
Appeal Decision

Site visit made on 10 October 2016

by Susan Ashworth BA (Hons) BPL MRTPI

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

Decision date: 22 December 2016

Appeal Ref: APP/X5990/W/16/3152943
120 Belgrave Road, London SW1V 2BL

- 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 Founded Developments Ltd against the decision of City of Westminster Council.
 - The application Ref 15/05760/FULL, dated 25 June 2015, was refused by notice dated 19 April 2016
 - The development proposed is described as first floor flat roof terrace for an existing flat roof.
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Decision

1. The appeal is dismissed.

Preliminary Matters and Main Issue

2. I am aware that since the decision was issued a consolidated version of the Westminster's City Plan: Strategic Policies (the City Plan) was adopted on 13 June 2016. The numbering and content of the policies referred to in the decision notice however remain unchanged. Nevertheless for clarity, I have referred to the up-to-date plan in my decision.
3. The appeal site forms part of a Grade II listed terrace (nos 78-130) dating from the mid C19. The property is currently in use as a mix of bedsits and self-contained flats. At the rear, a projecting element creates a flat roof at first floor level. It is proposed to use that flat roof as a roof terrace. Listed building consent for the installation of railings around the flat roof and the formation of a new door opening in the rear elevation was granted in April 2016¹.
4. The Council is satisfied that the granting of planning permission for the development would not affect the special architectural or historic interest of the listed building. Bearing in mind the requirements of s66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have no reason to disagree. Furthermore I am satisfied that the development would preserve the character of the Pimlico Conservation Area, within which the site is situated.
5. The main issue in this case is therefore the effect of the proposal on the privacy of neighbouring occupiers.

¹ Application Ref: 15/04282/LBC

Reasons

6. The character of the area is defined by densely built terraced development with limited space between blocks. At my site visit I noted the proximity of the appeal building to neighbouring dwellings fronting Moreton Place at the rear, and Nos 118 and 122 Belgrave Road, on either side of the site. All of these properties have windows directly facing the flat roof, including at 122, windows serving a conservatory style room used as a hotel office. Side facing windows at No 118 are currently obscured.
7. Policy ENV 13 of the City of Westminster Unitary Development Plan 2007 (UDP) relates to the protection of amenity, daylight and sunlight and environmental quality and requires that development should not result in a significant increase in the sense of enclosure or overlooking, particularly on gardens or on adjoining buildings whether in residential or public use. Policy S29 of the City Plan seeks to resist proposals that result in an unacceptable material loss of residential amenity.
8. As a result of the close proximity between buildings there is already a degree of overlooking between the properties on Moreton Place and Belgrave Road. However, the use of the flat roof as a balcony would allow direct overlooking of the whole of the office from the side, at very close proximity, resulting in a significant loss of privacy. In addition there would be increased opportunities for the direct overlooking of the windows and patio areas of neighbouring properties on Moreton Place.
9. I understand that the roof terrace would be available for use by the residents of the first floor flat only, rather than the occupants of the whole building. However, the terrace would be a sizeable space that could accommodate a considerable gathering. Consequently, its use would have a significant and harmful impact on the surrounding occupiers in terms of privacy. Whilst I accept that the railings would obscure some views, given their proposed height they would not prevent overlooking by people standing. I accept that overlooking of the patios gardens is only possible from certain sections of the roof. However, it seems to me that the provision of railings would be a safety feature that would provide an opportunity for overlooking close to the edge of the roof.
10. I acknowledge that No 122 is in use as a hotel rather than in strictly residential use. However, Policy ENV13 relates to buildings in both residential and public use and it is clear from the justification for the policy that the Council is seeking to protect amenities for residents and workers.
11. There are clearly a number of balconies at other properties in the vicinity. However, I understand that not all of these structures have the benefit of planning permission. Moreover, none of the structures that I saw were the same as the appeal proposal in terms of their size or position directly alongside a glazed structure. The existing balconies are not therefore directly comparable to the appeal proposal which, in any event, I must deal with on its own merits.
12. I acknowledge that outdoor space in the area, particularly for residents of flats, is at a premium and I accept that the proposal would enhance the living conditions of the existing occupiers. However, this benefit does not outweigh the considerable harm the proposal would cause to the living and working conditions of neighbouring occupiers.

13. For these reasons, the proposal is contrary to Policies ENV 13 of the UDP and S29 of the City Plan which seek in various ways to protect amenity.

14. Therefore, taking into account all other matters raised, the appeal is dismissed.

S Ashworth

INSPECTOR