
Appeal Decision

Site visit made on 12 August 2016

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 30 September 2016

Appeal Ref: APP/X5990/W/16/3150991

35 Buckingham Gate, London SW1E 6PA

- 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 Richard Fry against the decision of City of Westminster Council.
 - The application Ref 15/08515/FULL, dated 11 September 2015, was refused by notice dated 24 November 2015.
 - The development proposed is described as 'alterations and extensions on roof to convert flat 41 at 35 Buckingham Gate to maisonette'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the conservation area, and the effect of the proposal on the living conditions of neighbouring residents, with particular regard to privacy, and noise and disturbance.

Reasons

Character and appearance

3. The appeal site is located within the Birdcage Walk Conservation Area (CA). The CA is relatively small, but contains a variety of contrasting building styles and streetscapes. Buckingham Gate is located to the west of the CA, and is characterised by a mixture of Victorian and 20th century buildings. The property at 35 Buckingham Gate dates from the 1950s. The development would create an extension on the roof of the appeal property to provide additional accommodation for Flat 41.
 4. No 35 comprises two distinct elements, a seven storey section which fronts Buckingham Gate, and a slightly lower six storey wing to the rear, whose main elevation faces Wilfred Street. In design terms, the building is characterised by a spare aesthetic, with regular fenestration and a marked lack of decoration. The façades are articulated by blocks of balconies, and the contrasting facing material at ground level adds visual interest. I accept that the Council's document entitled 'Conservation Area Audit Birdcage Walk 24' (CAA, June 2008) does not include No 35 as an unlisted building of merit. The building does not intrude on any protected views or sightlines identified in the CAA.
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Nonetheless, I consider it to be a characteristic example of its period, and that it makes a positive contribution to the character and appearance of the CA.

5. The CAA, in paragraph 4.111, identifies No 35 as one of a number of buildings where it is considered that an upward roof extension is unlikely to be acceptable. Although the key accompanying Figure 65 is somewhat ambiguous, the text appears to be clear in its intent. Policy DES 6 of the City of Westminster Unitary Development Plan (UDP, January 2007) further states that permission may be refused for roof level alterations and extensions where buildings are completed compositions. I accept that No 35 has previously been altered by high level additions. However, with the exception of the unsympathetic conservatory element, the previous developments respond fairly well to the characteristics of the original building. The building therefore largely retains the coherency of its original composition.
6. The existing roof at the appeal site is subordinate to the higher front section and has a discrete appearance within the streetscene. The step down between the sections is important to the visual hierarchy of the building. Whilst some elements of the scheme would be less readily visible from the street, the proposal would unbalance the composition, significantly altering the appearance of the appeal site and giving a disproportionate bulk to the upper level.
7. The most visible element of the development would be the cylindrical glazed room on the western corner of the building. This has been designed to give an architectural resolution to the block, and to emphasize the run of balconies below. I agree that a corner feature is often used to enhance the visual impact of a building. However, traditionally, these would be added to the principle elevation of a building to emphasise its status in the street scene. They would also more commonly be found on junctions, where their appearance would be more imposing. In this case, however, the feature would instead be at the back of the building, well away from the main façade. In my view, given the completeness of the composition at No 35 and its deliberate avoidance of embellishment, this addition would appear somewhat incongruous and acontextual, and would not enhance the appearance of the appeal site.
8. An intentional contrast to the aesthetic of an existing building can often be a successful design approach. However, in this case, the proposal would disrupt the coherency of the original design. The introduction of a further architectural style would add to the visual congestion at roof level, further departing from the sober, understated appearance of the building. I agree that the roofs in the surrounding area display a wide variety of treatments, some more flamboyant than others. I have been directed, in particular, to examples at 30 Buckingham Gate and 84/85 Buckingham Gate. However, I have assessed the appeal proposal on its own merits, and I do not consider that the presence of these other roof structures would justify the harm to the CA that I have identified.
9. My attention has been drawn to the planning permission ref 14/02489/FUL in respect of a nearby property on Wilfred Street, which would exceed the height of that building. The appellant contends this development would negate the 'stepping down' effect on the street. Whilst that may be the case, the stepping down that I observed at No 35 is integral to its character, and changes

elsewhere on Wilfred Street would not be sufficient to outweigh the harmful impact of the appeal scheme.

