



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: 22nd March 2021

Appeal Ref: APP/X5990/W/20/3258559

77 Chester Row, London SW1W 8JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Man Yuk Lai against City of Westminster Council.
 - The application Ref 20/03518/FULL, is dated 5 June 2020.
 - The development proposed is Single Storey Ground Floor Rear Extension.
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Decision

1. The appeal is allowed, and planning permission is granted for Single Storey Ground Floor Rear Extension with associated terrace at 77 Chester Row, London SW1W 8JL in accordance with the terms of the application Ref 20/03518/FULL, dated 5 June 2020, subject to the conditions set out in the schedule attached.

Procedural Matters

2. In the banner heading above I have used the description from the original planning application form. In the decision paragraph I have added the reference to reflect the development proposed.
3. The appeal has been submitted due to the failure of the Council to give notice of its decision within the prescribed time period. The Council has subsequently advised it would have refused the application for the following reasons:

Because of its bulk the proposed extension would harm the appearance of this building and fail to maintain or improve (preserve or enhance) the character and appearance (visual amenity) of the Belgravia Conservation Area.

4. I have had regard to this, representations from interested parties and observations at my site visit in setting out the main issues below.

Main Issues

5. The main issues are the effect of the proposed development upon:
 - the character and appearance of the host building and whether the proposed development would preserve or enhance the character or appearance of the Belgravia Conservation Area (the BCA); and,
 - the living conditions of the occupiers of Nos 75 and 79 Chester Row with particular reference to daylight, light pollution, privacy, and outlook.

Reasons

Character and appearance and the BCA

6. The appeal site comprises a mid-terrace dwelling constructed of brickwork with a mansard roof and a lower ground floor. The site and surrounding buildings are within the BCA, where there is a statutory duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing its character or appearance. Paragraph 193 of the National Planning Policy Framework (2019) (the Framework) requires when considering the impact upon the significance of a designated heritage asset, great weight should be given to the asset's conservation.
7. The BCA encompasses a wide area comprising a variety of historic buildings of historic significance as a planned aristocratic residential quarter, being an example of high-class early 19th century speculative development. Along its length Chester Row comprises groups of smaller more modestly decorated terraces. The part of the BCA around the appeal site is characterised by and primarily derives its significance from the combination and variety of groups of historic terraced buildings and other historic buildings such as St. Mary's Church to the north, of differing colour brickwork, vernaculars and roof styles, providing clearly defined blocks with well-preserved historic frontages retaining historic features and forms.
8. The contribution of the appeal site to the significance of the BCA is primarily as a historic terrace building in brick with stucco elements, sash windows and decorative railings and balconies, similar to the frontage of neighbouring buildings in the terrace groupings. The rear of the appeal site and nearby dwellings are characterised by fewer historic decorative features, a combination of historic and modified window openings, and a variety of shape, depth, and scale of rear projections within relatively modestly sized regular plots. Overall, the appeal site makes a neutral contribution to the BCA.
9. The appeal site includes a full depth part width ground floor extension and a short closet wing below which is a low level projection upon which the development would be situated. The proposal is of a reduced depth and width in comparison to a scheme previously refused planning permission. Although it is suggested there is a discrepancy between the plans, it integrates a parapet wall, so it appears higher on the rear elevation than along the section.
10. The development would be a modest subservient single floor projection on a similar alignment as the closet wing. It would project less than the existing lower level extension, creating a small terrace. The extension would project a small amount above the neighbouring party wall, being of a satisfactory and subservient bulk, scale, and height. It would not increase the built footprint or decrease the proportion of lower garden area. Given its size, appearance and position it would not have a harmful effect in respect of its bulk, scale, or over-development of the site.
11. The replacement timber painted double door, new clerestory window and traditional brick copings would be more in keeping with the materials, scale, and appearance of openings on the host property. A condition is imposed in respect of revised details of the windows as it is necessary to provide glazing bars that truly divide the panes, in keeping with traditional style windows on

