
Appeal Decision

Site visit made on 3 April 2017

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 26th April 2017

Appeal Ref: APP/X5990/W/16/3166159

Clarewood Court, Seymour Place, London W1H 2NL

- 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 First Penthouse Ltd against the decision of the City of Westminster Council.
 - The application Ref 16/00173/FULL, dated 11 January 2016, was refused by notice dated 17 October 2016.
 - The development proposed is 'Erection of single storey mansard roof extension to provide 2no. additional residential units (1 x 2 bed & 1 x 3 bed) with roof terraces and associated privacy screens and balustrades, and the extension of existing chimney stacks.'
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development upon the living conditions of occupants of the flats on the top 2 floors of the outer block of Clarewood Court, with particular regard to outlook and a sense of enclosure.

Reasons

3. Clarewood Court is a substantial building which consists of 2 L-shaped blocks separated by a lightwell and connected at intervals by stair and lift cores. The outer block fronts onto Crawford Street and Seymour Place and comprises a basement, commercial units at ground floor and flats within the 6 upper floors, with the top floor flats contained within a mansard. The inner block of flats to the rear is a storey lower, since it has a flat roof rather than a mansard. The appeal property is situated within the Portman Estate Conservation Area (the Conservation Area) which is characterised by its predominantly 18th century residential development laid out in a formal grid pattern of streets and squares.
4. The proposed development would provide 2 additional flats on the roof of the inner block within an L-shaped mansard roof extension. The flats within the outer block have windows on the rear elevation which face the inner block. Some of these windows are frosted glass, serving bathrooms, however many are clear glazed and serve habitable rooms. Based upon the evidence before me¹ the proposed development would be situated as little as 6.5m away from a number of these windows. Although the scheme has been amended in order to

¹ S.78 Planning Appeal Statement of Case prepared by GL Hearn and plan 132900.800.

reduce the height of the mansard extension to the minimum possible, it would nevertheless add an additional storey to the inner block. Therefore, despite being set back from the internal lightwell, the proposed development would add considerable height and bulk to the building.

5. Whilst the flats in the outer block have living rooms at the front with windows facing out over Crawford Street and Seymour Place, which would be unaffected by the proposed development, I note from residents' representations that a number of the rooms at the back are used as kitchen-diners, living rooms, studies and bedrooms. The proposed development would largely replicate the existing relationship between the flats on the lower floors of the blocks, where windows face each other across the narrow lightwell. However, the flats on the upper floors of the outer block currently have a fairly open outlook to the rear over the lower flat roof of the inner block. As a result of its siting, bulk and scale, the proposed mansard extension would significantly restrict this outlook and would have an enclosing effect upon these habitable rooms.
6. The recent Department for Communities and Local Government consultation on permitted development rights for the upward extension of buildings in London has not yet been taken forward. I note that the proposed development was the subject of pre-application consultation and that, following the submission of amendments during the determination period, the Council's planning and conservation and design officers raised no objection to the proposal which was reported to Planning Committee with a recommendation for approval. However, the local planning authority is not bound to accept the recommendations of its officers and nor am I. Accordingly, I have afforded these matters little weight.
7. For the reasons set out above, I conclude that the proposed development would have a harmful effect upon the living conditions of occupants of the flats on the top 2 floors of the outer block of Clarewood Court, with particular regard to outlook and a sense of enclosure. As such, the appeal proposal would not accord with the amenity protection aims of Policy S29 of Westminster's City Plan and Policy ENV 13 of Westminster's Unitary Development Plan and the core planning principles set out in the National Planning Policy Framework (the Framework) which seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
8. The appellant makes reference to Policy 7.6 of the London Plan. I have not been provided with a copy of this policy. However, the extract in the submitted evidence does not appear to relate to outlook or a sense of enclosure. I have therefore not had regard to the policy on this occasion.

Other matters

9. Residents have raised concerns regarding the potential for loss of daylight and sunlight. I note that this did not form part of the reason for refusal and that the Council has raised no objection in this regard. Based upon the evidence before me, I am satisfied that the proposed development would not have a materially harmful effect upon levels of daylight and sunlight within existing flats.
10. The Council has not raised any concerns regarding the effect of the appeal proposal on the Conservation Area. Nevertheless, under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 I am obliged to pay special attention to the desirability of preserving or enhancing the

character or appearance of that area. The traditional form, detailing and materials of the proposed development would reflect the existing mansard to the front of the building, and the placement of windows and doors would respond sensitively to the pattern of fenestration on the floors below. As such, I conclude that the proposal would preserve the character and appearance of the Conservation Area.

Conclusion

11. I have identified harm to the living conditions of neighbouring occupants and concluded that the appeal proposal would conflict with the development plan. As such, the presumption in favour of sustainable development set out in paragraph 14 of the Framework does not apply. The appeal proposal would create 2 units of good quality family housing in an accessible location well served by public transport, local shopping and recreational facilities. Whilst these benefits are material considerations which I afford moderate weight, they are not sufficient to outweigh my findings in respect of the main issue and do not lead me to determine the appeal other than in accordance with the development plan.
12. For the reasons given above, and having had regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

C L Humphrey

INSPECTOR