

Appeal Decision

Site visit made on 7 March 2017

by J A B Gresty MA MRICS

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

Decision date: 17 March 2017

Appeal Ref: APP/X5990/D/17/3166678

56 Gloucester Mews, London W2 3HE

- 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 Naveen Suri against the decision of Westminster City Council.
 - The application Ref 16/09339/FULL, dated 28 September 2016, was refused by notice dated 13 December 2016.
 - The development proposed is refurbishment of flat roof to include a low level glazed access screen, decking, and trestles and planters to improve privacy and the overall appearance of the roof.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the proposed development on the living conditions of occupiers of nearby dwellings with respect to noise and privacy.

Reasons

3. The appeal proposal includes formation of a roof terrace on the flat-roof above the first floor of the appeal property, a two-storey dwelling with three bedrooms. The terrace would be accessed via a set of stairs to be installed from the first floor. Adjacent to the flat-roof are the habitable room windows of two neighbouring dwellings at Westbourne Terrace, including Flat 3 of 56 Westbourne Terrace which has a bay window which opens directly onto the flat-roof next to the proposed roof terrace. There are clear and close views into these habitable room windows from the flat-roof.
 4. The proposal includes enclosure of the roof terrace with planters and trellising. Climbing plants would be allowed to grow up the trellis to obscure the views from the terrace into the nearby rooms. However, the effectiveness of the trellising as a visual barrier would depend on the health and vigour of the plants. No matter how well tended, it is likely that from time to time some of the plants would die, which not only would appear unsightly but would open up views from the terrace into the nearby rooms. As a consequence of the very close proximity of the proposed terrace to the nearest windows, even modest failure of the proposed planting to form a fully obscure screen would be likely to enable significant views into the rooms of the nearest rooms. Whilst retention of
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a growing screen could be required by condition, this would be difficult to enforce effectively and it would be unlikely to prevent periods occurring when trellising as a visual screen would be ineffective.

5. Use of the terrace without an effective barrier to prevent users of the terrace seeing into the nearby rooms would result in a considerable loss of privacy for the occupiers of those flats effected. Consequently, I conclude that the proposed use of the terrace would result in a considerable harm to the living conditions of the occupiers of the nearest flats as a result of loss of privacy, contrary to Policy S29 of the Westminster City Plan (WCP) and Env 13 of the City of Westminster Unitary Development Plan (UDP).
6. Due to the very close proximity of the proposed roof terrace to the nearby flat windows, it is inevitable that noise of people using the terrace would be clearly audible inside the nearest rooms of the flats. This would be especially so in warmer weather, when the roof terrace would most likely to be used, and the flats' windows are open. Whilst this is an inner city location where significant background noise is likely throughout the day, the very immediate nature of the noise from use the terrace would result in considerable harm to the living conditions of the occupiers of the nearest neighbouring flats. This would be contrary to the aims of WCP Policies S29 and S32 and UDP Policies ENV 6 and ENV 13.

Other Matter

7. The appeal property is situated in the Bayswater Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of a Conservation Area. The proposed trellis and planters would not be prominent in the street scene and use of the flat roof as a terrace would be similar to other roof terraces in the locality. Whilst the roof terrace would not enhance the Conservation Area, I concur with the Council that the propose development would not result in visual harm and the character and appearance of the Conservation Area would be preserved. Accordingly the effect of the appeal proposal on the character and appearance of the Bayswater Conservation Area would not be reason to dismiss the appeal.

Conclusion

8. The proposed roof terrace would provide the appeal property with an outdoor amenity area, thereby enhancing the living conditions of the occupiers of the dwelling. However, in my view this does not outweigh the considerable harm use of the roof terrace would do to the living conditions of the occupiers of the nearest neighbouring dwellings as a result of noise and disturbance and loss of privacy. Imposition of conditions which would require retention of the proposed planters and trellising would not overcome the issues of noise and disturbance and would be unlikely to be fully effective in prevention of loss of privacy. Therefore, on balance and for the above reasons, I conclude that the appeal should be dismissed.

J A B Gresty

INSPECTOR

