
Appeal Decision

Site visit made on 25 October 2016

by G J Fort BA PGDip LLM MCD MRTPI

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

Decision date: 09 November 2016

Appeal Ref: APP/X5990/W/16/3154341

Flat 1, 190 Randolph Avenue, London W9 1PE

- 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 Ms Valeria Pensebene against the decision of City of Westminster Council.
 - The application Ref 16/03049/FULL, dated 5 April 2016, was refused by notice dated 15 June 2016.
 - The development proposed is erection of a rear extension and replacement of existing rear side extension. Extension of basement beneath footprint of existing house and rear extension.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council adopted revisions to its *Westminster City Plan: Strategic Policies* ('the City Plan') in July 2016 following the determination of the planning application that led to this appeal. The consolidated version of the City Plan includes Policy CM28.1 in relation to basement development, which is relevant to the subject matter of this appeal. The Council included a copy of Policy CM28.1 with its appeal statement, allowing opportunity for further comment on its effects by the appellant. I am thus satisfied that no prejudice would occur to any party as a result of my consideration of Policy CM28.1 in my determination of the appeal.

Main Issues

3. The main issues in this appeal are firstly, whether or not the proposed development would preserve or enhance the character or appearance of the Maida Vale Conservation Area ; and secondly, its effects on the living conditions of the occupiers of 192 Randolph Avenue in terms of privacy.

Reasons

The Conservation Area

4. The appeal dwelling comprises the lower floors of a property within a long terrace. The front facades of the properties within the terrace have a strong sense of architectural rhythm imparted by the bay windows extending from lower ground floor to first floor level, the lightwells at lower ground floor, and
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the paired doorways at ground floor, and the roofscape's dormers and chimney stacks. This sense of architectural rhythm is reinforced by the regularly-spaced mature street trees along the avenue, which also impart a pleasant verdant character to the streetscene. Whilst incremental alterations have reduced the architectural rhythm of the terrace's rear elevation, most markedly at ground floor level, the bay windows along this elevation contribute considerably to the balance and character of this aspect, as does the pattern of openings at upper floor levels. The appeal dwelling retains its rear bay window, however, underneath this there is a canted extension at lower ground level the extensive glazing of which looks out onto the deep, but quite narrow, back garden. The appeal dwelling's detailing to the front and rear contributes considerably to the rhythm and townscape qualities of the terrace, and thus the character, appearance and significance of the Maida Vale Conservation Area within which it is located.

5. The proposed development would see the installation of a basement below the appeal dwelling which would extend across its full width, and out underneath the rear garden to a depth of around 8m. A lightwell, with a walkover grille would be developed immediately to the rear of the dwelling's existing rearmost building line, to a depth of around two metres. At the front whilst the basement itself would be within the footprint of the existing building a new lightwell would be excavated below the level of the existing one, again with walkover grille to upper floors. At the rear, the existing ground and lower ground floor outrigger would be demolished as would the existing bay window to the rear. This would facilitate the development of a full width extension at lower ground floor level, featuring powder coated aluminium bi-fold doors. A large powder coated aluminium floor to ceiling window would be installed at ground floor level in a similar position to that of the existing bay window. A flat roofed extension roughly half the width of the appeal building would replace the existing outrigger, at this level to the rear, but without a bay window. This element would feature a large powder coated aluminium picture window.
6. Whilst I saw other incremental changes to the rears of dwellings immediately surrounding the appeal dwelling, the bay windows are a feature that created a strong sense of rhythm and integrity across these elevations. The proposed development would result in extensive changes that would alter the character of this elevation to a considerable degree. In this aspect the proposed removal of the bay window would undermine the rhythm of this rear elevation. Moreover, the proposed fenestration, particularly at the ground floor level would be of excessive scale, and be of materials and of a finish wholly at odds with the fenestration pattern employed in the upper floors of the host building and that of its adjoining neighbours. For these reasons, the appeal proposal would read as a discordant and incongruous alteration that would undermine the architectural composition of the host property, and the wider rhythm of the terrace. Proposals for the use of matching facing materials would do little to address the appeal scheme's harmful effects in this regard.
7. The rear aspect of the appeal dwelling is of limited visibility in public views, except for glimpses between gaps on Lanark Road. However, due to the density of residential occupation along the avenue, and to the rear on Lanark Road, it would nevertheless be widely visible in private views. Whilst I note that the current rear elevation of the property is complex, and that this scheme would simplify this arrangement to some degree, I consider that it would do this to the detriment of the character and appearance of the host building and

