

Appeal Decision

Site visit made on 28 November 2016

by Philip Lewis BA (Hons) MA MRTPI

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

Decision date: 04 January 2017

Appeal Ref: APP/X5990/W/16/3156813
18-24 Westbourne Grove, London W2 5RH

- 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 Lancelot Investments Limited against the decision of City of Westminster Council.
 - The application Ref 16/02107/FULL, dated 15 April 2016, was refused by notice dated 21 June 2016.
 - The development proposed is described as erection of a roof extension at 5th floor level to be used as ancillary residential accommodation for the 5th floor flat, as approved by 13/01498/FULL, including the creation of a landscaped roof terrace and external works associated with external air-conditioning units.
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Decision

1. The appeal is allowed and planning permission is granted for erection of single storey roof extension, creation of a landscaped roof terrace and external works associated with external air-conditioning units at 18-24 Westbourne Grove, London W2 5RH in accordance with the terms of the application, Ref 16/02107/FULL, dated 15 April 2016, subject to the attached schedule of conditions.

Procedural matter

2. I have used the description of the proposal as set out in the Council's decision notice. It adequately and simply describes the proposed development instead of the longer and detailed description given on the application form.

Main Issue

3. The main issue for the appeal is whether the proposed development would preserve or enhance the character or appearance of the Westbourne Conservation Area.

Reasons

4. The appeal property is located within the Westbourne Conservation Area which has a mixed character but with a predominance of residential use and has some variety in the types and design of buildings. In deciding this appeal I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area as required under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
 5. I understand that the appeal property was constructed in the 1980s as a building in mixed use, with a commercial part fronting Westbourne Grove with
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- a residential element on Westbourne Grove Terrace. The appeal proposal would be sited on the top of an existing mansard roof. I saw at my site visit that the roof is broken by the brick built stair and lift structure to which the proposed extension in glass and brick would be added. I also observed various items of rooftop plant and paraphernalia.
6. The Council's Westbourne Conservation Area Audit (CAA) 2002 identifies the appeal property as being a neutral or negative area within the Conservation Area. The CAA states that such areas have for the most part been redeveloped after WWII bomb damage and in scale, style and detail do not respect the prevailing building typologies, nor are significant works of architecture in their own right. Whilst the CAA identifies the appeal property as a building where roof extensions would be unacceptable, I saw at my site visit that development was taking place at the appeal property and note that the permitted works include the remodelling of the mansard roof on the southern portion of the building as a sheer brick storey with a new mansard roof developed above.
 7. The appeal property steps down in height from Westbourne Grove over Tennyson House to the lower buildings on Westbourne Grove Terrace. Due to the position of the proposed extension and roof terrace set back in from the edges of the mansard roof, visibility of the proposed development within the street scene would be very limited. Consequently, I do not consider that the appeal scheme would harm the stepped relationship between Tennyson House and the lower buildings on Westbourne Grove Terrace when viewed from the street.
 8. I agree with the Council in respect of taking into account private views and have done so in reaching my decision and I note the appeal decisions referred to me in this regard¹. At my site visit I saw that the appeal site is particularly visible from a number of nearby properties. However, due to the step in the height of the façade of the building from Westbourne Grove down to Westbourne Grove Terrace, the stepping in of the proposed development from the edge of the Mansard roof and the gap between the proposed extension and Westbourne Grove Terrace, I do not consider that the existing relationship between the buildings in terms of their relative heights would be harmed.
 9. At my site visit, I found the rooftop of the appeal building to be utilitarian in appearance and not reflective of the wider Conservation Area and due to the existing brick structure, plant and railings, consider that it has a negative effect on the appearance of the Conservation Area. I note from the submitted plans that the ongoing development works at the site will give rise to some improvement in the appearance of the rooftop. However, I consider that the rooftop at best would be neutral in terms of the appearance of the Conservation Area.
 10. The appeal proposal would give rise to a development of a contemporary appearance, visible from the upper floors of neighbouring properties, with some materials such as the brickwork matching the already permitted scheme and would also continue the line of the remodelled stair and lift structure. I consider that the proposed development would respect the overall architectural integrity and character of the building. Additionally, it would be situated on a building which although is in the process of being redeveloped, does not reflect the scale, style and detail or the prevailing building typologies of the

¹ APP/X5990/W/15/3139029 & APP/X5990/W/15/3139034

Conservation Area. In this context, I do not consider that the appeal scheme would appear as an incongruous addition to the property, although it may not be reflective of the appearance of the wider Conservation Area.

11. To conclude on this matter, I consider therefore that the appeal scheme would have a neutral effect on the character and appearance of the Conservation Area and thereby preserve it. The appeal scheme does not conflict with Westminster's City Plan (City Plan) 2016 Policy S25 which is concerned with the historic environment, including that Westminster's wider historic environment will be conserved and City Plan Policy S28 which is concerned with design. It also does not conflict with the City of Westminster Unitary Development Plan 2007 saved Policies DES 1 which is concerned with principles of urban design and conservation, DES 6 roof level alterations and extensions, including that the development is in sympathy with the existing buildings architectural character and DES 9 which is concerned with conservation areas. I also consider that the appeal proposal would not conflict with the design and historic policies of the National Planning Policy Framework referred to me by the Council.

Other matters

12. I note from the Council officers report that the neighbouring 26 Westbourne Grove is a Grade II listed building. Given the position of the proposed development in respect of No 26 and its design, I consider that it would have a neutral effect on the setting of the listed building and would therefore not give rise to harm.
13. I viewed the appeal property from a flat situated within 47-49 Westbourne Grove. Whilst I note the comments of the interested person in respect of the ongoing development at the appeal site, I do not find that the appeal scheme would give rise to harm to the living conditions of the occupier of the flat due to it being situated behind the taller part of the building fronting Westbourne Grove.

Conditions

14. I have reviewed the conditions suggested by the Council against the Framework and PPG and have revised some of those suggested in the interests of clarity and to accord with national policy and guidance. I have imposed conditions regarding timescale and specifying the approved plans to provide certainty. I have also attached conditions regarding construction hours and noise and vibration in respect of the air conditioning units to safeguard the living conditions of nearby residents. I have attached a condition regarding the proposed brickwork for the extension in order to safeguard the character and appearance of the Conservation Area.

Conclusion

15. For the reasons given above and having considered all matters raised, I consider that the appeal should be allowed.

Philip Lewis

INSPECTOR

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 14023_PL_3_001 A; 14023_PL_3_010; 14023_PL_3_015; 14023_PL_3_040; 14023_PL_3_070; 14023_PL_3_110; 14023_PL_3_115 A; 14023_PL_3_116 A; 14023_PL_3_140 B; 14023_PL_3_143; 14023_PL_3_170 A; 14023_PL_3_175; 14023_PL_3_215 B; 14023_PL_3_216 B; 14023_PL_3_240 C; 14023_PL_3_243; 14023_PL_3_270 A; 14023_PL_3_271 A; 14023_PL_3_275; 14023_PL_3_280 and 14023_PL_3_300.
- 3) Demolition or construction works shall take place only between 0800 and 1800 on Monday to Friday and between 0800 and 1300 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 4) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including nonemergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the local planning authority. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the local planning authority. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

Following installation of the plant and equipment, an application may be made in writing to the local planning authority for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the local planning authority. The noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;

- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing LA90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the proposed fixed noise level;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

The development must thereafter accord with the approved fixed maximum noise level.

- 5) No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time or 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.
- 6) The facing brickwork of the extension must match that of the street-facing façade of the main building in terms of colour, texture, face bond and pointing.