
Appeal Decision

Site visit made on 23 August 2016

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 05 October 2016

Appeal Ref: APP/X5990/W/16/3143776

Flat E, 107 Shirland Road, Westminster, London W9 2EW

- 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 Henry Jefferson against the decision of City of Westminster Council.
 - The application Ref 15/07948/FULL, dated 26 August 2015, was refused by notice dated 27 November 2015.
 - The development proposed is replacement single dormer to front elevation with two dormers, alterations to one of the existing rear dormers to install access door and balcony.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of the development varies between the application form and the subsequent documents. I have used the description on the appeal form as it describes the proposed development more accurately.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of neighbours, with particular regard to overlooking, and noise and disturbance.

Reasons

4. The appeal site at 107 Shirland Road is located within a predominantly residential area. The Council's concerns relate to the effect of the proposed rear roof terrace on the living conditions of neighbouring occupants.
 5. The development would be located approximately 1m from the party wall with 109 Shirland Road, and approximately 0.35m from the party wall with 105 Shirland Road. The neighbouring rear windows are in close proximity to the appeal site. Although it could not accommodate large groups of people, the new terrace would be big enough to be used comfortably by the occupants of the appeal property. Whilst it is reasonable to expect some level of noise from neighbours in a built up urban environment, the proposal would give rise to a marked intensification of the use of a space that is currently uninhabitable.
 6. I consider that the aural privacy of the neighbours occupying the adjacent flats at Nos 105 and 109 would be harmed, as conversations at normal sound levels
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would easily carry over the short distance involved, and would have an intrusive effect on those occupants. This would particularly be the case during the summer months, when neighbours would be more likely to have their windows open. The resultant increase in noise and disturbance would unacceptably harm the living conditions of the adjacent occupiers.

7. The terrace would also significantly increase the direct overlooking of the garden of No 107, and also the adjacent gardens. This would result in an unacceptable loss of privacy to neighbouring occupants who enjoy access to the gardens.
8. I accept that there is already a rear roof terrace in fairly close proximity to the appeal site. However, I am unaware of the circumstances relating to the presence of this terrace, and therefore cannot be certain that it offers a direct parallel to the case before me. In any event, I have considered the appeal on its own merits.
9. I accept also that the development would not directly face other dwellings, as the building to the rear of the appeal site contains BBC studios. However, this circumstance would not mitigate my concern with regard to the harmful overlooking of the gardens below the appeal site.
10. I therefore conclude that the proposal would unacceptably harm the living conditions of neighbouring occupiers. It would therefore conflict with Policy S29 of Westminster's City Plan: Strategic Policies (November 2013), insofar as it resists proposals that would result in an unacceptable material loss of residential amenity, and Policy ENV 13 of the Unitary Development Plan (January 2007), which seeks to resist the significant increase of overlooking, particularly on gardens.
11. For the reasons above, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Elaine Gray

INSPECTOR