
Appeal Decision

Site visit made on 19 March 2018

by R C Kirby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th April 2018

Appeal Ref: APP/X5990/W/17/3181228

Lyntonia House, 7-9 Praed Street, London W2 1NJ

- 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 Robert Gubbay against the decision of City of Westminster Council.
 - The application Ref 16/10207/FULL, dated 25 October 2016, was refused by notice dated 31 January 2017.
 - The development proposed is erection of extensions at fourth and fifth floor levels to existing fourth floor level flat including a terrace at fifth floor level.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development above has been taken from the appeal form as it more accurately reflects the proposal than that shown on the application form.
3. Confirmation has been received from the original applicant (the appellant's architect) that the appeal can proceed under his client's name Mr Robert Gubbay. I have considered the appeal on this basis.

Main Issue

4. The main issue in this case is the effect of the proposed extensions on the living conditions of nearby occupiers having particular regard to outlook.

Reasons

5. Lyntonia House comprises a mix of uses, including flats on the upper floors. It has frontages on both Praed Street and St Michaels Street. The flat, the subject of this appeal is at fourth floor level and faces onto St Michaels Street. Its northern elevation faces towards a courtyard below, which is on the third floor of the building. On the opposite side of the courtyard are other flats within the building which front onto Praed Street.
6. The proposal comprises a single storey extension to the flat at fourth floor level and an extension above the existing flat which would provide bedroom accommodation at fifth floor level. To the side of this extension a small triangular shaped terrace with balustrading around it is proposed.

7. The new extension at fourth floor level would take the extended flat closer to the flats on the opposite side of the courtyard. The appellant has referred to these flats at Flat A at third floor level; Flat C at fourth floor level, and Flat E at fifth floor level. The Council has calculated that this part of the proposal would be 5.5 metres away from the windows of these flats.
8. This extension would be below the level of the windows of Flat E facing towards the courtyard, and as such would not have a discernible effect upon the outlook from its rear facing windows. There would be no harm caused to the living conditions of its occupants as a result.
9. The outlook from the kitchen and bedroom windows of Flats A and C is of the side elevation and privacy screen of the appeal flat, and the unit at third floor level below this. The side elevation of the extension at fourth floor level would not project beyond the courtyard elevation of the unit below on the third floor. Its side wall would be in a similar position to the obscure glazed balustrade on the northern boundary of the property and it would not be significantly taller than this means of enclosure. Having regard to these matters and the modest size of the extension, I consider that this aspect of the proposal would not result in a significant increase in the sense of enclosure experienced by the occupiers of Flats A and C or be harmful to the outlook from the rear windows of these flats.
10. In light of the above, I conclude that the extension at fourth floor level would not result in harm to the living conditions of nearby occupiers. There would be no conflict with Unitary Development Plan (UDP) Policy ENV 13 which seeks, amongst other matters, to prevent development that would result in a significant increase in the sense of enclosure. There would also be no conflict with the aims of Policy S29 of the Westminster City Plan (WCP) in respect of residential amenity.
11. Flat A is at a lower level than the appeal property. Its rear windows are set back behind a covered walkway. The new extension at fifth floor level would be unlikely to be visible from within the kitchen and bedroom of this flat because of these features, and the set back of the extension from the northern boundary of the appeal property. As such I consider that this aspect of the proposal would not have a discernible effect upon the outlook from the rear facing windows of this flat, nor result in an increase in the sense of enclosure to its occupiers. Harm to its occupiers' living conditions would therefore not result.
12. The outlook from Flat C facing the appeal site is fairly enclosed and nondescript, a view shared by a previous Inspector¹ when allowing an appeal for 3 residential units on the site. However, as well as the side elevation of the flat at third floor level, the balustrade and the upper part of the side elevation of the appeal property, a large amount of sky can also be seen from both the kitchen and bedroom window to this flat. I observed that the view of the sky from these windows was pleasant, particularly given the otherwise largely enclosed outlook. From the rear facing windows of Flat E, I noted that the outlook was largely open, across the roof tops of nearby buildings, including the appeal property.

¹ Ref: APP/X5990/05/1179846

13. The new extension at fifth floor level would as a result of its design and position relative to Flats C and E result in a significant reduction in the amount of sky that can be seen from the windows facing towards the appeal site. This, taken with the proximity of the extension to these windows would have a significant enclosing effect upon the outlook from them, making the rooms the windows serve less pleasant spaces to use. As a consequence harm would occur to the living conditions of the occupiers of these flats.
14. I acknowledge that these flats are dual aspect, with the front rooms looking out onto Praed Street. However, the layout of the flats is not open plan and the outlook from the rooms on the rear elevation is across the appeal site only. The fact that the windows in Flat C serve a second bedroom and kitchen does not lessen the harm that I have identified, as these are rooms are likely to be places where occupiers spend considerable periods of time.
15. The appellant has drawn my attention to a number of examples in the locality where the separation distance between properties is less than that which would occur between the appeal proposal and the flats facing onto the courtyard. I am not aware of the individual circumstances surrounding the examples quoted, and as such I unable to determine whether they are directly comparable to the scheme before me. In any event, each planning application and appeal should be determined on its own merits. This is the approach that I have taken in this case.
16. In light of my findings, I conclude that the extension at fifth floor level would have a significant harmful effect on the sense of enclosure and upon the outlook from the rear facing windows of Flats C and E. The living conditions of the occupiers of these flats would be adversely affected as a result. This would be in conflict with the aims of UDP Policy ENV 13 which seeks, amongst other matters for development to enhance the residential environment of surrounding properties and prevent a significant increase in the sense of enclosure. There would also be conflict with the residential amenity aims of WCP Policy S29 and the core planning principle of the National Planning Policy Framework in that a good standard of amenity would not be provided for all existing and future occupants of land and buildings.

Conclusion

17. For the above reasons and having regard to all other matters raised, including the letters of support for the proposal, the appeal is dismissed.

R C Kirby

INSPECTOR