



Appeal Decision

Site visit made on 9 December 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 December 2024

Appeal Ref: APP/N5660/W/24/3345460

63B Trent Road, Lambeth, London SW2 5BJ

- 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 Mr Thomas Daviet against the decision of the Council of the London Borough of Lambeth.
 - The application Ref is 23/03071/FUL.
 - The development proposed is formation of a roof terrace to the rear on the first floor with associated balustrades including installation of access folding doors (Flat B).
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Decision

1. The appeal is allowed and planning permission is granted for formation of a roof terrace to the rear on the first floor with associated balustrades including installation of access folding doors (Flat B) at 63B Trent Road, Lambeth, London SW2 5BJ in accordance with the terms of the application, Ref 23/03071/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 drawings all dated 27/09/23: Description and sketch of terrace; Existing elevation and section; Existing plan; Proposed elevation and section; Proposed plan.
 - 3) The external materials of the development hereby permitted, and all work of making good, shall match those used in the existing building, except where indicated otherwise on the drawings hereby approved.
 - 4) The flat roof of the existing ground floor rear extension shall not be used as a terrace, sitting out area or other amenity space. No railings or other means of enclosure shall be erected around the flat roof of the existing ground floor rear extension.

Preliminary Matters

1. I have taken the description of development from the appeal form and decision notice, as this accurately describes the proposal.
2. On the 12 December 2024 the Government published a revised National Planning Policy Framework (the Framework). The revised Framework is a material consideration which should be taken into account from the day of publication. The revised Framework has not raised any new matters which are determinative to the outcome of this appeal. I have not therefore considered it

necessary to invite any submissions from the parties on the revised Framework.

3. The appellant has submitted amended plans as part of their appeal. The procedural guide for planning appeals advises that the appeal process should not be used to evolve a scheme as it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the local planning authority and by interested parties at the application stage. The changes have not been consulted upon. Accordingly, I have determined the appeal having regard to the same proposal on which the Council made its decision.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of the occupiers of 61 Trent Road (No 61), 63 Trent Road (No 63) and 65 Trent Road (No 65) with regards to privacy.

Reasons

5. A previous scheme for a roof terrace at the appeal property was approved in 2011¹ which differed in design from the appeal proposal. The proposed roof terrace would be positioned on top of an existing ground floor flat roof extension, and would not project beyond the rear building line of the main property. A portion of the flat roof extension would remain as existing.
6. The proposal includes a door which would allow access onto the lower level flat roof area. Concerns have been raised that this could be used as a further terrace and sitting out area, which would allow direct overlooking into the rear amenity space and rear ground and first floor rear windows of No 65, and the rear amenity spaces of 61 and 63 Trent Road. Whilst there is already an element of mutual overlooking between dwellings in this built up area, this would be increased were the flat roof to be used as a terrace, and as such there would be harm to the living conditions of the occupiers of these properties, with regard to a loss of privacy.
7. However, the submitted plans indicate that there are no steps leading down to access the lower level flat roof space, and no balustrades or railings are proposed for this area. The appellant has stated that access to the flat roof area would only be for maintenance purposes.
8. The Planning Practice Guidance states that conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. The appellant has indicated that they are happy for a condition to prevent the use of the flat roof extension as an amenity area. I have therefore attached such a condition, to overcome concerns regarding the overlooking of the rear amenity spaces of No 61, No 63 and No 65 from the flat roof area.
9. Overlooking from the proposed terrace would be directed towards the rear of No 61's amenity area from an angle, due to the depth of the terrace and its location in relation to No 61. In regard to the ground floor flat at No.63, the proposed terrace would be set in from the rear building line of the existing ground floor extension. Given the limited depth of the rear garden, there

¹ Ref 11/01841/FUL

would be no resulting overlooking directly to it from the proposed terrace. As such, the proposed roof terrace would not lead to an unacceptable degree of overlooking to the amenity spaces of these dwellings and would not harm the living conditions of the occupiers of these dwellings with regard to privacy.

10. In regard to No.65, the proposed terrace would not project beyond the rear return of the property. However, from the terrace it would be possible to have direct views onto the private amenity space, which would be enhanced by the elevated position of the terrace at first floor level.
11. However, given the back-to-back character of this residential area and the dense urban grain, there is currently an element of overlooking between dwellings, predominantly from first, second floor and dormer windows into neighbouring gardens. As such, the proposed development would not significantly increase opportunity for overlooking. Moreover, the proposed terrace would be fairly modest in size and consequently would be unlikely to accommodate more than one or two modest pieces of outdoor furniture. On that basis, I do not consider it likely that the roof terrace would be used for large gatherings. As such, the potential for harmful levels of overlooking of nearby gardens would be limited. The proposed terrace would therefore not add a significant level of additional overlooking or perceived overlooking, given its modest scale and the existing mutual views into rear gardens which is a prevalent feature of the local built environment.
12. The proposed development would therefore not harm the living conditions of the occupiers of No 61, No 63 and No 65 with regard to privacy. As such, the proposal would conform with Policy Q2 of the Lambeth Local Plan 2020-2035 (2021) which seeks to ensure acceptable standards of privacy.

Other Matters

13. There would be a sufficient separation distance between the proposed roof terrace and the rear gardens and rear windows of the properties at Bonham Road to ensure acceptable levels of privacy are maintained.
14. Given the limited scale and the likely level of usage of the proposed roof terrace, any noise which would be generated would be unlikely to be of a level so significant as to cause disturbance. Any noise experienced would be likely to be comparable in level to that which would be expected from the existing rear amenity space at ground floor level.

Conditions

15. I have considered the conditions suggested by the Council, having regard to the Planning Practice Guidance on conditions. For the sake of clarity, I have amended the conditions as necessary.
16. In addition to the standard commencement condition, I have attached a condition specifying the approved plans in the interest of certainty. In order to preserve the character and appearance of the area, a condition requiring that external work and making good are in keeping with the host property is necessary. In order to safeguard the living conditions of neighbouring occupiers, I have attached a condition to ensure that the flat roof of the ground floor extension is not used as an amenity area.

Conclusion

17. For the reasons given above, I conclude that the proposal would comply with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
18. As a result, the appeal is allowed.

L C Hughes

INSPECTOR