- surrounding area. I note that the canted bay window may not maximise light penetration into the property, or to the levels below; however, these matters would not weigh heavily in favour of the bay window's removal.
8. To the front, whilst I note the Council's concerns with the deployment of the walkover grille at the lightwell level, I saw onsite that this area, due to its depth and the presence of intervening structures is not prominent or widely visible in public views, although I am aware that it would be visible from some private views. However, I am also mindful of the Council's appeal statement, which suggests that details for this could be handled by way of a condition, and thus I consider that this matter would not, in itself constitute a reason to dismiss the appeal.
 9. I am aware that the property is not listed and that it is not specifically mentioned in the *Maida Vale Conservation Area: General Information Leaflet* (May 2004). Nevertheless, I have found that the proposed development would cause harm to the character and appearance of the host dwelling and the wider terrace. Moreover, through undermining the rhythm and architectural balance of these rear elevations, the proposed development would also cause harm to the townscape significance of the conservation area. However, due to the reasonably localised nature of the proposed development's effects, I consider that it would lead to less than substantial harm to the significance of the conservation area.
 10. As the proposed development would have an effect on the conservation area, a designated heritage asset, I am conscious of the National Planning Policy Framework ('the Framework') which states, at paragraph 132, that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation". Furthermore, at paragraph 134, the Framework states that "Where a development proposal will lead to less than substantial harm to the significance of the designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use." Thus, whilst the harm in this case would be less than substantial, it still attracts considerable weight in the overall planning balance.
 11. In the current case I have been supplied with no substantive evidence to suggest that the proposed development would secure the optimum viable use of the appeal building, and indeed I saw onsite that it is occupied and in a generally good state of repair. In terms of public benefits, I note that the proposed development would supply additional space for the appellant's growing family. However, this would be in the main a private benefit, and the modest number of people that would benefit from the proposed development mean that I attach this consideration only limited weight in the overall planning balance.
 12. The proposed development would enable the penetration of more natural light into the spaces at lower ground floor and ground floor level, which could lead to a reduction in energy use in these areas. However, there would be extensive areas of the basement, which would not benefit to a substantial degree from natural light and thus I am not persuaded that any environmental gains in this regard would be significant. Consequently, this is a matter which attracts only limited weight in the overall planning balance.

13. Sustainable materials could be employed in the appeal scheme's construction, however, this would be the case for most new development and does not weigh in the appeal scheme's favour to any great degree.
14. The proposed development's removal of angled spaces and replacement with more regularly laid out rooms could enable a more efficient use of floor space. Again, due to the scale of the development and gains achieved in this regard, I consider that this would not benefit the public to such a degree as to carry any great degree of weight.
15. Consequently, none of the benefits advanced for the scheme, either taken together or individually, outweigh the considerable weight that I attach to the less than substantial harm to the significance of the conservation area. For this reason the appeal scheme would conflict with the relevant paragraphs of the Framework. Moreover, the proposed development would fail to preserve the character or appearance of the Maida Vale Conservation Area and would fail to meet the requirements of section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. For these reasons also the proposed development would conflict with Policies S25 and S28 of the City Plan; Policies DES1, DES5, DES 9 and paragraphs 10.108-10.128 of the *City of Westminster Unitary Development Plan* (adopted January 2007) ('the UDP'). Taken together, and amongst other things, these policies seek to ensure that proposed extensions avoid harm to the character and appearance of their host dwellings, and preserve or enhance the character or appearance of conservation areas.
16. As I have found that the visual effects of the proposed lightwell to the front of the appeal dwelling could be handled by means of the condition, I can find no conflict with Policy CM28.1 insofar as its aims to protect heritage assets and the character and appearance of the existing building are concerned. However, compliance with this policy in these regards does not outweigh the proposed development's conflicts with the other policies of the development plan noted above.

Living Conditions

17. The plan for the rear elevation of the property depicts railings around the flat roof adjacent to the proposed floor to ceiling window of the ground floor. If this area of the proposed extension's roof were used as a terrace I concur with the Council that it could result in harmful effects to the privacy of the occupiers of No 192, due to its adjacency to that properties canted bay window. However, I am conscious of the comments of both the appellant and Council, which suggest that a suitably worded condition could restrict the use of this area as a roof terrace, and as a consequence, harmful effects to the privacy of the occupiers of No 192 would be avoided.
18. For this reason, I consider that the proposed development would not run contrary to Policy S29 of the City Plan or ENV13 of the UDP. Taken together, and amongst other matters, these policies seek to ensure that new development does not result in a significant increase in overlooking, and consequent material loss of residential amenity.

Other Matter

19. The appellant commented that they would be willing to amend the scheme to retain the rear bay window of the property. However, I have not been supplied with any substantive details that show how this could be achieved. Moreover, this would be a material change to the scheme which would be outside the scope of this appeal, which has focussed on the details as submitted with the planning application. Accordingly, any amendments of this nature would need to be considered by the Council as part of a fresh planning application in the first instance.

Conclusion

20. I have detected that with suitably worded conditions that harm to the living conditions of the occupiers of No 192 could be avoided, and that the grille to the front of the property could be rendered sensitive to the character and appearance of the area, and thus the proposal would not conflict with Policy CM28.1 in this regard. However, the proposal would cause harm to the character and appearance of the conservation area, and due to this would conflict with the relevant policies of the development plan. I attach great weight to this harm and the conflict with the development plan in this regard, which outweighs the lack of harm I have found in relation to the other aspects of the scheme. Moreover, no material considerations have been advanced that outweigh this conflict with the development plan. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G J Fort

INSPECTOR