
Appeal Decision

Site visit made on 13 December 2016

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 6th January 2017

Appeal Ref: APP/X5990/W/16/3157709

Flat C and D, 2 Maida Avenue, London W2 1TF

- 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 Mrs Debra Ziff against the decision of the City of Westminster Council.
 - The application Ref 16/04138/FULL, dated 4 May 2016, was refused by notice dated 3 August 2016.
 - The development proposed was originally described as "Demolition of rear utility room with terrace over, demolition and extension of existing rear lightwell to form sunken garden, erection of new rear bedroom accommodation with terrace over to replace existing utility room, reordering/modifications to rear facade, and replacement of existing single-glazed sash windows with double-glazed equivalents. This application seeks to regularize the works that were begun without consent being granted, including the demolition of the existing rear terrace."
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Notwithstanding the description of development set out in the banner heading above, which is taken from the application form, it is evident from the submitted plans that the appeal proposal also relates to partial excavation of the garden and the formation of a raised link to the garden. The Council's decision notice describes the proposed development as "Demolition of the rear lower ground floor extension and terrace over and erection of a single storey full width rear extension at lower ground floor level with terrace above, including new link to garden, modifications to rear facade, and replacement of existing single-glazed sash windows with double-glazed windows and doors and partial excavation of garden", and I note that the appellant has used this description on the appeal form. This revised description of development more appropriately describes the appeal proposal, and I have therefore considered the appeal on that basis as neither of the main parties would be prejudiced or caused any injustice by me taking this course of action.
 3. The appellant has submitted amended drawings with the appeal which include proposed frosted glass screens and planting adjacent to the boundaries with neighbouring residential properties. In the interests of natural justice and fairness to all parties I have dealt with the appeal on the basis of the scheme and drawings that were considered and determined by the Council and on which interested people's views were sought.
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4. I noted during my site visit that demolition and excavation works have been carried out.

Main Issues

5. The main issues are:

- (a) The effect of the proposed development upon the character and appearance of the appeal property and the surrounding area, and whether the proposal would preserve or enhance the character or appearance of the Maida Vale Conservation Area; and
- (b) The effect of the proposed development upon the living conditions of the occupants of neighbouring residential properties, with particular regard to privacy.

Reasons

Character and appearance

6. The appeal property is a flat which occupies the lower and upper ground floors of a substantial 4 storey red brick and stucco building at the north-eastern end of Maida Avenue. The building has strongly vertical proportions, and the design of both the front and rear elevations clearly reveal the hierarchy of the internal space, with larger more prominent windows and architectural detailing emphasising the principal rooms of the upper ground floor, and more modest fenestration and restrained detailing on the floors above. The lower ground floor is recessive and appears as a semi-basement, being largely concealed below the level of the garden.
7. The appeal site lies within Maida Vale Conservation Area (the Conservation Area). The Conservation Area is characterised by predominantly 19th century residential terraces, villas and mansion blocks. The Grand Union Canal and Regent's Canal are key elements of the Conservation Area's townscape, and are the focal point of adjacent roads. Wide, tree lined streets and the generous garden setting to the rear of residential development gives the Conservation Area a verdant character and appearance.
8. A modest rear lower ground floor extension with roof terrace over has been demolished. It is proposed that a larger lower ground floor rear extension and roof terrace would be erected, with an extended lightwell beyond and a link to the back garden at upper ground floor level.
9. The proposed extension would occupy the full width of the rear elevation, occupying much of the space taken up by the previous lightwell. The roof terrace above would have a glass balustrade across the front, with a generous walkway connecting to the back garden. The considerable width and depth of the proposed extension, combined with the additional significant built form created by the raised link, would result in a large and dominant addition to the appeal property. It would obscure the existing lower ground floor rear elevation and, through the introduction of a glazed rear elevation, significantly alter the established solid to void ratio at lower ground floor level. The creation of a substantial full width terrace and link at upper ground floor level would change the proportions of the rear elevation as a whole, lending the building a squat horizontal appearance. This, together with the proposed introduction of doors in place of the traditional sliding sashes in the centre of the tripartite

