



Appeal Decision

Site visit made on 22 August 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 11 September 2017

Appeal Ref: APP/X5990/W/17/3176861

11 Chapter Street, London SW1P 4NY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Shahram Sabbaghi (Ocarina Management Ltd) against City of Westminster Council.
 - The application Ref 17/02130/FULL, is dated 9 March 2017.
 - The development proposed is described as alterations and extensions in connection with A2 use on the ground floor and two residential units on the upper floors.
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Decision

1. The appeal is allowed and planning permission is granted for the use of ground floor for Class A2 (financial and professional services) purposes and use of upper floors as 2 residential flats. Erection of rear extension at ground, second and roof levels; alterations to shopfront at 11 Chapter Street, London SW1P 4NY, in accordance with the terms of the application Ref: 17/02130/FULL, dated 9 March 2017, subject to the attached schedule of conditions.

Procedural Matters

2. The Council changed the description of application Ref 17/02130/FULL from that contained on the application form to 'use of ground floor for Class A2 (financial and professional services) purposes and use of upper floors as 2 residential flats. Erection of rear extension at ground, second and roof levels; alterations to shopfront.' This is a more accurate description of the development proposed which I have therefore used in the determination of this appeal.
3. The Council resolved, at its Planning Applications Sub-Committee on 27 June 2017, that had it been in a position to determine the application, it would have refused planning permission for reasons relating to the failure of the proposed development to preserve or enhance the character and appearance of the Regency Street Conservation Area.
4. The Council have not cited any objections to the proposed change of use of the ground floor to a Class A2 use in the suggested reasons for the refusal of planning permission. Consequently, I have determined this appeal solely on the basis of the constructional elements of the proposal.

5. The Council's statement refers to a planning permission granted on 28 July 2017 (Ref 17/04743/FULL) for a similar change of use and revisions to the construction elements of the development proposed in this appeal. Although the Officers Delegated Report has been provided which outlines the changes made to the appeal scheme that were considered acceptable by the Council, I am still obliged to determine this appeal solely on the basis of the plans and supporting information contained within the application (Ref 17/02130/FULL) that was submitted to the Council. I have therefore determined this appeal on its own individual merits.

Main Issue

6. The main issue is whether the proposed development would preserve the character and appearance of the Regency Street Conservation Area.

Reasons

7. The appeal property comprises the centre building of a terrace block of three neo-Georgian style buildings and is located on a terraced street of predominantly residential buildings and lying within the Regency Street Conservation Area. The property is three storey with accommodation also in the roof space with front and rear dormers. It formerly comprised of a commercial unit on the ground floor with residential uses above. The rear of the property has a small enclosed yard and a two storey rear outrigger extension.
8. Several properties in the vicinity of the appeal building have had significant rear extensions that occupy the full extent of the rear yard at ground level. In addition, there are examples on this side of the street of properties that have three storey rear extensions, including the adjacent property at No 13 Chapter Street. These rear extensions display wide variations in design, scale, mass and use of construction materials and which have little design relationship to each other. As a consequence there is no overall consistency in the character and appearance of the rear of the properties in the vicinity. The existing character of the rear of the nearby properties sets the visual context for the consideration of the appeal scheme.
9. The proposal would involve the conversion of the upper floors to a one bed flat on the first floor and a two bed flat on the second floor. The ground floor is proposed to be used as a Class A2 (financial and professional services) purposes.
10. The constructional elements of the proposed development have four distinct components. Firstly, the construction of ground floor extension that would occupy the full extent of the rear yard. Secondly, the construction of a second floor extension above the existing outrigger extension. This would have the same width as the existing first floor extension but would be just over half of the depth of the extension below from the main rear elevation of the property with the remaining depth being used as a terrace. Thirdly, modifications to the rear dormer are proposed which would involve the lowering of the cill, incorporation of fully glazed sliding doors and a small cutting into the roof to create a modest terrace surrounded by a glass balustrade. Finally, a new shop front is proposed.

