



Appeal Decision

Site visit made on 12 August 2019

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2019

Appeal Ref: APP/M4320/C/18/3213423

5 Wellington Street, Waterloo, Liverpool L22 8QL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Mark Crump against an enforcement notice issued by Sefton Metropolitan Borough Council.
- The enforcement notice was issued on 11 September 2018.
- The breach of planning control as alleged in the notice is installation of a balcony to the dormer at the rear of the dwelling house.
- The requirements of the notice are:
 - A. Remove the 1 metre high glazed balcony panels and cheeks on either side of the dormer as shown cross hatched on the proposed attic floor plan on the attached drawing no. 001 date stamped 9 February 2018.
- The period for compliance with the requirements is 56 days.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Decision Summary: The appeal is dismissed.

Preliminary Matters

1. As the proposal affects the setting of a conservation area and the setting of a listed terrace I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
2. I have noted that in paragraph 4.1 of the Notice the reasons for issuing the notice refer to '3 and 7 Wellington *Terrace*' which appears to be an error as it should refer to '3 and 7 Wellington *Street*'. This is a simple error and the Notice can be amended without causing any injustice to any party.

Main Issues

3. The main issues are:
 - i. The effect on the living conditions of the occupants of neighbouring residential properties with particular reference to overlooking and privacy; and
 - ii. The effect of the proposal on the character and appearance of the local area bearing in mind the special attention that should be paid to the desirability of preserving the setting of the nearby Grade II listed buildings, 3 – 19 Adelaide Terrace, and the extent to which it would preserve or enhance the character or appearance of the Waterloo Conservation Area.

Reasons

4. The appeal site is a three storey mid-terraced residential property. At my site visit I observed that a roof dormer (forming a fourth floor of accommodation) has been built with a balcony on the rear elevation of the property. The dormer roof extension has aluminium sliding doors which lead to a flat roof balcony area with glazed panels in a stainless steel frame. The balcony area has a width of approximately 5.1 metres and a depth of approximately 1.3 metres with a glazed screen height of approximately 1 metre high.
5. The property is close to the Waterloo Conservation Area and a group of mid-nineteenth century listed buildings on Adelaide Terrace.

Living Conditions

6. From my site observations I can see that the originally approved dormer extension would not have resulted in harmful overlooking into neighbouring residential properties due to it being set back from the rear wall of the property. In addition, the sightline from the dormer would not have been directed towards the rear private amenity spaces of nearby properties.
7. The balcony has added an observation area from which there is close and direct overlooking into the rear private gardens of 3 and 7 Wellington Street, in particular. In addition, the development has resulted in clear views of the nearby rear gardens of properties along Adelaide Terrace, in particular Nos 4 and 5 which are the closest to the appeal site. The degree of overlooking has resulted in significant and harmful loss of privacy to the occupants of those properties.
8. The evidence before me indicates that Nos 3 and 7 Wellington Street are flats and their rear private amenity areas are small. As a result of the elevated position of the balcony and relatively close proximity to those small gardens the overlooking and loss of privacy is significant. From the balcony area those gardens are overlooked significantly from either a sitting or standing position. The appellant contends that the Council's concerns regarding overlooking and loss of privacy would still apply if he reverted to a Juliet balcony. However, I do not agree with this as it is clear to me that the formation of the balcony has resulted in a significantly greater degree of overlooking than would a Juliet balcony in these particular circumstances.
9. In addition with respect to this matter the appellant has also stated that the residents have not objected on the grounds of overlooking. This is not the case, but even if this was correct, the absence of a specific objection does not automatically mean that an appeal should be allowed.
10. Consequently, on this issue I conclude that the development has a harmful effect on the living conditions of the occupants of neighbouring residential properties with particular reference to overlooking and privacy. As such it conflicts with Policies HC4 and EQ2 of the Local Plan for Sefton Adopted 2017 (the LP) and guidance in the House Extensions Supplementary Planning Document June 2018 (the SPD). Among other objectives these seek to ensure that extensions are designed so that there will be no significant reduction in the living conditions of the occupiers of neighbouring properties and protect the amenity of those living adjacent to the site. With respect to living conditions I find there to be no conflict with Policies NH11 and NH12 of the LP.

