The Planning Inspectorate

Appeal Decision

Site visit made on 4 November 2019

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th November 2019

Appeal Ref: APP/X5990/D/19/3234590
63 Moscow Road, London, City of Westminster W2 4JS

- 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 and Mrs Dib against the decision of City of Westminster Council.
- The application Ref 19/01381/FULL, dated 19 February 2019, was refused by notice dated 14 June 2019.
- The development proposed is a rear conservatory.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's Decision Notice does not refer to Saved Policy DES 9 of the City of Westminster Unitary Development Plan (adopted January 2007) (UPD). However, it does refer to paragraphs 10.108 to 10.128 of the UDP, which include that policy. I am satisfied that no party would be prejudiced by my reference to that policy. I have therefore determined the appeal on this basis.

Main Issues

3. The main issues are:-

    - the effect of the proposed development on the character and appearance of the existing property and the Bayswater Conservation Area; and
    - the living conditions of the occupiers of 48 and 49 St Petersburgh Road, with particular regard to privacy.

Reasons

Character and appearance

4. The appeal relates to one half of an unlisted semi-detached dwelling located within the Bayswater Conservation Area (Conservation Area). The Conservation Area is split into two parts, to the east and west of Queensway and the site lies to the west. The significance of the Conservation Area principally derives from its 19th century origins and the many fine examples of Georgian architecture found within it, including the uniformity and grandness of the scale and appearance of predominantly stuccoed housing with traditional joinery.

5. The proposed conservatory would only be visible from the public realm in a glimpsed view from St Petersburgh Mews across the rear garden of 61 Moscow Road. However, given its elevated position, it would be prominent in that view. The proposal would also be visible from the residential properties situated at 48 and 49 St Petersburgh Road.

6. The conservatory would be constructed of uPVC, but the appellants have suggested that they would be agreeable to the use of timber or aluminium as an alternative material of construction. However, it is clear from the drawings submitted with the planning application that the extent, bulk and detailing of the framing and the solid panels to the gables of the conservatory would contrast with the refined and slender traditional timber joinery predominantly found within the Conservation Area. The proposal would not therefore be appropriate in the context of the architecture of the existing property and would diminish the contribution it makes to the character and appearance of the Conservation Area, which would harm its significance.

7. As the harm would be localised around the appeal property, the harm to the Conservation Area as a whole would be less than substantial. It would nonetheless represent an erosion of the Conservation Area's distinctive character and appearance. In circumstances where there is less than substantial harm to the significance of a designated heritage asset, in this case the Conservation Area, paragraph 196 of the National Planning Policy Framework identifies that harm should be weighed against the public benefits of the proposal. However, nothing the appellant has suggested would amount to a public benefit.

8. The statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. The proposal would have a negative effect on the significance of the designated heritage asset and would result in less than substantial harm and there are no public benefits that would outweigh this harm.

9. For the reasons outlined above, I conclude that the proposed development would have an unacceptably harmful effect on the character and appearance of the existing property and the Conservation Area. Hence, the proposal would not accord with Saved Policies DES 1, DES 5, DES 9 and paragraphs 10.108 to 10.128 of the UPD; and Policies S25 and S28 of the Westminster City Plan (Revised November 2016) (City Plan). Together these policies indicate that development should be of the highest standards of architectural quality; maintaining and reflecting the character, scale, hierarchy, style and details of existing buildings; and conservation areas will be conserved.

Living conditions

10. The basement level of the appeal property is occupied by a clinic but the floors above are residentially occupied and the property is densely configured with other residences adjacent. Moreover, the windows and external spaces of the property and those of 48 and 49 St Petersburgh Road are within close proximity of one another. The occupiers of these properties are therefore likely to experience overlooking.

11. The site of the proposed conservatory is to the roof of the commercial use at basement level, which incorporates a rooflight. The roof is currently in use as a terrace associated with the appeal property and is raised above the remainder

of the curtilage of the property. Although the terrace would be available to be used by the occupiers of the appeal property, the presence of the rooflight and the likelihood of inclement weather means that its use would be impractical all year round.

12. The proposed conservatory would provide an enclosed space that would be glazed to its roof and façades, which would enable the current terrace area to be used at all times of the day throughout the year. The proposal would therefore be likely to result in the occupants of Nos 48 and 49 experiencing further direct loss of privacy at a close distance, from within the conservatory.

13. Whilst I am not aware of any objections to the proposal from the current occupants of Nos 48 and 49, this would not justify the proposal as I have identified that it would be harmful. Moreover, the effect of the proposal would be permanent so would be equally harmful to existing and future occupiers.

14. The appellant has suggested that the façade of the conservatory facing Nos 48 and 49 could be obscure glazed but this would not address loss of privacy that would result through the roof of the conservatory. Furthermore, this would also be harmful to the occupants of the appeal property as it would reduce the outlook from the conservatory. This would not therefore be an appropriate means to mitigate the harm that I have identified.

15. For the above reasons, I conclude that the proposed development would have an unacceptably harmful effect on the living conditions of the occupiers of Nos 48 and 49. Hence, the proposal would not accord with Saved Policy ENV 13 of the UDP and Policy S29 of the City Plan. Together these policies seek to avoid proposals that result in an unacceptable material loss of living conditions, particularly overlooking, and should provide a well-designed, high quality living environment, both internally and externally, in relation to the site layout and neighbourhood.

Other Matters

16. The absence of harm in respect of all matters other than the privacy of the occupants of Nos 48 and 49 and the character and appearance of the existing property and the Conservation Area would not outweigh my conclusions on the main issues.

Conclusion

17. For the reasons given above I conclude that the appeal has been dismissed.

Paul Thompson

INSPECTOR