
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: 12th November 2019

Appeal Ref: APP/X5990/D/19/3234429

7 Montpelier Terrace, London SW7 1JP

- 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 Mrs Mita Bannerjee against the decision of City of Westminster Council.
 - The application Ref 18/10233/FULL, dated 30 November 2018, was refused by notice dated 13 May 2019.
 - The development proposed is for the retention of an AC unit and provision of an acoustic enclosure at the rear of the property.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant's description of the development proposed refers to the "retention" of the proposed air conditioning unit and I observed during my site visit that it has been installed. However, for the avoidance of doubt, I have dealt with the appeal on the basis of the development shown on the proposed plan referenced: 2987/A/4022 Rev L04, which also includes the proposed acoustic enclosure.
3. The Council's Decision Notice does not refer to Saved Policy DES 9 of the City of Westminster Unitary Development Plan (adopted January 2007) (UDP). 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

4. The main issues are the effect of the proposed development on:-
 - the living conditions of the occupiers of 6 Montpelier Terrace and 26 Montpelier Square, with particular regard to noise and vibration; and
 - the character and appearance of the existing property and the Knightsbridge Conservation Area and the setting of the listed building situated at 26 Montpelier Square.

Reasons

Living conditions

5. The appeal proposal relates to a Samsung air conditioning unit that has previously been installed. It is sited within close proximity of rear windows of 6 Montpelier Terrace and 26 Montpelier Square. It strikes me that the residential area surrounding the appeal site is discreet and would be more susceptible to changes in the noise environment.
6. The methodology employed in the Appellant's *Plant Noise Assessment Report* (PNAR), particularly in relation to the noise that could affect nearby sensitive receptors, relates only to the proposed Samsung air conditioning unit. Whilst there is some dispute surrounding the legitimacy of the Toshiba air conditioning unit in situ at the appeal site, it currently forms part of the existing noise environment and could continue to do so.
7. I note that the Council's Environmental Health Officer did not raise any objection to the proposal. Nonetheless, I am not persuaded that the PNAR provides a fully representative picture of existing background noise, as it is unclear whether the Toshiba unit was operational when the background noise levels were recorded. Furthermore, the PNAR does not analyse the potential cumulative impact of both units in operation or consider whether the proposed acoustic enclosure would provide suitable mitigation for both units were they to operate in tandem.
8. For the reasons outlined above, I conclude that PNAR does not offer sufficient clarity or robustness to be able to demonstrate that noise and vibration from the proposed development will not have a significantly harmful effect on the living conditions of the occupiers of 6 Montpelier Terrace and 26 Montpelier Square. Hence, the proposal will not accord with Saved Policies ENV6 and ENV7 of the UDP; Policies S29 and S32 of the of the Westminster City Plan (Revised November 2016) (City Plan); and paragraphs 170 and 180 of the National Planning Policy Framework.
9. Together these policies seek to avoid proposals that result in an unacceptable material loss of living conditions and therefore require design features and operational measures to minimise and contain noise from developments, to protect noise sensitive properties.

The character and appearance of the existing property and the Knightsbridge Conservation Area and the setting of the listed building at 26 Montpelier Square

10. The appeal property is an unlisted terraced dwelling comprised within the densely developed heart of the Knightsbridge Conservation Area (Conservation Area). The Conservation Area is primarily contained to the south of Kensington Road and its boundary roughly follows the city boundary. The significance of the Conservation Area lies, at least in part, in the positive contribution made by the historic street pattern and the age, scale and architectural legibility of the built fabric, particularly the presentation of buildings to the street. Moreover, the property presents an impressive stuccoed façade to Montpelier Terrace.
11. The property is adjacent to a grade II listed building at 26 Montpelier Square, which incorporates a brick and stucco façade to the street, with a first-floor cast iron balcony. Part of the significance of the listed building lies in its appearance within the street and it was listed due to its group value. Although

the list description appears to focus on the architectural and historic interest of the front façade of the building, list descriptions are primarily for identification purposes and do not necessarily provide an exhaustive or complete description of the special interest of the building.

12. The rear aspect of the appeal property and others situated in Montpelier Terrace and Montpelier Square have been subject to incremental change. This includes extensions and alterations to the appeal property and its immediate neighbours, which vary in design and contrast with the formality of the street frontage. Nonetheless, the character and appearance of the buildings and the wider Conservation Area has been receptive to these changes and not diminished as a result.
13. The Samsung unit has been installed and is affixed alongside the Toshiba unit to the rear façade of the property below its concealed butterfly roof. The Samsung unit is relatively small in scale and is not visible from street level. Nevertheless, given the height of the appeal property and the utilitarian appearance of both units, they are visible from the upper storeys of surrounding buildings in views into the Conservation Area.
14. However, the visibility of the Samsung unit or the proposed acoustic enclosure is does not mean that their presence would inevitably cause visual harm. Moreover, the enclosure is proposed to match the white painted brickwork of the existing rear façade and would be modest in scale. It would also be subservient to and respect the architectural character of the existing property.
15. With the proposed enclosure in place the Samsung unit will not be prominent and the proposal would appear as a coherent addition that would integrate effectively with the existing property. It would also not be visually harmful in the context of the listed building at No 26 or other historic buildings and the wider the Conservation Area.
16. The statutory duties in Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are a matter of considerable importance and weight. The proposal would not have a negative effect on the significance of designated heritage assets, in this case the Conservation Area and No 26.
17. In light of the above, I conclude that the proposed development would not be harmful to the character or appearance of the existing property or the Conservation Area. The setting of the adjacent listed building at 26 Montpelier Square would also not be harmed. Hence, the proposal would accord with Saved Policies DES 1, DES 5, DES 9 and paragraphs 10.108 to 10.128 of the UPD; Policies S25 and S28 of the City Plan; and Policy KBR1 of the Knightsbridge Neighbourhood Plan 2018-2037 (adopted December 2018).
18. 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, including where seen in longer public views and from private upper levels; heritage assets will be conserved and planning permission will not be granted where it would adversely affect the immediate setting of a listed building.

Conclusion

19. While I have not found harm in relation to character and appearance, I have identified significant harm to living conditions in respect of noise and vibration. Therefore, for the reasons given above, I conclude that the appeal has been dismissed.

Paul Thompson

INSPECTOR