



Appeal Decision

Site visit made on 10 May 2019

by Rebecca McAndrew BA Hons, PG Dip Urban Design, MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2019

Appeal Ref: APP/X5990/W/19/3222456
157a Shirland Road, London W9 2EP

- 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 Kuni Modi against the decision of City of Westminster Council.
 - The application Ref 18/P/10075/FULL, dated 22 November 2018, was refused by notice dated 30 January 2019.
 - The proposed development is described as *'Works have already started in relation to planning application 17/10171/FULL where the erection of a rear ground and first floor extension were approved. This application relates to the first floor extension where we have a rear facing window which we would like to replace with a terrace door to allow the occupant of the first floor bedroom to have access to the ground floor flat roof as a roof terrace. The appropriate structural works have been carried out to ensure the load of a terrace can be taken by the roof so its a case of creating a larger opening to allow for the terrace door and installing the appropriate iron ballustrade to comply with building regulations to ensure the safety of those on the terrace'*.
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Decision

1. The appeal is allowed and planning permission is granted for the creation of a roof terrace at rear ground floor level and the replacement of a rear facing window with a door at 157a Shirland Road, London W9 2EP in accordance with the terms of the application, Ref 18/P/10075/FULL, dated 22 November 2018, 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 approved plans 3020_AR01 dated 26 November 2018.
 3. Notwithstanding submitted details, prior to the beneficial use of the roof terrace hereby approved, details of the proposed door and railing designs shall be submitted to and approved in writing by the local planning authority. Thereafter, development shall be undertaken in accordance with the approved details and permanently retained thereafter.

Procedural Matters

2. A revised description of the proposed development is included in the application decision notice and the appellant's full statement of case. I consider the revised description is more concise than the original and have therefore used it in my Decision.

3. At my site visit I also viewed the appeal site from the rear garden of the neighbouring occupier at No.159a Shirland Road.

Main Issue

4. The main issue is the effect of the proposed roof terrace upon the living conditions of the occupiers of No.159 and 159a Shirland Road, in respect of noise and privacy.

Reasons

5. The proposed roof terrace would make use of the small existing flat roof area above the recently constructed lower ground floor extension. The terrace area would be shallow and would measure around 2.8 square metres. On this basis, the scope for its use would be limited with space to accommodate a small table and chairs and it is unlikely that more than two people would occupy the area at any one time.
6. I note that the first floor window of neighbouring property No.159 and outdoor garden space of 159a, would be located close to the terrace. However, given its limited scale and the likely level of usage, in my view, any noise which would be generated would be unlikely to be of a level so significant as to cause disturbance. Any noise experienced would be unlikely to be comparable in level to that would be expected from the existing patio at ground floor level.
7. Whilst there would be views from the terrace into the rear garden of No.159a and to a lesser extent No.155, these would be oblique views. In view of this, as well as the likely limited usage of the terrace, the level of overlooking would be unlikely to harm the privacy of neighbouring occupiers.
8. For the reasons above, I conclude that the proposed development would not harm the living conditions of the adjacent occupiers of Nos. 159 or 159a Shirland Road, in terms of loss of privacy or noise disturbance. The proposal therefore accords with Policies S29 and S32 the Westminster City Plan (2016) and Policies ENV6 and ENV13 of the City of Westminster Unitary Development Plan (2007), which seek to protect the living conditions of existing residents.

Other Matters

9. I have considered a number of other issues raised by local residents. Given that the development does not propose external lighting then light pollution is unlikely to occur. The proposed balustrade would be open in nature and thus would be unlikely to lead to an undue loss of light to neighbouring occupiers. In view of the small scale of the proposed scheme, it would not have a negative ecological or drainage impact. Also, whilst residents have expressed concerns that this roof terrace would set an unacceptable precedent, each proposal must be assessed on its own merits.
10. I note the adjoining neighbour's comments regarding the effect of the recently constructed rear extension. However, that development already benefits from planning consent and I can only consider the proposal before me.

Conditions

11. I impose conditions in regard to timescales and setting out the approved plan to provide certainty. I also attach a condition in relation to the design of the

proposed door and railings, in the interests of the character and appearance of the property and the area. Given the limited nature of the physical works proposed, I do not consider it necessary to include a condition which controls hours of construction.

Conclusion

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

Rebecca McAndrew

INSPECTOR