
Appeal Decision

Site visit made on 22 May 2017

by G J Fort BA PGDip LLM MCD MRTPI

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

Decision date: 08 June 2017

Appeal Ref: APP/X5990/W/3172534
12 Frederick Close, London W2 2HD

- 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 Miss A MacKenzie against the decision of City of Westminster Council.
 - The application Ref 16/04632/FULL, dated 18 May 2016, was refused by notice dated 10 January 2017.
 - The development proposed is the construction of a mansard to provide a further bedroom to the single family dwelling; and the replacement of the existing front door, with a painted, solid timber, panelled door.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a mansard to provide a further bedroom to the single family dwelling; and the replacement of the existing front door, with a painted, solid timber, panelled door at 12 Frederick Close, London W2 2HD in accordance with the terms of the application, Ref 16/04632/FUL, dated 18 May 2016, subject to the following conditions:
 - 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: Location Plan 097 001; As proposed_ground floor plan 097 010 Revision A; As proposed_First Floor Plan 097 011 Revision A; As proposed_Second Floor Plan 097 012 Revision B; As proposed_Roof Plan 097 013; As proposed_Front Elevation 097 014 Revision B; As proposed_Section AA 097 015; As proposed_Section BB 097 016 Revision C; As proposed_Site Section 097 017 Revision B; As proposed_Side (West) Elevation 097 019 Revision B; As proposed_Rear Elevation 097 020 Revision A.
 - 3) Demolition or construction works shall take place only between 0800 to 1800 on Monday to Friday and only between 0800 and 1300 on Saturday, and shall not take place at any time on Sundays or on Bank or Public Holidays.
 - 4) Notwithstanding condition (2) no development shall take place until details of the front elevation mansard windows have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
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- 5) The materials to be used in the construction of the raised party walls and chimney of the development hereby permitted shall match those used in the existing building. The principal front and rear pitches of the mansard roof extension hereby permitted shall be clad in natural slate and its windows shall be timber-framed.

Procedural Matters

2. In the interests of clarity the description of development given in the banner heading above is an amended form of the wording given within the application form which reads: "The proposed alterations that contribute to this application are: 1. The construction of a mansard roof to provide a further bedroom to the single family dwelling. 2. The replacement of the existing front door, with a painted, solid timber, panelled door."
3. The Council's Decision Notice in respect of the application that led to this appeal was dated 10 January 2016. However, in an e-mail to the Planning Inspectorate, the Council confirmed that this was a drafting error and that the actual date of decision is that given in the banner heading above.

Main Issue

4. The main issue in this appeal is the effect of the proposed development on the living conditions of the occupants of 40 Connaught Square in terms of the outlook available from the first floor terrace and adjacent window.

Reasons

Site, surroundings and proposed development

5. Situated in the Bayswater Conservation Area, the appeal property is a two-storey mews building, with a flat roof. Buildings of varying scales, and considerable density are within its immediate surroundings including the substantial terraced properties to the rear that address Connaught Square.
6. The proposed development seeks installation of a mansard roof, with two windows on its front slope and none on its rear. A replacement front door would also be installed.

Living conditions

7. To the rear of the appeal property 40 Connaught Square has a terrace and glazed conservatory at first floor level. I saw from these that, due to the width of Frederick Close and intimate arrangement of the mews that views were considerably restricted by the taller roofs of buildings across the road from the appeal property. Due to the dense arrangement of buildings in the environs of the rear of No 40 the depth of outlook beyond Frederick Close from both the window and the terrace comprised principally of views of the sky and the tops of trees.
8. The proposed development would undoubtedly be more visible from the adjacent rear window and terrace of No 40. However, due to the proposed development's limited scale, combined with the pitch of its rear roof slope, and the separation distance of its ridge from the rear of No 40, it would not materially reduce the quality of the outlook available from the majority of the Connaught Square property's terrace or its adjacent rear window. Moreover, given the proposed development's separation distance from the rear window,

and depth of No 40's terrace, the proposed development would not constitute a harmfully overbearing or enclosing structure.

