



Appeal Decision

Site Visit made on 6 May 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2021

Appeal Ref: APP/X5990/D/20/3259065

22 Courtnell Street, London, W2 5BX

- 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 Alyshia Mangalji against the decision of City of Westminster Council.
 - The application Ref 20/01545/FULL, dated 26 February 2020, was refused by notice dated 26 June 2020.
 - The development proposed is the installation of railings and trellis and replacement of second floor rear elevation window with glazed doors all in association with the use of the roof as a terrace.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In my heading above I have used the description of development given on the appeal form and decision notice rather than that on the planning application form as it is more succinct.

Main Issues

3. The main issues are the effect of the proposal on (i) the character and appearance of the host building with particular reference to whether it would preserve or enhance the character or appearance of the Westbourne Conservation Area; and (ii) the living conditions of nearby residents having regard to privacy.

Reason

Character and appearance

4. The Westbourne Conservation Area (CA) covers a primarily residential area mostly built in the 19th century. It contains numerous three and four storey terraced dwellings arranged in serried ranks. Important contributory factors to its significance include the grid-like street pattern, the ordered arrangement of buildings and their coherent architectural form. Generally, the principal elevations of dwellings in Courtnell Street display ornamentation and detailing whereas rear elevations appear more functional and many have undergone some alteration. Nevertheless, a degree of uniformity is discernible due to the prevalence and regular spacing of flat roofed rear closet wings on many properties. I am mindful of my statutory duty¹ to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.

¹ Section 72, Planning (Listed Buildings and Conservation Areas) Act 1990

5. The appeal property is a three storey mid terraced Victorian dwelling with accommodation at loft floor level. It displays many of the typical characteristics described and therefore, contributes positively to the significance of the CA as an individual building and as part of the wider terrace.
6. The proposal would install glazed doors to provide access onto the roof of the rear closet wing to be used as a roof terrace. This would include the introduction of a metal balustrade up to 1.4m in height around the parapet, with a timber trellis set behind it up to 1.7m in height² which would support a planted screen. The presence of the balustrade and timber trellising in an elevated position above the flat roof closet wing would appear obtrusive. The proposed elevations³ illustrate that the combination of the structures would result in a cross-hatching effect that would add visual clutter to the otherwise largely plain brick rear elevation.
7. Notwithstanding that planting is proposed which would soften the appearance of the balustrade and trellis to a degree, the height and density of planting cannot be guaranteed. Additionally, planting would be adjacent to the inner surface of the structures and therefore, may not screen the outer facing surfaces. In any event, it would be unlikely to provide an all year round verdant screen. Consequently, it is likely that there would be gaps through which outdoor seating and other domestic paraphernalia associated with the proposed roof terrace could be seen, which would intensify the impression of clutter.
8. Although the development would not be seen from Courtnell Street, the height of the proposed development would give it added prominence such that it would be clearly visible from a number of properties close by. This would exacerbate the degree of harm.
9. Overall, the proposal would adversely affect the character and appearance of the building and wider terrace. As such, it would detract from the significance of the CA, albeit that given the modest scale of the development this would be less than substantial harm. In these circumstances, paragraph 196 of the National Planning Policy Framework (the Framework) stipulates that the harm should be weighed against the public benefits of the proposal.
10. Although primarily a private benefit, some public benefit would accrue from the provision of a dwelling with increased outdoor space. However, the magnitude of this benefit would be tempered by the existence of the rear garden presently serving the dwelling. In addition, there would be some limited potential for planting which would make a small contribution towards biodiversity. Overall, these benefits attract limited weight. They would not outweigh the harm to the significance of the CA which in line with paragraph 193 of the Framework, attracts great weight.
11. Reference is made to the presence of other roof terraces and alterations to dwellings in Courtnell Street⁴. Although these are not within the immediate vicinity of the appeal building, they relate to properties with similar characteristics on the eastern side of the street and therefore, are relevant to my determination. Two specific examples have been highlighted by the

² Drawing No.112A Rev A, Proposed Second Floor Plan

³ Drawing No.114A Rev A, Proposed Elevations

⁴ Fig 3, Appellant's Appeal Statement

appellant, namely roof terraces permitted at 10 and 14 Courtnell Street respectively⁵.

