
Appeal Decision

Site visit made on 26 June 2017

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

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

Decision date: 25 July 2017

Appeal Ref: APP/X5990/W/17/3172048
7C Palace Court, London W2 4LP

- 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 Paul Fenner-Leitao against the decision of City of Westminster Council.
 - The application Ref 16/11417/FULL, dated 1 December 2016, was refused by notice dated 13 January 2017.
 - The development proposed is new glazed conservatory extension to enclose a portion of existing first floor flat terrace on the side/south facade.
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Decision

1. The appeal is allowed and planning permission is granted for new glazed conservatory extension to enclose a portion of existing first floor flat terrace on the side/south façade at 7C Palace Court, London W2 4LP, in accordance with the terms of the application, Ref 16/11417/FULL, dated 1 December 2016, subject to the attached schedule of conditions.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the existing building and whether it would preserve or enhance the character or appearance of the Bayswater Conservation Area (CA).

Reasons

3. The appeal site is a first floor flat in a late Victorian terrace of Queen Anne style houses on the west side of Palace Court. The appeal building is six storeys and at the end of the terrace, with its side elevation backing on to 1,3 and 5 Palace Court, which front on to Bayswater Road. The site lies within the Bayswater CA and the buildings on the west side of Palace Court are, according to the appellant, classified as unlisted buildings of merit.
4. It is proposed to construct a conservatory or side extension enclosing part of the first floor roof terrace, which is above a projecting decorative entrance porch. The conservatory would be set back slightly, about 40cm, from the main front elevation of the building, leaving an area of roof terrace behind the existing parapet.
5. The Council refers to its supplementary planning guidance dating from 1994, 'Conservatories: A Guide to Design & Planning Procedures' (SPG). It advises that conservatories '*should normally be confined to the ground and lower levels and to the rear or least important facades and should respect the plan form,*

period, architectural characteristics and detailing of the original building'. It also states that: 'Conservatories at roof level will not normally be permitted. They should be confined to the ground and lower floors and the rear or least important facades, unless the design can be closely integrated into the existing building. For example, in parts of Mayfair, Belgravia, Pimlico and Knightsbridge, conservatories have historically been built at first floor level.' It further states that *'Conservatories above ground floor or clashing with the character of the building or 'over-designed', will normally be refused consent.'*

6. Based on those extracts, the Council concludes that the positioning of the conservatory at first floor level and almost flush with the front elevation of the building is *'flatly contrary to the clear planning guidance given by the City Council as set out in the SPG'*. Given that the SPG uses qualified language such as *'should normally', 'will normally', 'unless the design can be closely integrated into the existing building'* and makes reference to conservatories built at first floor level historically, it seems that the proposed first floor positioning is not completely precluded. Rather, as indicated on page 3 of the SPG, the particular characteristics of the site and proposal need to be judged to establish if actual harm to the character and appearance of the building or area would result.
7. Although the conservatory would be located at first floor level, its frontage facing the street would be less than 3 metres wide, whilst it would be about 6 metres deep, and rise to the height of the existing first floor, with a shallow, hipped, pitched lead roof. The existing decorated entrance, at ground floor level, already stretches beyond the main southern elevation of the building. The conservatory, occupying part of the roof terrace above that structure, would not, therefore, extend beyond the furthest part of the entrance. Given its relatively modest dimensions, setback and position within the footprint of the existing built form; I do not consider that its size or position would make it appear prominent. Its lower parts would also be partially obscured by the existing projecting ground floor entrance and its parapet.
8. The Council alludes to the grand facades of buildings in Westminster and suggests that the rear elevations tend, understandably, to be less elaborate, whilst side elevations may be blank brickwork or have few windows or decoration. It also refers to policy DES5 of the Council's Unitary Development Plan (UDP)¹ which indicates that development may be refused where it involves the loss of significant gaps between buildings.
9. Whilst the main southern elevation is largely blank brickwork, apart from an oriel window, a sash window and side door onto the roof terrace, I do not consider that it makes a significant positive contribution to the character of the area. As suggested by the appellant, the mainly featureless wall may indicate that the likely original intention was that the terrace be continued with another adjoining building to the south. Many of the buildings along the terrace are designed in complementary pairs, with double porches mirroring each other, whereas No 7 appears solitary, as if awaiting a partner. Therefore, rather than representing a significant architectural statement or design feature, the stark side elevation performs the rather more prosaic function of marking the end of the terrace.