9. For these reasons the proposed development would not cause material harm to the living conditions of the occupants of 40 Connaught Square. As a consequence it would not conflict with Policy S29 of the Westminster City Plan (adopted July 2016); or Policy ENV13 of the Westminster Unitary Development Plan. Taken together, these policies seek to ensure that development avoids unacceptable material loss of residential amenity to the occupants of neighbouring dwellings through, amongst other things, avoiding significant increases in the sense of enclosure.

Other Matters

10. The appeal property is within the Bayswater Conservation Area, and in this regard I am mindful of my duty arising from Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. However, I saw within the appeal property's immediate environs that mansard roofs were not uncommon. Moreover, the proposed development was of a proportionate design, subservient to its host dwelling and the mews more generally. I also consider the proposed door to be sensitive to the character of its host building. Thus these considerations, taken together with the attachment of conditions regarding facing materials and fenestration details, lead me to the view that the proposed development would preserve the Conservation Area's character and appearance.
11. The appellants submitted a Daylight and Sunlight Assessment¹ (the Assessment), which clearly shows that the proposed development would not materially reduce the sunlight or daylight available either to the terrace or rear windows of No 40. Nothing I observed onsite would undermine this Assessment, and I have been supplied with no substantive evidence to challenge its findings. As a result, I consider that the proposed development would avoid material harm to the living conditions of the occupants of No 40 in this regard.
12. Whilst I am mindful of comments regarding possible noise and disturbance during construction, I consider that the attachment of an appropriately worded condition would ensure that the hours within which this may occur would be limited insofar as practicably possible. Moreover, the limited scale of the development should ensure that the duration of the construction programme would be similarly limited. As a result, I consider that the proposed development would not cause material harm to the living conditions of the occupants of adjacent properties in this regard.
13. I have no substantive evidence before me to suggest that construction activity, or any other aspects of the proposed development would cause materially harmful effects to the plants on the adjacent terrace at No 40, or the birds that visit there. As a consequence, this matter does not weigh against the proposed development to any material degree.
14. I saw that due to its mews setting the appeal property has a relatively intimate relationship with buildings across the road. A degree of mutual overlooking is

¹ Produced by Michael Popper Associates Dated 21 April 2016

thus already in existence, and the proposed development would not exacerbate this to a material degree.

15. Due to the relatively modest amount of additional residential space that the proposed development would deliver, I consider that it would not result in a material increase in the amount of refuse created by the appeal property's occupants. Neither, for this reason, would the proposed development lead to material increases in traffic movements or the demand for parking on a day to day basis, and as a consequence, I consider that adverse effects to highway safety would be avoided.
16. Accordingly, either taken together or individually, none of these other matters would outweigh my findings on the main issue in the overall planning balance.

Conditions

17. I have assessed the list of conditions supplied by the Council against the tests given in paragraph 206 of the National Planning Policy Framework. This states that conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. I have amended and amalgamated conditions in some instances in the interests of precision and clarity.
18. In the interests of certainty I have attached a condition specifying the approved plans. In order that the proposed development is sensitive to the character and appearance of its host dwelling and the wider Conservation Area I have attached conditions requiring the approval of details of fenestration and regarding the materials to be used in its facing.
19. Due to the density of the appeal property's surroundings, it is necessary to attach a condition restricting the hours of construction in the interests of the living conditions of the occupants of adjacent dwellings. However, due to the scale and nature of the proposed development, I consider it unnecessary to attach additional restrictions on piling, excavation and demolition. I have also omitted references to the Control of Pollution Act 1974 as statutory controls in this regard exist outside of the planning acts.

Conclusion

20. The proposed development would not conflict with the development plan in respect of the aforementioned policies. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should succeed.

G J Fort

INSPECTOR