- windows at upper ground floor level, would erode the established architectural hierarchy and integrity of the appeal property.
10. The appellant makes the case that there is a similar amount and pattern of glazing at the ground floor level of the Coach House, adjacent to the appeal site. However, the scale, proportions and detailed design of the Coach House differs greatly to the appeal property, and so the schemes are not directly comparable.
 11. The proposed lightwell would be smaller in area than the original, and would effectively replace an area of hard landscaping. However, by significantly increasing the lightwell's projection into the plot, the appeal proposal represents a substantial incursion into the back garden at lower ground floor level, uncharacteristic of the established surrounding pattern of development which features modest lightwells at lower ground floor level and generous private amenity space at the upper level. As such, the proposed development would erode the garden setting of the appeal property.
 12. It has been put to me that the lightwell at the Coach House has a similar arrangement to that proposed. However, the lightwell at the Coach House is significantly narrower than the appeal proposal and, although the steps up to garden level project further into the back garden, the extent of the lightwell itself is fairly modest and proportionate to the host property.
 13. Although not visible from the public realm, the proposed development would nevertheless be highly visible when viewed from the windows and gardens of neighbouring properties. The lack of public views is no basis for allowing the appeal proposal given the harm it would cause to the character and appearance of the appeal property and the surrounding area.
 14. The appellant makes the case that the Council has not removed Permitted Development rights at 2 Maida Avenue. However, since the building is sub-divided into flats, such rights would not exist.
 15. It has been put to me that there are many examples of large lower ground floor extensions and rear lightwells to garden flats and that such development is commonplace, even in Conservation Areas, although no details of such schemes have been provided. Both main parties make reference to appeal cases relating to 34 Grove End Road and 47 Reeves Mews. I do not have full details of these schemes. In any event, I am required to reach conclusions based on the individual circumstances of this appeal.
 16. The appeal proposal would be of sustainable construction, the proposed use of traditional materials such as limestone and painted timber would reflect those used in the existing building and the scheme would not appear to result in a net loss of soft landscaping within the appeal site.
 17. Overall however, for the reasons set out above, I conclude that the proposed development would have a harmful effect upon the character and appearance of the appeal property and the surrounding area, and would fail to preserve or enhance the character or appearance of the Maida Vale Conservation Area. As such, the appeal proposal would not accord with the design and heritage conservation and enhancement aims of Policies S25 and S28 of Westminster's City Plan (the City Plan) and Policies DES 1, DES 5 and DES 9 of the City of

Westminster Unitary Development Plan (UDP) and the City of Westminster Supplementary Planning Document Basement Development in Westminster.

18. For the same reasons, the appeal proposal would fail to accord with the design aims of Section 7 of the National Planning Policy Framework (the Framework), since it would not seek to promote or reinforce local distinctiveness as specifically required by paragraph 60 of the Framework.
19. I conclude that the harm to the Conservation Area which I have identified above would be less than substantial. Paragraph 134 of the Framework states that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. I do not consider that the provision of additional living accommodation and a larger roof terrace would amount to a public benefit sufficient to outweigh the harm that would be caused to the heritage asset.

Living conditions

20. The proposed roof terrace at upper ground floor level would extend across the full width of the appeal property and project considerably into the plot. Planting beds would run along both side boundaries of the roof terrace.
21. The adjacent block of flats to the north east, known as Stafford House, projects further into the plot than the main rear elevation of the appeal property, and the habitable room windows of Flats 1 and 3 face the appeal property at a distance of less than 2m from the common boundary.
22. The appellant accepts that the existing boundary wall between the appeal site and Stafford House would not provide adequate privacy screening, and that the efficacy of the boundary treatment in this regard relies on the existing trellis and planting. I noted during my site visit that it is possible to look through gaps in the trellis and planting, and the appellant acknowledges this.
23. Due to their close proximity and respective levels, the appeal proposal would afford views into the south-west facing habitable room windows of Flats 1 and 3 Stafford House.
24. To the south west, the Coach House has a first floor roof terrace to the rear which extends to the common boundary with the appeal property. The proposed roof terrace would be higher and considerably deeper than that at the Coach House. The appeal proposal would result in direct overlooking of the roof terrace and habitable room windows at the rear of the Coach House. The appellant acknowledges that, without some form of screening, overlooking would arise.
25. The proposed planting beds may have the effect of discouraging people using the roof terrace from standing at the side boundaries, and therefore restrict views down into Flat 1 Stafford House. However, they would not prevent overlooking of either Flat 3 Stafford House or the Coach House. Accordingly, the provision of planting beds alone would not overcome my concerns regarding the effect of the appeal proposal on neighbouring residents' privacy.
26. It has been put to me that, in order to reduce the extent of overlooking, frosted glass privacy screens could be erected along the side boundaries. The appellant has submitted revised drawings with the appeal which indicate this

detail. I note the views of third parties in respect of the proposed siting, scale and materials of these screens, and their likely effect on outlook and sense of enclosure. The provision of such screens would introduce a significant new element to the scheme on which neighbours' views were not sought at the time of the planning application. As set out in paragraph 3 of this Decision, I have therefore not had regard to the revised drawings in reaching my conclusions.

27. Whilst the close proximity of buildings and gardens in urban environments inevitably lead to a certain degree of mutual overlooking, for the reasons set out above, the appeal proposal would result in a significant increase in overlooking. I therefore conclude that the proposed development would have a harmful effect upon the living conditions of the occupants of neighbouring residential properties, with particular regard to privacy. As such, it would fail to accord with the amenity protection aims of Policy S29 of the City Plan and ENV 13 of the UDP.

Conclusion

28. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

C L Humphrey

INSPECTOR