



Appeal Decision

Site Visit made on 1 April 2021

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 April 2021

Appeal Ref: APP/P4605/W/20/3253980

The Counting House, 3 Mary Ann Street, Jewellery Quarter, Birmingham B3 1BG

- 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 Jo Barnard against the decision of Birmingham City Council.
 - The application Ref 2019/07011/PA, dated 30 August 2019, was refused by notice dated 11 December 2019.
 - The development proposed is the enlargement of existing second floor windows, creation of green roof and installation of balustrade.
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Decision

1. The appeal is allowed and planning permission is granted for the enlargement of existing second floor windows, creation of green roof and installation of balustrade at The Counting House, 3 Mary Ann Street, Jewellery Quarter, Birmingham, B3 1BG in accordance with the terms of the application, Ref 2019/07011/PA, dated 30 August 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) Unless otherwise amended under the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans:
 - Revised Plans Drawing No 2 Rev 3 entitled 'Floor Plan & Elevation' dated 22 February 2021 and
 - Revised Plans Drawing No 3 Rev 3 entitled 'Cross Section' dated 22 February 2021.
 - 3) Prior to the installation of the enlarged windows, all the balustrade shall be erected along the edge of the terrace together with a form of panelling that has first been submitted to and approved in writing by the Local Planning Authority, and the balustrade shall thereafter be retained with that panelling at all times.
 - 4) The terrace/green roof shall not be used as a balcony, roof garden or similar amenity area and access shall be for maintenance purposes only. Notwithstanding any details on the approved plans, there shall be no access through any of the 3 modified windows hereby permitted onto the terrace/green roof.
 - 5) Notwithstanding any details on the approved drawings, detailed drawings of the proposed windows at a minimum scale of 1:10 showing materials and coverings, paint finish, fenestration profiles, lintels, cills, windows dressings, cheeks reveal and window furniture shall be submitted to and

approved in writing by the Local Planning Authority prior to their installation, and the development shall then be undertaken in accordance with those approved details.

Preliminary Matters

2. There had been a number of plans submitted with the application and appeal, illustrating a variety of possible schemes. However, the appellant drew together the proposal before me onto Revised Plans 2 Rev 3 and Revised Plans 3 Rev 3, both dated 22 February 2021. These clarify what was shown less clearly in the previous submissions. I have therefore determined the appeal in the light of their details, considering no party was prejudiced as a result.
3. Although the development's description above differs from that on the planning application form, it is found on the decision notice and appeal form and reflects what is before me more clearly.

Main Issue

4. The main issue is the effect on the living conditions of residents at 1 Mary Ann Street.

Reasons

5. The proposal would enlarge the office windows on the second floor of a rear wing. Immediately next to the site, separated by just a narrow gap and at a slightly lower level is a sloping roof at 1 Mary Ann Street. Set within this and facing the development are rooflights to serve bedrooms in a recently approved residential conversion of that neighbouring building.
6. The high-level nature of the existing windows in the rear wing of the appeal property means the current arrangement does not allow overlooking of the bedroom rooflights at No 1. However, by enlarging these as proposed there is, potentially, intervisibility between the adjacent bedrooms and the appellant's office. Given the differences in levels though that would be overcome by the intervening 1050mm high balustrade, as long as its panels were of a design or material that prevented people seeing through them. A condition also would need to be imposed to ensure there was no access through the windows so as to prevent those in the office using the terrace as an outside recreation or rest area. Although that would also prevent the use of the windows to access the terrace for maintenance purposes, the appellant appears to accept in their submissions that an alternative means of access would not be impossible, impractical or unreasonable.
7. The balustrade would be visible from inside the bedrooms at No 1. However, it would be some distance from the rooflights, and when seen from those rooms the balustrade would stand against the existing rear wing at the appeal property and would not project above its roof-line. As such, there would in my opinion be no appreciable diminution in daylight or in views of the sky from those adjacent rooms when compared to the existing situation, and the balustrade would not appear overwhelming.
8. Accordingly, I conclude the development would not detract unreasonably from the living conditions of neighbouring residents, and so would not conflict with Policies PG3 and TP27 of the *Birmingham Development Plan*, which together seek development of a high design quality that responds to its locality

(although the latter policy appears to concern new residential development). The Council also cited a conflict with saved Policy 3.14C of the *Birmingham Plan* (2005), which states that there should be compliance with various elements of supplementary planning guidance. Given I consider the scheme would not cause harm to the living conditions of adjacent residents, and mindful that no specific conflict with guidance has been highlighted, I also have no basis to conclude there would be a conflict with that policy. Moreover, in the light of the above it would not conflict with the *National Planning Policy Framework*.

Other Matters

9. The appellant states that the appeal premises are a Grade II listed building, which was constructed initially at the start of last century. Its significance, and its special architectural and historic interest, lie partly in its ornate dominant frontage that reflects the grandeur and optimism of this commercial property. It is also within the Jewellery Quarter Conservation Area, the character, appearance and significance of which is defined in part by the many industrial and commercial buildings of a high status that it contains from the 19th and early 20th centuries in particular, and these show the prosperity of the quarter at that time. The appeal property, with its grand frontage and commercial origins, contributes positively to these aspects of the conservation area.
10. Being on the rear amongst a varied roofscape and on a wing of a modern appearance, I consider these alterations would not be sufficient to harm the special architectural or historic interest of the building or the character and appearance of the conservation area, and would cause no harm to the significance of either designated heritage asset. Indeed, when compared to what is existing I consider the proposal will be visually preferable, and so will be to the benefit of the appearance of the building and its historic context.
11. On the evidence before me I have no reason to consider any emissions or fumes will cause harm.

Conditions

12. As discussed above, conditions should be imposed to require the erection of the balustrade and the agreement of panelling (to ensure it did not allow intervisibility), and to prevent the use of the terrace for recreational purposes or similar. To ensure this there should be no access through the windows approved, though otherwise I see no reason why the windows need to be fixed shut. Finally, the plans on which the decision is based should be confirmed while, given the historic context, the details of the windows should be agreed.

Conclusion

13. Accordingly, I conclude that the appeal should be allowed.

JP Sargent

INSPECTOR