- the appeal site and in the surrounding area. Subject to this, the development is acceptable in respect of its massing and design, in keeping with the character and appearance of the existing building and the BCA.
12. For the reasons set out above the proposed development is in keeping with the character and appearance of the host building. It would preserve the character and appearance of the BCA and preserve the elements that make a positive contribution to the significance of the BCA. Therefore, the development would not conflict with paragraphs 193 or 194 of the Framework. It is compliant with Policies S25 and S28 of the Westminster City Plan (2016) (the WCP) and Policies DES1, DES5 and DES9 of the City of Westminster Unitary Development Plan (2007) (the UDP). In combination and amongst other things these policies require that development exhibits the highest standards of design, utilises high quality materials, is subservient to the host building, upgrades buildings sensitively and respects and preserves heritage.
 13. I have been provided with *Roofs – A Guide to Alterations and Extensions to Domestic Buildings* (2004). I find the development is compliant with the relevant guidance in respect of height, design, and materials for this type of roof. I have also been provided with a copy of the *Belgravia Conservation Area Audit* (2013) (the BCAA). Having regard to the bulk, massing, scale, height, design, and materials, subject to the imposition of the planning conditions I have set out, the development would not conflict with the descriptions, or significance of this part of the BCA, or the relevant advice.
 14. In its suggested reason that it would have refused planning permission the Council has referred to paragraphs 10.108 – 10.128 of the UDP. As I have found the development integrates well with the existing building in terms of its scale, bulk, appearance, and materials, and preserves the character and appearance of the BCA, I find no conflict with the relevant guidance.
 15. I have considered the Council's view that the grant of planning permission would set a precedent for other similar developments. Given that I have concluded the proposal would be acceptable, I can see no reason why it would lead to harmful developments on other sites in the area.

Living conditions

16. The extension would be only a limited amount higher than the party wall with No 75 and the existing extension which separates it from No 79 along its depth. Given the distance from the nearest windows, the highly limited visibility, height and depth, screening from the existing projection and the orientation of the properties, there would be no harmful effect in respect of a loss of outlook, daylight to internal rooms or the garden or related concerns in respect of health and safety. The rooflight would be of an angle and a sufficient distance from No 79 so as not to have any significant effect in respect of light pollution.
17. The top of the extension would be visible through the rooflights at an oblique angle and when looking out of some rear facing windows of No 75. Given the limited height, position, and the existing projection any sense of enclosure and effect upon outlook would be small and not harmful. Having regard to this and the orientation of the properties, it would not result in harmful living conditions to occupiers of No 75 in respect of daylight to internal rooms or the garden. The skylight may result in some visible light from internal lighting after dark,

visible from the nearest first floor windows at an oblique angle from a downward position. However, its effect would be small, particularly in this urban context and it would not be likely to result in any discernible effect from light pollution. Therefore, it would not result in harmful living conditions to the occupiers of No 75 in these regards.

18. Given the height of the rear wall of the extension, existing projections and the short depth of the terrace, there would be little intervisibility between users of the terrace and the windows and gardens of neighbouring properties, and this would be less than the existing terrace. Any visibility into and out of the skylight would be from highly restricted oblique angles from a small part of the extension. This would be far more restricted than the existing terrace. Therefore, the development would not result in harmful living conditions to the occupiers of No 75 and 79 in respect of privacy.
19. For the reasons set out above the development would not result in harmful living conditions for the occupiers of Nos 75 and 79 in respect of a loss of outlook, daylight, privacy or from light pollution. Therefore, it would not conflict with Policy ENV13 of the UDP, which requires development protects the living conditions of the occupiers of development and neighbouring properties in respect of daylight, outlook, and privacy. The development would also be compliant with paragraph 180c) of the Framework which requires development limits the impact of light pollution from artificial light on local amenity.