Character and Appearance

11. The appeal site is not in the Waterloo Conservation Area but is close to the boundary. Furthermore, the appeal site backs on to a group of Grade II listed buildings along Adelaide Terrace. The listed buildings, 3–19 Adelaide Terrace were first listed in August 1972 and form a terrace of houses which was probably built between 1847 and 1850. They are constructed in painted stucco with slate roofs. They are of double depth plan and each house has is single-fronted apart from Nos 13 and 16 which are double-fronted with rear extensions. The properties are two storeys with attics other than Nos 10 and 11 which have full attic storeys. Properties have three windows each except for Nos 13 and 16 which have four, with a plinth, Doric pilasters between the houses, string course and moulded first floor sill-band, frieze with string course and prominent moulded cornice. There is uniformity in window arrangements, although the arrangement of doors and their relationship to each other varies to a degree.
12. The adjacent Waterloo Conservation Area comprises mainly of four terraces of residential properties which are relatively uniform in scale and layout, although there is variation in the design of some of the building components. The front doors, French windows, bay windows and cast-iron or timber verandas have been attractively detailed and proportioned to exploit the seafront aspect with wide views of the estuary. Importantly, the variation in the axis of the terraces and their long front gardens and relationship with the Marine Gardens forms a unique seaside environment. To the rear of the Conservation Area there is an interesting relationship between the scale and style of some outbuildings of the terrace and the adjacent terraced housing on nearby terraced housing, including Bath Street and East Street. As such the relationship between the listed terrace and the Conservation Area is sensitive to change which may occur in its immediate setting.
13. The development at fourth floor level is highly visible. Although I can see that the authorised rear dormer extension would on its own have been visible in its historic surroundings, the additional of a balcony with its modern glazed features has added to its overall prominence. It is a visually dominant and intrusive roof feature which, as a consequence of its overall design and elevation dominates the roofscape of the terrace of three properties. The development is at odds with its historic surroundings and impacts on local views, including those in and out of the nearby Conservation Area. In particular local views from Murat Street are harmed, as are views out of the Conservation Area from the rear of the listed properties along Adelaide Terrace.
14. Given the above, I find that the proposal would fail to preserve the setting of the nearby Grade II listed buildings and the character and appearance of the Conservation Area. Consequently, I give this harm considerable importance and weight in the planning balance of this appeal.
15. Paragraph 193 of the Framework advises that when considering the impact on the significance of designated heritage assets, great weight should be given to their conservation. Given the poor relationship to the Waterloo Conservation Area and the listed terrace, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
16. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The

appellant is of the opinion that the proposal would be beneficial because the balcony provides an opportunity to optimise views from the property. However, I find this to be of very limited public benefit. Given the above and in the absence of any significant public benefit, I conclude that the proposal would have a harmful effect on the character and appearance of the local area bearing in mind the special attention that should be paid to the desirability of preserving the setting of the nearby Grade II listed buildings, 3–19 Adelaide Terrace, and the extent to which it would preserve or enhance the character or appearance of the Waterloo Conservation Area.

17. Therefore, it conflicts with Policies NH11 and NH12 of the LP which, among other objectives, seek to ensure that works affecting the setting of a Listed Building are only permitted where they respect and conserve the historic and positive relationships between the listed building and its surroundings and development which harms elements which make a positive contribution to the setting of a Conservation Area will not be permitted unless it can be demonstrated that public benefits outweigh the harm.

Formal Decision

18. I direct that the enforcement notice should be corrected by :

- a) The deletion from paragraph 4.1 of the words "Wellington Terrace" and the substitution therefor of the words "Wellington Street".

19. Subject to that correction the appeal is dismissed, the enforcement notice is upheld and planning permission is refused for the application deemed to have been made under section 2177(5) of the Act as amended.

A A Phillips

INSPECTOR