12. Based on the information provided, access onto the roof at No.10 had been established prior to the permission being granted. The terrace permitted at No.14 replaced a modern unsightly extension and was smaller relative to the appeal proposal. Given these differences, these examples carry limited weight in favour of the proposal which I have determined on its own merits.
13. More generally, my observations were that not all alterations made in the past to the rear elevations within the terrace have been sensitive to its architectural integrity. The concentration of roof terraces highlighted in Fig 3 of the appellants appeal statement although undeniably present in the CA, in my view have a small but negative impact on its significance. Accordingly, they do not set a desirable precedent for future development. To do otherwise would fail to preserve or enhance the character and appearance of the CA.
14. The appellant describes the design as having lightweight materiality and states that materials would closely match existing elements. However, the functional guard rail shown on the submitted drawings does not appear to replicate the ornamental railings at the front of the property. Furthermore, I did not observe the prominent use of timber trellising in the area. Hence, these factors would not surmount the harm identified.
15. Accordingly, I find that the proposal would be harmful to the character and appearance of the appeal building and would fail to preserve or enhance the character and appearance of the CA. Therefore, it would conflict with policies S25 and S28 of the Westminster City Plan, November 2016 (WCP), as well as policies DES1, DES5 and DES9 of the Unitary Development Plan, January 2007 (UDP). Taken in combination, and amongst other matters, these policies seek development of the highest standards of architectural quality which conserves the significance of conservation areas.

Living conditions

16. S29 of the WCP states, amongst other things, that development that results in an unacceptable material loss of residential amenity will be resisted. Furthermore, policy ENV13(F) of the UDP stipulates that developments should not result in a significant increase in overlooking.
17. The depth of the projection of the roof terrace combined with its proximity to the boundary with 20 Courtnell Street would afford glimpses towards the first and second storey windows in the rear elevation of No.20, as well as a bedroom window in the side elevation of the closet wing which faces towards No.22. The proposed configuration would result in a degree of overlooking that would be incompatible with the level of privacy that the adjoining occupants might reasonably anticipate.
18. In addition, the proposed roof terrace would be at an elevated level relative to the rear gardens of the properties either side as well as to properties to the east in Moorhouse Road. For reasons already outlined, the presence and density of planting could not be guaranteed to provide a screen that would prevent those using the roof terrace from seeing out between gaps in the lattice created by the balustrade and trellis. As such, occupants of the roof

⁵ Planning references 05/06221/FULL & 14/10165/FULL

terrace would have intrusive downward views towards the small rear gardens of properties nearby, which given their limited size are likely to be intensively used. Furthermore, they would have closer views at a higher level to windows in the rear elevation of dwellings in Moorhouse Road.

19. Notwithstanding that some views to gardens and rear windows would be possible from existing windows in the appeal property, the presence of people on the proposed roof terrace would have a greater immediacy and proximity. Moreover, it is likely that occupants would use the space for prolonged periods in good weather, which would coincide with times when neighbouring residents would also look to use their gardens and have their windows open. Consequently, nearby residents would be particularly aware of the presence of people using the roof terrace, especially when looking to enjoy their own rear gardens which would unacceptably compromise their living conditions.
20. The appellant highlights that the proposal would not be detrimental to the levels of daylight or sunlight experienced by nearby residents. Be that as it may, the absence of harm in this regard would not address nor outweigh the reduction in privacy. In this respect the development would fall short of providing a high standard of amenity as referred to in paragraph 127(f) of the Framework.
21. Taking these factors together, I find that the proposal would have an unacceptable impact on the living conditions of nearby residents having regard to privacy. It follows that it would conflict with policy S29 of the WCP and policy ENV13 of the UDP.

Other Matters

22. Due to the Covid-19 pandemic, the Council made its determination without visiting the appeal property. The appellant considers this hampered an accurate assessment of the proposal. In determining the proposal, I have taken the evidence before me into account, which included observations made during my site visit.

Conclusion

23. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise⁶. No compelling reasons have been shown to justify my determining the development other than in accordance with the adopted development plan. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

INSPECTOR

⁶ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.