



Appeal Decisions

Site visit made on 21 November 2024

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: 24 MARCH 2025

Appeal A Ref: APP/T5720/W/24/3339774

Orion House, 3 Cranbrook Road, Merton, Wimbledon SW19 4HD

- 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 Mayur Vashee of Arc3 Architecture LTD against the decision of the Council of the London Borough of Merton.
 - The application Ref is 23/P2791.
 - The development proposed is the part retrospective/ proposed introduction of external balustrade 1.7m obscure glazed glass screens to the rear of the third floor.
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Appeal B Ref: APP/T5720/W/24/3340110

Orion House, 3 Cranbrook Road, Merton, Wimbledon SW19 4HD

- 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 Mayur Vashee of Arc3 Architecture against the decision of the Council of the London Borough of Merton.
 - The application Ref is 23/P2896.
 - The development proposed is the part retrospective / proposed introduction of external balustrading 1.7m obscure glazed glass screens to the rear of the first floor.
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Decisions

1. For Appeal A, the appeal is allowed and planning permission is granted for the part retrospective/ proposed introduction of external balustrade 1.7m obscure glazed glass screens to the rear of the third floor at Orion House, 3 Cranbrook Road, Merton, Wimbledon, London, SW19 4HD in accordance with the terms of the application, Ref 23/P2791, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: LP01; BP01; 115; 1171; 1181; 1191.
 - 3) No development shall commence until details of the materials to be used in the construction of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
2. For Appeal B, the appeal is allowed and planning permission is granted for the part retrospective/proposed introduction of external balustrading 1.7m obscure glazed glass screens to the rear of the first floor at Orion House, 3 Cranbrook Road,

Merton, Wimbledon SW19 4HD in accordance with the terms of the application, 23/P2896, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: LP01; BP01; 113; 117; 118; 119.
- 2) No development shall commence until details of the materials to be used in the construction of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Preliminary Matters

3. The description of development set out in both application forms refers to '1.7 m obscure glazed screens'. These are identified on the submitted plans by notations and are identified in red. There are other balustrades shown on the plans, but these are not annotated or identified in red.
4. The appellant has indicated an intention to regularise alterations to a previously approved scheme and has described the proposal as being part-retrospective. However, although they have referred to health and safety concerns and site conditions, it remains unclear which elements of the development fall into this category. The Council has identified this lack of clarity in its reasons for refusal. Nevertheless, on the basis of the submitted plans, these aspects of the development are not before me.
5. For the reasons set out above, notwithstanding any other details shown on the plans I have constrained my consideration of the appeal schemes as the 1.7 m obscure glazed screens only.
6. During my site visit, I observed that balustrades have been erected which would facilitate the use of balconies to the rear of the building on the first and third floors. These balustrades do not form part of the appeal scheme. As such, any variation of planning conditions which control or preclude the use of these areas as amenity space is not before me. Any issues regarding enforcement and the use of these roof spaces are a matter between the Council and the appellant.
7. The description used in the application form for both appeals referred to '3 Orion House' rather than '3 Cranbrook Road'. I have updated the address in the banner heading for clarity.
8. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024 and subsequently amended on 7 February 2025. Whilst this made certain revisions to aspects of national planning policy, the main issues in these appeals are unchanged. Therefore, I did not need to consult with the main parties regarding the revised Framework.
9. There are two appeals before me. They differ only in the detailed design of the screens and their location. Appeal A relates to the screens on the third floor and Appeal B to screens on the first floor. I have considered each appeal scheme on its own merits but have assessed them jointly to avoid duplication.

Main Issues

10. The main issues in both appeals are:

- the effect of the proposed development on the character and appearance of the building and the surrounding area; and
- the effect of the proposed development on the living conditions of the neighbouring occupiers, with particular reference to privacy for Appeal A and privacy, noise and disturbance for Appeal B.

