



Appeal Decision

Site visit made on 19 February 2008

by **C J HOILE** MA(Oxon) MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
4 March 2008

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Appeal Ref: APP/X5210/A/07/2058736

2 Denning Road, London NW3 1SU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr E Redstone against the decision of the Council of the London Borough of Camden.
- The application Ref: 2007/0626/P, dated 6 February 2007, was refused by notice dated 23 April 2007.
- The development proposed is described in the decision notice as "installation of metal railings in connection with enlargement of an existing roof terrace over a flat section of the main roof of the single-family dwellinghouse (Class C3)"

Decision

1. I allow the appeal, and grant planning permission for the retention of metal railings in connection with the enlargement of an existing roof terrace over a flat section of the main roof of the single-family dwellinghouse (Class C3) at 2 Denning Road, London NW3 1SU, in accordance with the terms of the application, Ref: 2007/0626/P, dated 6 February 2007, and the plans submitted with it, subject to the following condition:
 - 1) Unless within three months of the date of this decision a scheme to prevent overlooking of the rear bedroom 2nd floor window of No. 38 Willoughby Road by persons seated anywhere on the extended roof terrace area is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 12 months of the local planning authority's approval, the use of the extended part of the roof terrace area shall cease until such time as a scheme is approved and implemented; and if no scheme in accordance with this condition above is approved within 15 months of the date of this letter, the metal railings installed along the roof edge of the extended roof terrace area shall be removed until such time as a scheme approved by the local planning authority is implemented.

Main Issue

2. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the Hampstead Village Conservation Area, within which the appeal site lies. From what I have seen and read, I consider that the main issue in this appeal is whether there need be serious over-looking of the windows of neighbouring habitable rooms, if the existing roof terrace is enlarged to the degree proposed.

Reasons

3. I have read the policies mentioned in the Council's decisions, from the adopted 2006 Replacement Unitary Development Plan, and find the intentions of all of them relevant and worthy of support. I have also read the Camden Planning Guidance about overlooking and privacy, and about roofs and terraces.
4. The Council does not make any objection in terms of the design of the railings or any adverse consequences their installation brings for the Conservation Area.
5. Before the development, there was an existing terrace area on the rear flat roof (3.5m x2m), accessed from a dormer within the roof-slope. Following refusal of the above application, the appellant decked the floor of the extended terrace area (3.5m deep x5.5 m long), and enclosed it with railings where none had existed before. The extended terrace covers the whole flat roof area of this large 3-storey building. Of course, as the appellant's agent points out, the larger roof area could anyway be used without planning permission, if the occupants chose to run the risk of use without the erection of roof-edge railings.
6. Along the edge of the terrace I saw a number of plant boxes recently attached to the newly installed railings which contain evergreen planting; these, by creating screening around and above these railings, seek to prevent users of the extended roof area easily overlooking the rear bedroom 2nd floor window of No. 38. There is also a long fountain/pond feature installed on top of the decking next to the railings – an additional curb against users of the roof terrace getting too close to the railing edge.
7. Policy SD6, mentioned in the decision notice, states that the Council will not grant planning permission for development considered to harm the amenities of occupiers and neighbours by, inter alia, overlooking. Though, as I saw, there is already a high degree of mutual overlooking between the appeal site and lower roof terraces at 38 Willoughby Road and 4 Denning Road, the Council regards the really harmful effect as being into the rear bedroom 2nd floor window of No. 38, which faces on to the rear of a roof terrace.
8. The Council considers the landscape screening inappropriate and forming "an unorthodox and prominent feature at high level", incongruous and harming local views within the Conservation Area. Having visited the site, I do not agree that this planting, crude though it is, actually has any very adverse effect on this part of the Conservation Area. However, there can obviously be no guarantee that the plants used, or the flimsy boxes they occupy have any permanence. The same applies to the movable fountain/pond on the roof decking.
9. I find that neither the use of the extended roof terrace area, nor the newly installed railings, entails adverse visual effects on the locality. I do agree with the Council that the development has one seriously adverse effect, because it affords easy views into the rear bedroom 2nd floor window of No. 38. However, I consider that this particular matter could be effectively solved. Most people would go on to a roof top like this to sit or lie on the roof, rather than to stand for long periods. The installation of new railings, either with a pattern that greatly reduced inter-visibility, or incorporating or supporting obscure glass

panels, could effectively solve this problem. There might be another more effective permanent solution that I have not identified, but which the Council and the appellant or his agent could devise, that had even less visual impact at the roof edge. I am therefore imposing a condition to make such a solution come about, to be installed within a reasonable period of time from this decision date.

Conclusion

10. For the reasons given above, I conclude that the appeal should be allowed.

C J HOILE

INSPECTOR