11. The Council have not raised any concerns regarding the proposed new shop front which would be built of hardwood and retain the traditional components of the fascia board and pilasters and stall riser. The Officer report presented to the Planning Applications Sub-Committee confirms that the proposed shop front raises no design concerns. I concur with this view and find that the proposed shop front would preserve the character and appearance of the conservation area.
12. Although the ground floor extension would occupy the full extent of the rear yard, the position, scale and mass of the extension proposed is little different to other ground floor extensions that have been constructed in the locality. The rear of the appeal site is relatively enclosed by existing development and in particular a significantly high rear wall which forms the boundary with the school immediately to the south east. As such, the proposed ground floor extension cannot be readily seen in any public views. Given the enclosed nature of the site and the presence of similar ground floor rear extensions in the locality I do not consider that the proposed ground floor extension would cause any demonstrable harm to the character and appearance the surrounding area.
13. The proposed second floor extension to the rear wing is of relatively modest size in comparison to many other second floor rear extensions in the vicinity. It would be provided with a pitch roof with a ridge height that would be positioned below the height of the eaves of the main rear elevation of the property. In not increasing the width of the current rear wing, not exceeding the height of the eaves and extending to just over half the depth of the first floor extension, the proposed second floor extension would appear as a subservient addition to the property. Moreover, it would have a lower height and less mass than the second floor rear extension at No 13.
14. The Council has drawn my attention to Saved Policy DES 5 of the Westminster Unitary Development Plan (2007) (UDP). This policy, amongst other things, requires that rear extensions should not rise above the penultimate storey of the existing building (excluding roof storeys). However, many other extensions in the locality also exceed the height of the penultimate story of the building as does the mono pitch roof of the existing first floor extension.
15. Given the presence and varied character of other second floor rear extensions in the surrounding area, the fact that the roof of the proposed extension does not exceed the eaves height of the main rear façade and the availability of only limited views are material considerations which, in combination, are of sufficient weight to outweigh Saved Policy DES 5. For the reasons outlined above, the proposed second floor extension would be a subservient addition to the property and given the locational and design factors in this case, I consider that the appeal proposal constitutes the circumstance where a rear extension that breaches the height of the penultimate storey of the existing building would be acceptable. Consequently, I do not consider that this part of the proposal would cause any demonstrable harm to the character and appearance of the surrounding area.
16. The proposed modifications to the rear dormer would not extend its height or width. At my site I observed that the rear dormer at No 13 has glass sliding doors and a terrace bounded by a glass balustrade which the Council indicates was granted planning permission in 2010 (Ref 10/10806/FULL). Whilst I

recognise that the dormer at the appeal property is wider than that at No 13 it nevertheless displays the same design principle of lowering the cill to create a terrace.

17. Given the limitations to views of the rear of the property, the presence of the dormer at No 13 and that the height and width of the dormer would remain unaltered, I do not consider that the proposed modest lowering of the cill and the provision of the glass balustrade would cause the dormer to appear significantly more prominent to an extent that it would cause demonstrable harm to the character and appearance of the surrounding area.
18. For these reasons, the proposed development would preserve the character and appearance of the Conservation Area as a whole in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would accord with paragraphs 131 and 132 of the National Planning Policy Framework. As a result there would be no conflict with Policies S25 and S28 of the Westminster City Plan (2016) and Saved Policies DES 1, DES 6 and DES 9 of the UDP. These policies, amongst other things, require that new development should respect local distinctiveness and preserve or enhance the character or appearance of conservation areas and their settings.

Other matters

19. I have taken into account the concerns of the occupant of No 9 Chapter Street regarding the effect of the proposed development on living conditions with particular regard to privacy and noise. The Officer's report to the Council's Planning Applications Sub-Committee on 27 June 2017 considered these matters and concluded that the proposed development would not give rise to any adverse amenity impacts. As such, these matters were not identified as a reason for refusal had the Council been in a position to determine the application.
20. Owing to the position of the windows in the original rear elevation of No 9 and the position of the proposed rear dormer terrace at the appeal property it would not be possible to obtain any direct views into the rear windows of No 9. Whilst use of the proposed terraces could give rise to an element of noise and disturbance, given their modest size, I consider that any noise generated arising from their use would be very little different from that arising from the use of the existing rear yard at the appeal property for recreational purposes. Consequently, I do not consider that this would be an extent to cause demonstrable harm to the living conditions of the occupants of neighbouring properties.

Conditions

21. Although the Council has not suggested any conditions, in addition to the standard time limit condition, I consider it necessary to impose a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty. In order to protect the character and appearance of the area, I have also imposed a condition concerning the external materials to be used.
22. In order to protect the living conditions of the occupants of adjacent properties from noise and disturbance I have imposed a condition relating to working hours. The Council imposed conditions on the revised application

(Ref 17/04743/FULL) relating to the provision of cycle and waste bin storage. I note that the application pursuant to this appeal did not contain any details of these matters. In the interest of promoting sustainable travel and to ensure that adequate provision is made for waste and recycling bin storage I have imposed similar conditions in this case.

Conclusion

23. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

Stephen Normington

INSPECTOR

CONDITIONS SCHEDULE

- 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: 567/01; 564/100A; 564/101A; 564/102A; 564/03; 564/04.
- 3) The materials to be used for the external surfaces of the development hereby permitted shall match those used in the construction of the existing building in terms of the choice of materials, method of construction and finished appearance.
- 4) Demolition or construction works shall take place only between the hours of:
 - a) 08.00 and 18.00 Monday to Friday.
 - b) 08.00 and 13.00 on Saturday.
 - c) No demolition or construction works shall take place at any time on Sundays or on Bank or Public Holidays.
- 5) No development above foundation level of the ground floor extension shall occur until details of waste and recycling bin storage facilities have been submitted to and shall have received the written approval of the local planning authority. The approved waste and recycling bin storage facilities shall be provided and made available for use prior to the occupation of the flats. Waste and recycling bin storage shall thereafter be undertaken in accordance with the approved details.
- 6) No development above foundation level of the ground floor extension shall occur until details of cycle storage facilities have been submitted to and shall have received the written approval of the local planning authority. The approved cycle facilities shall be provided and made available for use prior to the occupation of the flats and the facilities provided shall not be used for any purpose other than for the storage of cycles.