Other Matters

20. Some disturbance from construction is possible. However, the development is small so the nature and duration of the works would not be of a magnitude or duration that would result in harmful living conditions to neighbouring occupiers. A condition is imposed to restrict working hours for audible construction works. There is no substantive evidence, such as records of registered complaints, of harmful living conditions in respect of noise. Having regard to the existing rear garden space, the new terrace would replace an existing larger terrace and there is no substantive evidence to demonstrate the small increase in overall accommodation would result in harmful effects from noise and disturbance from this single family dwelling.
21. I have no reason to believe the development would not be built in accordance with the Building Regulations. Matters in respect of a party wall are the subject of legislation dealing with private legal rights. The development would not increase the footprint of built development so there would be no material increase in run-off. To ensure a satisfactory relationship with and drainage in relation to the neighbouring dwelling I have imposed a condition to require the details of this to be submitted to the Council. The development would not adjoin the mansard roof and I see no reason why the development might adversely affect it.
22. The position, height, depth, and orientation of the development would not materially increase overshadowing and would not result in harmful living conditions to neighbouring occupiers. Given the position, proximity and orientation of properties, there would be no material harm in respect of daylight or outlook to properties beyond the immediate neighbouring properties. The effect upon a view is not a material consideration, however, I have had regard to the visual impact of the development upon the character and appearance of the BCA having regard to the current layout of the appeal

site. There is no reason this development would result in harmful effects from vermin. Based upon my visit and having regard to representations from interested parties, there is no evidence of an existing deficiency of private amenity space or that the development would result in a deficiency.

Conditions

23. I have considered the Council's suggested conditions and where appropriate amended the wording to more closely align with the Planning Practice Guidance. As well as the standard condition for commencement, for certainty a condition requiring the development is carried out in accordance with the approved plans is necessary. To ensure the development preserves the character and appearance of the host building and the BCA it is necessary to impose a condition to ensure the external materials are those set out on plan/drawing Ref 2019-77CR-RE-6 Rev 1.0D and the finishes match the existing building. For the same reasons it is necessary to impose a condition for the prior written approval of revised details of the glazing and bars of the new windows.
24. A condition restricting the hours during which certain building and construction works can occur is necessary to protect the living conditions of neighbouring occupiers. Reference to procedures under the separate legislation have been removed as it is unnecessary. To ensure satisfactory drainage from the roof it is necessary to impose a condition to ensure details are first agreed with the Council. It is not necessary for this to be a pre-commencement condition. I have not included the Council's planning condition in respect of the use of the roof terrace. This is because there is no evidence of such a restriction on the existing terrace, and I have not found the use of the modest section of terrace would result in harm. Therefore, based upon the evidence before me, the condition is not necessary.

Conclusion

25. 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

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Except where modified by this schedule of conditions, the development hereby permitted shall be carried out in accordance with the approved plan/drawing Refs: 2019-77CR-RE-1 Rev 1.0D; 2019-77CR-RE-2 Rev 1.0D; 2019-77CR-RE-3 Rev 1.0D; 2019-77CR-RE-4 Rev 1.0D; 2019-77CR-RE-5 Rev 1.0D, 2019-77CR-RE-6 Rev 1.0D; 2019-77CR-RE-7 Rev 1.0D; 2019-77CR-RE-8 Rev 1.0D; 2019-77CR-RE-9 Rev 1.0D; 2019-77CR-RE-10 Rev 1.0D.
- 3) Notwithstanding the details on plan/drawing no. 2019-77CR-RE-10 Rev 1.0D, no windows or doors shall be installed on the development until revised detailed drawings at 1:10 with sections at 1:5 of the French doors and clerestory windows have 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.
- 4) The materials to be used in the external construction of the development hereby permitted shall be those set out on the approved plan/drawing Ref 2019-77CR-RE-6 Rev 1.0D. All new work to the outside of the building shall match existing original materials in terms of the method of construction and finished appearance.
- 5) Notwithstanding condition 2, no part of the roof shall be constructed until the detailed design of the roof to show its relationship with the boundary with No. 75 Chester Row and details of surface water drainage, have 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.
- 6) Except for piling, excavation and demolition work, 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. Piling, excavation, and demolition work shall only be carried out between 08.00 and 18.00 Mondays to Fridays, and not at all on Saturdays, Sundays, bank holidays and public holidays.

End of Schedule.