Road Conservation Area (CA). I have therefore had regard to the duty in section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing its character or appearance.
5. The railing has been erected. I am therefore considering this appeal retrospectively.

Main Issue

6. The main issue is the effect of the development on the living conditions of nearby residents, with particular regard to privacy.

Reasons

7. The appeal site is a three storey mid-terraced property located in a mixed commercial and residential area. The property is highlighted by the Council as a Building of Townscape Merit for its architectural style, surviving original features and group value with the terrace within which it sits. It is currently occupied by an orthodontic business.
8. On the first floor, a fire exit leads out from a meeting room on to the flat roof of a single storey extension at the rear of the building. From the fire exit, a narrow pathway has been created across the flat roof, enclosed on each side by metal railings, to create an escape route towards metal staircases which lead to an outside rear garden area. The appellant asserts that the first floor fire exit, metal railings forming the escape route and the staircase have been in situ for many years. I have no evidence from the Council to the contrary.
9. The appeal relates to the installation of additional railings that have been erected around part of the periphery of the flat roof of the extension. The Council assert that the enclosure created by the railings is in use as outdoor amenity space from which overlooking occurs towards neighbouring residential properties and gardens. Indeed, photographs in the appellant's own evidence show a seating area in the space created between the barriered fire escape route and the railings subject of this appeal.
10. As a consequence of the installation of the railings, a larger area of the flat roof is accessible and safe, which likely encourages a different character and intensity of use. It allows for a clear increased opportunity for those using the flat roof to overlook neighbouring properties and gardens.
11. I observed at my site visit that the flat roof is at approximately the same level as rooms on the first floor at the rear of the neighbouring residential properties at 62 and 66 Sheen Road (No 62 and No 66). There is no screening between the flat roof and those properties, and from standing on the flat roof, clear views into first and second floor rooms of these properties were obtainable from close range, with a consequent significant harmful impact on occupiers' privacy.
12. In addition, the depth of the flat roof affords largely unrestricted views into the basement room and garden of No 66 and the garden of 68 Sheen Road (No 68). It also allows direct views into the rear windows of 38 and 39 Sydney Road (No 38 and No 39), particularly those on the ground floor rear extension at No 38. Clear views of the garden at the rear of No 38 are also readily obtainable. Whilst the rear garden and ground floor rooms at No 39 are

partially screened by vegetation, the resultant loss of privacy to occupants of the residential properties referred to above is significant and harmful.

13. Although not referred to in the decision notice, the Council's officer report refers to the rear external amenity space belonging to Printworks House, 27 Dunstable Road being overlooked from the appeal property. However, I was unable to obtain a clear view of any external amenity space used by occupants of that property when standing on the flat roof of the appeal property. Nevertheless, the elevated position and depth of the projection of the flat roof allow for significant views over and between the railings into the gardens and rear windows of Nos 62, 66, 68, Sheen Road and Nos 38 and 39 Sydney Road, all of which are a limited distance away.
14. The appellant argues that the application relates only to the installed railings and not the use of the roof, which is used to store clinical waste bins, air conditioning units and to provide emergency access. Be that as it may, the appeal submissions clearly indicate that the roof has been used to provide outdoor seating for occupants of the building. The installation of the railings and the use of the flat roof are intrinsically linked. The depth of the flat roof projection and the position of the railings enables safer use of a larger area of the flat roof as a platform from which to sit or stand. Thus, the additional railings have effectively facilitated a sizeable area where occupants and users of the building can comfortably gather, and evidence suggests that has been the case.
15. I recognise that a railed enclosure on the flat roof already existed prior to the installation of the additional railings, which also afforded views into neighbouring windows and gardens. I also acknowledge that due to the scale and density of properties in the immediately surrounding area there is an existing level of mutual overlooking. However, the enclosed pathway, along with the staircase, are narrow and likely to be used transiently. Other than for maintenance purposes, it would be unlikely that the rest of the roof would have been used regularly prior to the erection of the additional railings because of safety concerns. For the reasons given above, the situation has been made materially worse by the installation of the additional railings in facilitating a safer area to use on the roof.
16. The appellant's claim that the additional railings are required for reasons of safety or waste removal has not been substantiated. In view of the fact there is already a barriered walkway on the roof for these purposes, no compelling grounds have been put to me to justify additional railings for this reason.
17. The appellant claims that the roof will remain unused other than as a fire escape or for the removal of clinical waste bins. However, the occupiers of the appeal building and neighbouring properties could change many times over the lifetime of the development and even if the appellant has no intention of using the roof as a terrace, that may not be the case for any future occupants.
18. Notwithstanding the harm caused by the railings as a result of the increased potential for overlooking of neighbouring properties that I have set out above, the railings themselves are visually acceptable. For this reason, and since the description of development relates only to the railings, I cannot dismiss the appeal on that basis. However, because the whole of the building, including the existing extension upon which the railings sit are within the red line boundary of the appeal site, a condition could reasonably and necessarily be

imposed to restrict the use of the roof of the extension for any activity other than for means of escape, removal of clinical waste or maintenance in order to prevent the opportunity for increased overlooking.

19. Consequently, for the above reasons, and subject to the imposition of a condition to control the use of the flat roof of the extension, I conclude that the development would not be harmful to the living conditions of neighbouring residents, with particular regard to privacy.
20. The development would comply with Policy LP 8 of the adopted LP which, amongst other things, states that the Council will ensure balconies do not raise unacceptable overlooking or noise or disturbance to nearby occupiers.

Other Matters

21. The Council does not allege that the railings have an adverse effect on the character or appearance of the CA or the host building. Having visited the site and surrounding area, I concur with that view. The railings are relatively low and recessive due to their design and colour and are largely imperceptible from public viewpoints. Nor do they appear out of place within their context. The railings therefore preserve the character and appearance of the CA.

Conditions

22. I have considered the suggested conditions from the Council and had regard to paragraph 56 of the Framework and the Planning Practice Guidance in terms of the use of planning conditions. I have undertaken some editing and rationalisation of the conditions suggested by the Council in the interests of precision and clarity. Both main parties have had the opportunity to review the proposed conditions and I have taken their comments into account.
23. The Council's suggested time implementation condition is not required as the development has already taken place. For the same reason, separate conditions relating to materials and the control of emissions during construction are not necessary. Since the development relates only to the installation of the railings and an emergency escape route already exists, a condition relating to fire evacuation is also not necessary.
24. A condition specifying the relevant plans is necessary as this provides certainty. To protect the living conditions of neighbouring residents, a condition is reasonable and necessary to restrict the use of the flat roof.

Conclusion

25. For the reasons given above, subject to conditions, I conclude that the appeal should be allowed, and planning permission is granted.

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INSPECTOR