¹ Adopted January 2007

10. That is also the limit, in my view, of the significance of the gap between the side elevation on No 7 and the rear elevation of 1 Palace Court, which faces onto Bayswater Road. The significance of gaps, deemed worthy of protection between buildings, is often related to the sense of space and openness that is created as they are repeated at regular intervals. In this case, there are no other regular gaps between the buildings on the west side of Palace Court, by virtue of the fact that it is terrace. In any event, the proposal would only narrow the gap marginally to first floor height, whilst being maintained at the same distance in the four storeys above. Consequently, the limited closing of the gap would not cause harm.
11. According to an extract from the relevant Council Officer's Report (included in the Design and Access Statement), which has not been disputed, it appears that the Council took a somewhat different view of the significance of the same gap when assessing a planning application for a rear/side extension at 1 Palace Court.² It concluded that: *'Therefore, whilst gaps in the townscape can be considered of some importance in conservation areas, in this case the gap is not considered to be of particular significance...'*. I concur with that view.
12. The Council notes that the framing of the glazing of the conservatory appears to reflect the attractive stone framework of the existing first floor front elevation. However, whilst the Council considers that it would give a thick and heavy appearance, when translated to a conservatory extension, I take a different view and find that it represents a careful and sympathetic mirroring of the existing first floor design and proportions. It is also proposed to use quality matching materials.
13. Although the Council refers to the rhythm of the terrace being disrupted by the proposal extending beyond the side elevation, that rhythm is already curtailed by the end of terrace position of the appeal property. Continuity is also broken by the grand projecting decorative porch which is in front of the main building line of the terrace. Furthermore, although the west side of Palace Court has some recurring design features there are also differences in the detail of the facades along it, which add to its interest.
14. It is suggested by the Council that the conservatory would have a negative effect in relation to the existing oriel window on the side elevation of the floor above. However, that window appears as an isolated feature on a largely blank wall and the addition of further glazing in the proposed conservatory below, complementing the fenestration of the main facade, would not, in my view, have an adverse effect.
15. The Council advises that the utilitarian first floor extension at 1 Palace Court, cited by the appellant, but referred to in error as No 5 in the Council's appeal statement, is a long standing structure with no apparent planning history. Nevertheless, it too forms part of the character of the area. Whilst it would not justify further harm, it does provide an example of a more prominent and less sympathetic first floor extension which contrasts with the proposal.
16. Whilst the proposed conservatory would be visible from public vantage points, because of its position, to the side and slightly set back, and its carefully integrated design, it would not be prominent or obtrusive in the street scene. Rather it would form a sympathetic extension, subordinate to the existing first

² 15/02865/FULL

floor façade and occupying part of a vacant space above a large porched entrance. Consequently, its design and location would not be to the detriment of the existing building or the area.

17. Therefore, although I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA, I do not find that the proposal would cause harm to either the character or appearance of the existing building or the CA. It follows, therefore, that it would preserve the CA. Consequently, the proposed development would not be contrary to policies S25 or S28 of Westminster's City Plan³ or policies DES1, DES5, DES9 and paras 10.108 to 10.128 of the UDP which, amongst other things, seek to conserve heritage assets, including conservation areas, and ensure that development incorporates exemplary standards of sustainable and inclusive urban design and architecture. I have also failed to find any conflict with section 12 of the National Planning Policy Framework⁴ which deals with conserving and enhancing the historic environment.
18. Neither, for the reasons already given, do I consider that the proposal conflicts with the SPG, which is, in any case, intended to support the objectives of development plan policies. Whilst it expresses clear caution about the principle of first floor conservatories, it uses qualified language which allows for a planning judgement to be made in the particular circumstances.

Conditions

19. The Council has suggested conditions which I have considered, making minor amendments if necessary to ensure compliance with the tests contained in the Planning Practice Guidance. A condition setting a time limit for commencement of the development, although not included in the Council's suggestions, is required by statute. It is appropriate that there is a condition requiring the development to be carried out in accordance with the approved plans for certainty.
20. A condition relating to hours of building work is necessary to protect the living conditions of nearby occupiers. It is necessary for there to be a condition regarding the colour of the frame, windows and doors of the conservatory to protect the character and appearance of the building and the CA. A condition requiring obscured glazing in the low level windows, and for them to be fixed permanently shut, is appropriate to protect the privacy of nearby occupiers and current and future occupants of the building.

Conclusion

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

Jonathan Tudor

INSPECTOR

³ Revised November 2016

⁴ Published 2012

SCHEDULE OF 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: Drawing Nos PC-PCon_00, PC-PCon_01, PC-PCon_02, PC-PCon_03, PC-PCon_04, PC-PCon_05, PC-PCon_07, PC-PCon_08, PC-PCon_09, PC-PCon_10, PC-PCon_11 'Proposed Rear Elevation' and PC-PCon_11 'Proposed Cross Sections'.
- 3) Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
 - between 0800 and 1800 Monday to Friday;
 - between 0800 and 1300 on Saturday; and
 - not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- between 0800 and 1800 Monday to Friday; and
- not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety).

- 4) The frame to the new conservatory structure shall be painted in white and maintained in that colour thereafter, and the windows and doors shall be formed in glazing and white painted timber framing and maintained in that colour thereafter.
- 5) The glass that you put in the 'lower level windows' (as defined on drawing PC-PCon_10) must not be clear glass and you must fix these windows permanently shut. You must apply to Westminster City Council for approval of a sample of the glass (at least 300mm square). You must not start work on the relevant part of the development until Westminster City Council has approved the sample. You must then fit the type of glass approved and must not change it without Westminster City Council's permission.

END OF SCHEDULE