Reasons

Character and Appearance

11. The appeal site is a 4-storey property of self-contained flats. Although located on a residential street, there are a variety of property types in the area, including a large Post Office depot, a sports complex, chalet style bungalows, terraced three storey properties, large flat developments, and detached houses. The wide range of property types informs the relatively diverse character of the immediate area, which does not have a singular architectural style, such that building lines and use of external materials are often inconsistent. Fenestration levels also vary, with some buildings featuring extensive glazing, others minimal, and some reflecting a more traditional style. While not typical, modern flat developments with balconies exist nearby, indicating that the presence of external glazing is not unprecedented.
12. While existing balustrading is indicated on the plans, the proposed developments specifically relate to the addition of 1.7m high obscure glazed balustrades on the first floor and third floor roofs. Although these balustrades are relatively large, they would not significantly increase the overall level of glazing in the locality, which already features a wide mix of fenestration styles. As such, the addition of these new glass panels would not have a disruptive effect on the balance and rhythm of fenestration in the host building or surrounding development. Additionally, while both proposed developments are in prominent positions, particularly the one on the third floor, their placement at the rear would help to reduce their visual effect on the front elevation and the street scene.
13. In reaching this view, I have considered that the proposed development would be more visible towards the rear of the appeal site, which would be visible to the occupiers of the dwellings on Salisbury Road. Nonetheless, given the diverse mixture of buildings and the broad range of fenestration styles already present in the area, the proposed development would not significantly alter the existing visual profile of the appeal site.
14. In conclusion, the proposed developments would not have an unacceptable effect on the character and appearance of the building and the surrounding area. They would respect the local character of the area, in compliance with Policy CS 14 of the LDF Core Planning Strategy 2011 (CPS). The planning conditions ensure that they would also relate appropriately to the siting, rhythm, proportions of the existing street pattern, using external materials that are appropriate to the original building, in compliance with Policies DM D2 and DM D3 of the Sites and Policies Plan and Policies Maps 2014 (SPPPM).

Living Conditions – neighbouring occupiers

15. For the reasons set out above, the appeals relate only to the installation of the 1.7m obscure glazed screens. They would constrain views and, due to the separation distances between the appeal site and adjacent dwellings, would not in themselves have a harmful effect on current levels of privacy. Similarly, with respect to the installation of the screens at first floor level (Appeal B) this would not give rise to significant changes in noise and disturbance.
16. Whilst harm to living conditions could arise from loss of privacy and greater levels of noise from the use of the roof areas as amenity space, this is not a matter before me. There is no evidence before me to suggest that the proposed developments themselves would have an inherently harmful effect on the living conditions of neighbouring occupiers.
17. In conclusion, the proposed developments would not have a harmful effect on the living conditions of the neighbouring occupiers, with particular reference to privacy for Appeal A and privacy, noise and disturbance for Appeal B. It would not result in visual disturbance, noise, vibrations or pollution that would have the effect of diminishing the living conditions of existing residents, in compliance with Policies DM D2 and DM D3 of the SPPPM.

Other Matters

18. Concerns have been raised by interested parties regarding the regularisation of planning control breaches, including any unauthorised use of the roof areas or installation of existing balustrades. I acknowledge that the proposed developments could encourage the use of the flat roof areas as a balcony terrace, potentially leading to the loss of privacy for the properties located on Salisbury Road. However, this is not a matter under consideration in these appeals. Nonetheless, as noted earlier in this appeal decision, all conditions from the previous planning permission remain in effect, including any restrictions related to the use of the roof areas or other commitments concerning the design of the development.

Conditions

19. For both appeals, the Council has provided a list of suggested conditions, which I have assessed in regard to the advice provided in the Framework and the Planning Practice Guidance. In addition to the standard time limit, condition 2 is necessary to provide certainty. Condition 3 is to ensure that the appropriate materials are used in the interests of the character and appearance. I have made minor amendments in the interests of precision, clarity and to ensure that the conditions are enforceable.

Conclusion

20. For the reasons set out above Appeal A and Appeal B are allowed, subject to conditions.

S Lo

INSPECTOR