



Appeal Decision

Site visit made on 28 April 2025

by **S Burch BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 June 2025.

Appeal Ref: APP/H5390/W/24/3357998

4 Arundel Mansions, Kelvedon Road, Hammersmith and Fulham, London SW6 5BS

- 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 Max Skipworth- Button of Drawview Limited against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref is 2024/02054/FUL.
 - The development proposed is the erection of a 1700mm high obscured glazed screen around part of the flat roof of the existing two storey back addition at first floor level, in connection with its use as a roof terrace; installation of 2no. doors to replace 2no. existing windows to the rear elevation to provide access to the proposed roof terrace.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the proposed development from the appeal form, which is clearer than that used in the application form and matches that referred to in the appellant's Statement of Case and the Council's decision notice.

Main Issue

3. The main issue is the effect on the living conditions of neighbouring occupants in terms of noise and disturbance.

Reasons

4. The appeal site is a first floor flat located on Kelvedon Road in London. The flat fronts onto Fulham Road and the rear of the flat faces the retained space between the buildings along Fulham Road and Kelvedon Road. The Arundel Mansions flat block mainly comprises of residential units. There are a number of balconies on the front elevation of the flat block.
5. The proposal would result in the creation of a roof terrace to the rear of the flat. The roof terrace would be located close to a number of other flats, including flat 1 and flat 5a. Given the close proximity of the roof terrace to other flats, it would likely result in increased noise and disturbance to the occupiers of neighbouring flats. This would be exacerbated by the roof terraces elevated positioning in between surrounding walls.
6. The terrace would be of a size where several people could comfortably sit and congregate for lengthy periods of time, particularly during periods of clement

weather. Indeed, the appellant outlines how the space could accommodate seating and dining furniture. The likely associated noise and disturbance from this would be readily apparent from neighbouring flats, particularly at times when they may have their windows open for ventilation or other reasons.

7. The potential noise and disturbance from the terrace has been compared to that of an open rear window. However, given the size of the terrace and the number of people it could potentially accommodate, as well as its proximity to neighbouring flats, the noise and disturbance is likely to be much greater than that from an open rear window.
8. The appellant outlines how, similarly to a courtyard or garden area, the terrace would likely be mainly used during hours of daylight and during favourable weather conditions. However, during the summer months, daylight hours extend late into the evening when neighbouring occupiers can reasonably expect some peace and quiet. In any instance, given the proximity to neighbours, there is potential for unacceptable levels of noise and disturbance at any time of the day throughout the year.
9. Whilst I accept that some noise can be expected living in dense, urban areas including flat accommodation, for the reasons outlined above, the likely noise and disturbance from the proposed terrace would be above and beyond what occupiers can reasonably expect living in such areas. Furthermore, I am unconvinced that obscure glazing and planters around the perimeter of the terrace, or any other measures, would satisfactorily mitigate the potential noise and disturbance.
10. For the above reasons and on the evidence before me, the development would result in unacceptable harm to the living conditions of the occupiers of nearby properties, with regards to noise and disturbance. As such, the development fails to accord with Policies DC1, DC4 and HO11 of the Hammersmith & Fulham Local Plan (2018) (LP). Collectively, amongst other matters, these policies seek to ensure high quality design that protects neighbouring amenity including minimising noise and disturbance. It would also be contrary to Key Principle HS8 of the Hammersmith & Fulham Planning Guidance- Supplementary Planning Document (SPD) (2018) in this regard.

Other Matters

11. The appeal site is located close to Fulham Fire Station, which is a Grade II listed building. It is also located close to Fulham Library, which is also listed. The Council has advised that the proposed development would not affect the setting of any listed buildings and there is no dispute between the main parties on this matter. Given the intervening structures and separation distances between the proposed development and both the fire station and the library, I am also satisfied that the settings of the listed buildings would not be affected.
12. An appeal is referenced in support of the scheme (Ref: APP/H5390/A/01/1061945) where planning permission was granted for a roof terrace at another site a significant distance away. Aside from the appeal decision, I have been provided with very limited information regarding that scheme. I am therefore unable to conclude whether the circumstances, such as proximity to neighbouring properties or positioning between surrounding walls, are directly comparable. In any instance, that other scheme was considered against a different development plan and all

planning decisions are based on the individual merits of each proposal. The other appeal decision I have been referred to is therefore of limited weight in favour of the proposal.

13. Although future occupants of nearby flats within the same block as the appeal site would be aware of the terrace and the potential for noise and disturbance when taking on tenancies, this would not make the effect on their living conditions acceptable. They may not have any need to open windows facing or above the proposed terrace, but I am not satisfied that keeping those windows closed would sufficiently protect their living conditions from unacceptable levels of noise and disturbance.
14. The appellant is the freehold owner of the block which includes the appeal site and several neighbouring flats. They would be in a position to control the tenancies of future occupiers of the appeal site and could include clauses within tenancy agreements which control the hours of use of the proposed terrace and the activities carried out on the terrace. However, planning permission runs with a building, not ownership, which may change over the years and therefore a single company may not always manage any lettings. Furthermore, this would not be an effective means to prevent unacceptable levels of noise and disturbance being caused, even if disruptive tenants could be evicted. As such, I am not satisfied that this would satisfactorily mitigate the harm identified for the lifetime of the proposed development, and I do not consider any planning conditions could mitigate the harm either.
15. I acknowledge that the proposed terrace would provide some outdoor amenity space, additional sunlight, daylight and ventilation to occupiers of the flat. It would also provide several planters and some vegetation. It would make use of and 'tidy up' an existing space which is currently not used. These benefits however would not outweigh the harm that I have identified.
16. The appellant outlines how the flat is currently vacant and was in a poor state of repair when purchased. However, no marketing or other information has been forwarded to explain why the property is vacant. In any instance, these factors do not justify the harm identified.
17. The proposed terrace would not harm the character and appearance of the host building or wider area. It would also ensure neighbouring amenity with regards to privacy, provision of sunlight and daylight and may comply with building regulations. It would not harm local infrastructure, and the site is not situated within a conservation area, nor is it a listed building. However, these are neutral factors and do not weigh in favour of, nor against, the appeal.

Conclusion

18. For the reasons given above, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations that indicate that the development should be determined otherwise than in accordance with it. Therefore, the appeal is dismissed.

S Burch

INSPECTOR