10. I therefore conclude that the proposal would unacceptably harm the appearance of the appeal site and would thus fail to preserve the character or appearance of the wider conservation area, contrary to Policy S25 of Westminster's City Plan: Strategic Policies (CP, November 2013), which seeks to conserve heritage assets, and CP Policy S28, insofar as it seeks to ensure that development will respect Westminster's heritage and local distinctiveness. The proposal would further conflict with Policy DES 1 of the City of Westminster Unitary Development Plan (UDP, January 2007), which, amongst other things, seeks the highest standards of urban design and architectural quality, and UDP Policy DES 5, insofar as it requires extensions to reflect the style of the existing building.
11. The appellant has advanced a number of benefits that would arise from the scheme, including the provision of living accommodation, the improvement of the internal space of the fifth floor flat, the enhancement of its thermal performance, and the improvement of the means of escape from it. The original water tanks would also be replaced. However, these are private benefits which would not justify the harm I have identified. The introduction of the light reflective cladding to the fifth floor and the relocation of the kitchen would help to reduce overlooking of neighbouring properties, and improve privacy. However, these benefits could be achieved independently of the appeal scheme, and so I can afford them limited weight.
12. The National Planning Policy Framework advises that, when considering the impact of a proposed development on the significance of a heritage asset, great weight should be given to the asset's conservation. I have found that the development would fail to preserve the character or appearance of the CA, but the resultant harm would be less than substantial, as set out in the NPPF. Nonetheless, I have been unable to identify any wider public benefits from the development which would outweigh that harm.

Living conditions

13. The Council is concerned about the effect of the proposal on the living conditions of residents of the adjacent property at 36 Buckingham Gate, primarily resulting from the development of the proposed roof terrace. The nearest windows at No 36 would be at respective distances of approximately 5.5m and 10.5m from the new terrace.
14. I understand that the roof of No 35 is presently available for use by all the tenants of the building, and so noise and overlooking may occur under the existing conditions. Nonetheless, the new roof terrace would provide a formalised outdoor living area, focusing the presence of occupants, and therefore the potential for intrusive overlooking or disturbance, in one particular location, rather than dispersed across the whole area of the roof.
15. In response to these concerns, the appellant has included within their appeal statement two possible amendments to the proposal. Firstly, a raised planter and a 1.7m high obscured glazed screen could be incorporated to the south-east side of the terrace to prevent overlooking and help to mitigate any noise or disturbance. Secondly, the terrace could be reduced in width by 1.5m to move the living area further away from the nearest neighbours. In my view,

these amendments would be sufficient to overcome the concerns regarding unacceptable harm to the living conditions of neighbours at No 36.

16. Although these details have not been formally submitted, I see no reason why an acceptable solution could not be agreed which would address the stated concerns. I therefore find that the proposal would comply with CP Policy S29, insofar as it seeks to avoid an unacceptable material loss of residential amenity, and UDP Policy ENV 13, insofar as it seeks to protect amenities.
17. I have taken account of representations from neighbours objecting to the scheme on the grounds of increased enclosure and loss of daylight. The properties at Nos 35 and 36 are situated close together, and their respective heights mean that the angle of sight towards the sky from the lower floors is quite steep. The main built form of the proposal would be sufficiently set back from the edge of the south-east façade of No 35 to ensure that it would impinge little, if at all, on sightlines to the sky from the lower levels of No 36. As a result, there would be no significant increase in the sense of enclosure to these properties.
18. In terms of daylight, the appellant has submitted a daylight impact assessment which shows that any impact on daylight to the neighbouring properties would be within acceptable parameters. The Council does not dispute this finding, and in the absence of any substantive evidence to the contrary, I have no reason to set aside the technical evidence provided by the appellant on this matter.

Conclusion

19. Despite my finding that the development could be amended so as not to harm the living conditions of neighbours, it would unacceptably harm the character and appearance of the conservation area. Taking all other matters into consideration, I therefore conclude that the appeal should be dismissed.

Elaine Gray

INSPECTOR