



Appeal Decision

Site visit made on 24 January 2017

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 29 March 2017

Appeal Ref: APP/X5990/W/16/3162858

22-24 Strutton Ground, London SW1P 2HR

- 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 Neil Nugent against the decision of City of Westminster Council.
 - The application Ref 16/04793/FULL, dated 21 May 2016, was refused by notice dated 12 July 2016.
 - The development proposed is the creation of an additional dwelling by the reorganisation of the existing upper floor flats, the addition of a rear extension and the incorporation of the existing roof void into the flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the development in the heading above has been taken from the planning application form, though some superfluous wording referring to the resubmission of a previous application has been omitted. In part E of the appeal form, it is stated that the description of the development has not changed from that on the planning application form but a different wording has been entered, which appears to have been taken from the Council's decision notice. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application, albeit slightly edited.
3. Since the determination of the application, the City Council has adopted two sets of revisions to Westminster's City Plan: Strategic Policies (adopted 2013). They comprise a Basement and Mixed Use Revision (adopted 13 July 2016) and a Special Policy Areas and Policies Map Revision. The revisions were incorporated into the latest version of Westminster's City Plan (WCP) adopted on 9 November 2016. I am obliged to determine the appeal on the basis of the current development plan. The Council do not consider that the revisions affect this appeal or the policies quoted in the decision notice. The appellant has had the opportunity to comment on any relevant policies during the course of the appeal.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the existing building and the Broadway and Christchurch Gardens Conservation Area.
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Reasons

5. The appeal site is a three-storey building located on a road of mainly similar properties with commercial premises on the ground floors and residential flats above. It also lies within the Broadway and Christchurch Gardens Conservation Area (CA).
6. The proposal would sit on top of the existing rear projection of the building. It would have a similar pitched roof design and be set back from the rear elevation of the existing projection with a sloping roof element between. However, the height of the new roof section and projecting gable end would extend above the eaves height of the main roof and the existing second floor of the building. Therefore, it would disrupt the continuity that exists in the eaves height across Nos 22 to 26.
7. Moreover, unlike the existing rear projection, it would not appear subservient to the main building and would consequently have a detrimental effect on it. It would also be considerably higher than the existing rear projection of the neighbouring property to the immediate south at No 26. Whilst there is not complete uniformity of design along Strutton Ground, there are relatively harmonious design elements in the immediate setting which would be disturbed.
8. Those particular aspects of the proposed design are contrary to Policy DES 5 of the City of Westminster Unitary Development Plan (UDP).¹ It explicitly specifies in Part A that permission will generally be granted for development involving the extension or alteration of buildings where, amongst other criteria, *'it is in scale with the existing building and its immediate surroundings.'* Part B specifies circumstances in which such development may be refused which include *'where an extension rises above the penultimate storey of the existing building (excluding roof storeys).'*
9. I appreciate that the proposal is an amended re-submission of a previous scheme which the Council also refused and that the appellant has sought to address previously identified issues. However, each application has to be dealt with on its own individual merits. Whilst the appellant refers to subjective views, ultimately, whether a particular proposal transgresses policy criteria is a matter of planning judgement which it is legitimate and incumbent upon professional planning officers and decision-makers to exercise.
10. Though the main external element of the proposal is to the rear of the property, it would still be seen by occupiers of adjacent properties including the tall block of flats to the immediate west. Whilst the relevant statutory framework is not intended to prevent any change in CAs, it does place a duty on decision-makers to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.²
11. The Broadway and Christchurch Gardens CA synopsis refers to the street market and shops of Strutton Ground and comments more generally that the majority of buildings in the CA are of particular townscape merit. In that context, it seems to me that the appeal buildings, which the appellant identifies as part of an early Twentieth Century three-storey row of terraced properties, do contribute to the significance of the CA.

¹ Adopted 24 January 2007

² s.72(1) Planning (Listed Buildings and Conservation Areas) Act 1990

12. The appellant's particular interpretation of paragraph 134 of the National Planning Policy Framework (the Framework) is mistaken. Paragraph 132 and 133 detail the approach where substantial harm has been identified. Paragraph 134, on the other hand, deals with the situation where less than substantial harm has been identified. It reflects the great weight that the Framework attaches to the conservation of heritage assets, including CAs, by confirming that even less than substantial harm has to be considered.
13. Whilst I have found that the proposal would adversely affect a building which contributes to the significance of the CA, given that the extension is to the rear, I consider that it would cause less than substantial harm to the character and appearance of the CA. In accord with paragraph 134 of the Framework, I must weigh that harm against the public benefits of the proposal. Whilst it would create one additional flat/maisonette, the contribution to the supply of housing, though supported by Policy H 3 of the UDP, would be limited. I do not consider that it would outweigh the harm that I have identified.
14. Therefore, I conclude that, on balance, the proposed development would harm the character and appearance of the existing building and the Broadway and Christchurch Gardens Conservation Area. By definition therefore, it would fail to preserve or enhance the character or appearance of the CA. It follows that it would be contrary to policies S25 and S28 of Westminster's City Plan³ and saved policies DES 5, DES 6 and DES 9, as well as paragraphs 10.108 and 10.128, of the UDP. Amongst other things, they seek to ensure that development respects Westminster's heritage, CAs and local distinctiveness and that extensions are both in scale with existing buildings and their immediate surroundings.

Other Matters

15. In addition to the issues already discussed, occupiers of a neighbouring property have expressed concerns about a roof terrace. However, a roof terrace is not part of the proposal. An adjoining freeholder objected on the basis that permission had not been requested for the development. However, from a planning perspective, as the Council point out, such permission is not required. Therefore, those matters are not relevant. In any event, I have dismissed the appeal on other grounds.
16. The Thorney Island Society expressed general support for the proposal stating that larger commercial schemes are being approved regularly whereas this is a relatively small scale one. I note those comments but they do not lead me to alter my decision as I am required to consider the proposal before me.

Conclusion

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

Jonathan Tudor

INSPECTOR

³ November 2016 – Consolidated with all changes since November 2013