



Appeal Decision

Site visit made on 17 February 2021

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th March 2021

Appeal Ref: APP/X5990/W/20/3262595
87 Ashmill Street, London NW1 6RA

- 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 Ms Mary Power against the decision of City of Westminster Council.
 - The application Ref 20/03604/FULL, dated 9 June 2020, was refused by notice dated 14 August 2020.
 - The development proposed is Erection of first floor rear elevation Juliette Balcony and replacement rear window with balcony doors.
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Decision

1. The appeal is allowed, and planning permission is granted for Erection of first floor rear elevation Juliette Balcony and replacement rear window with balcony doors at 87 Ashmill Street, London NW1 6RA in accordance with the terms of application Ref 20/03604/FULL dated 9 June 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the approved plans/drawings numbered: ASHMILL_SEQUENCE_002 Rev A, ASHMILL_PROPOSED_003 Rev A, ASHMILL_SKETCH_004 Rev A and ASHMILL_FULL_ELEV_005 submitted with the letter dated 18 June 2020, and Site Location Plan.
 - 3) The external finishes of the development hereby permitted shall match the existing building in terms of the materials and finished appearance.
 - 4) Notwithstanding the details submitted in the approved drawings, the balcony shall not be erected until the detailed design and appearance has been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall only be carried out in accordance with the approved details.
 - 5) Any building work which can be heard at the boundary of the site shall only be carried out between 08.00 and 18.00 Mondays to Fridays; between 08.00 and 13.00 on Saturdays; and not at all on Sundays, bank holidays and public holidays.

Procedural Matter

2. I have had regard to the observations at my site visit to identify the neighbouring properties referred to in the Council's second reason for refusal.

Main Issues

3. The main issues are the effect of the proposed development upon:
 - the character and appearance of the host building and the area; and,
 - the living conditions of the occupiers of Nos 13 – 17 Shroton Street and Nos 85, 88 and 91 Ashmill Street with particular reference to privacy and overlooking.

Reasons

Character and appearance

4. The appeal site is part of a three storey building comprising multiple maisonettes and basement flats along a significant length of Ashmill Street. It is of a relatively modern design and appearance compared to many buildings forming the wider block, integrating ironwork railings similar to those visible on historic frontages nearby. The rear comprises a relatively consistent alignment of single first floor windows with two smaller openings on the floor below . However, a variety of conservatories and a number of satellite dishes significantly reduce overall consistency and uniformity of the elevation. The rear of the appeal site was not visible from the public realm.
5. The proposed development would provide benefits in respect of daylight, ventilation, and improved energy efficiency. It would increase the opening by extending it down a short distance to floor level, similar to the level of the fixed window planter. Although there is none visible on the rear of this building, the principle of an ironwork design would be reflective of materials in the wider vicinity. The development would retain visibility of the doors, extending a short distance either side to modestly frame the lower part of the opening and projecting up to 0.25m, which would not significantly add to clutter.
6. By retaining the existing position and width, with the double door configuration, the development would be a visible but modest low key addition, that would not be harmful to the character and appearance of the host building or the area, including the setting of the Lisson Grove Conservation Area. The scroll design would not be in keeping with the railings of the host building and the area, which is addressed by a planning condition requiring the Council's approval of the design.
7. For the reasons set out above the development would not be harmful to the character and appearance of the host building or the area. It would not conflict with Policy S28 of the Westminster City Plan (2016) (the WCP) or Policies DES1 and DES5 of the City of Westminster Unitary Development Plan (2007) (the UDP). Amongst other things these require development incorporates the highest standard of design, maintains the character of the area, does not dominate and is in keeping with the existing building.

Living conditions

8. The appeal site window lies approximately 9m from properties on Shroton Street. There is already intervisibility between the windows and gardens, which has existed since the appeal site block was constructed. The small projection of the balcony and the short downward extension of the window would not materially increase the level of overlooking possible or have a greater harmful effect upon the privacy of these properties. Therefore, it would not result in a material adverse effect upon the living conditions of the occupiers opposite, including Nos 13 – 17 Shroton Street.
9. The gardens below and to the sides of the appeal site are overlooked by the maisonettes above and the accommodation on Shroton Street, so the gardens below have little if any privacy. The appeal site windows currently open outwards from a height of approximately 0.9m above internal floor level. By increasing the opening a small amount, providing inward opening doors, and installing the balcony, there would be no significant increase in overlooking or effect upon privacy, than is currently possible from neighbouring properties or the existing ground and first floor appeal site windows. Therefore, the development would not result in a material adverse effect upon the existing living conditions of occupiers from the gardens below and either side of the appeal site (Nos 85, 88 and 91).
10. For the reasons set out above the proposed development would not have an overall harmful effect upon the living conditions of the occupiers of Nos 13 – 17 Shroton Street and Nos 85, 88 and 91 Ashmill Street with particular reference to privacy and overlooking. Therefore, the development would not conflict with Policy ENV13 of the UDP or Policy S29 of the WCP, which amongst other things seek to ensure development protects the living conditions of neighbouring occupiers.

Other Matters

11. I have considered this proposal on its own planning merits. The small increase in the window opening would not significantly increase noise emissions from this domestic dwelling. Based upon the substantive evidence before me, this development would not be likely to have any adverse effect upon the health and well-being of neighbouring occupiers or be likely to increase anti-social behaviour. Based upon the evidence before me the timing of the application and this appeal has not prevented notification to neighbouring properties or those who wish to submit representations from doing so. There would be no significant risk, or greater risk of objects falling from the proposed balcony than an existing window and window box.
12. I have considered the view that the grant of permission would set a precedent for other similar developments. However, each application must be considered on its own planning merits. Given that I have found this development acceptable based upon the evidence that is before me and based upon its own merits, I can see no reason why it would result in other harmful developments.

Conditions

13. As well as the standard condition for commencement, for certainty a condition requiring the development to be carried out in accordance with the approved plans is necessary. Conditions to require the external materials match the host

building, and to seek the approval of the final design of the balcony, are necessary to ensure a satisfactory visual appearance in keeping with the host building and wider area. Given the proximity to the closest neighbouring properties, in the interests of the living conditions of neighbouring occupiers it is necessary to impose a condition in respect of the nature of construction works that can take place between certain working hours.

Conclusion

14. For the reasons set out above and having regard to all the matters raised, the appeal is allowed, and planning permission is granted.

Dan Szymanski

INSPECTOR