



Appeal Decision

Site Visit made on 26 May 2021

by Scott Britnell MSc FdA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 June 2021

Appeal Ref: APP/X5990/W/21/3266803

Upper Floor, 3 Charlwood Place, London SW1V 2LX

- 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 Miss Cordelia Sayers against the decision of the City of Westminster Council.
 - The application Ref 20/04637/FULL, dated 14 July 2020, was refused by notice dated 26 October 2020.
 - The development proposed is described as “new timber casement doors within existing opening, replacing sash window at first floor level. New painted metal railings to existing perimeter parapet of flat roof at first floor level. New suspended timber decking concealed within existing perimeter parapet”.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Following the determination of the planning application the Council has adopted a new local plan, City Plan 2019-2040 (CP). I have sought comments from the main parties with regard to this matter and I have taken their responses into account in my decision.

Main Issues

3. The main issues are the effect of the proposal on:
 - the living conditions of the occupants of 5 Charlwood Place, with particular regard to overlooking and loss of privacy; and,
 - the character and appearance of the host building and the Pimlico Conservation Area.

Reasons

Living Conditions

4. The proposal would facilitate the use of a flat roof area at first floor level to the rear of the host building as an outdoor amenity area. I acknowledge that there are numerous examples of high level terraces to the rear of properties along Churton Street and Tachbrook Street and that some flat roof areas appear to be being used along Charlwood Place as roof terraces, although these do not have the benefit of fall protection, such as railings. Given the presence of these structures and activities and the relationship between the rear of the properties on all three streets, there is a high degree of mutual overlooking in the area.

5. However, the proposal would facilitate the use of the flat roof as an amenity area within proximity of the windows at the rear of adjacent property 5 Charlwood Place. The Council indicate that the rooms served by these windows appear to be habitable rooms and, in the absence of evidence to suggest otherwise, I have no reason to disagree with that view.
6. Although the window at No.5 closest to the proposed roof terrace is located above the flat roof in terms of its height, I observed that views towards it are unobstructed from this area. Moreover, views of the windows directly below this window are also available from the proposed roof terrace. At present, as the flat roof has no fall protection it is unlikely to be used as an amenity space. The proposal would provide such protection and would therefore significantly increase the usability of the flat roof area. Users of this area would have unobstructed views of the windows at No.5 in very close proximity and this would inevitably result in a significant loss of privacy to the occupiers of No.5. This would make the rooms served by these windows significantly less pleasant to use and would cause harm to the living conditions of the occupants of that property.
7. The Appellant has set out that No.5 is already overlooked by surrounding development. As I have reasoned above, there is a high degree of mutual overlooking of gardens and the rear of properties in this locality as a result of the pattern of development and presence of roof terraces. However, given the very close proximity of the proposed roof terrace to the windows at No 5, the level of overlooking that would result from the proposal would be significantly worse than the existing situation.
8. In addition to the above, I acknowledge that the occupants of No 5 support the proposal. However, development proposals may be unacceptable in planning terms regardless of support or the absence of objections. In this case, I have assessed the proposal on its merits and found that it would be harmful for the reasons I have set out above.
9. In conclusion, the proposal would result in harm to the living conditions of the occupants at 5 Charlwood Place. There would be conflict with CP Policies 7 and 38, which seek, amongst other matters, to ensure that development protects amenity by preventing unacceptable impacts in terms of overlooking and that it ensures a good standard of amenity for existing occupiers.

Character and Appearance

10. The appeal site is located in the Pimlico Conservation Area (CA). Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that, in making decisions on planning applications and appeals within a Conservation Area, special attention is paid to the desirability of preserving or enhancing the character and appearance of the area.
11. I have little information before me in terms of the significance of the CA and so I have approached this matter based on my own observations. I consider that the significance of the CA is derived, in part, due to the quality, appearance and age of its buildings. Given the pattern of development in the CA, that significance is principally experienced from the public realm with no publicly available views of the rear of the appeal building.

12. I acknowledge that there are no visible signs of high level roof terraces with railings along the rear of Charlwood Place. Further, the roof terraces on Churton Street sit on wider extensions and there is consistency in terms of the flat roofs used as roof terraces along Tachbrook Street. However, the close visual and physical relationship formed by the rear of the properties along Charlwood Place, Churton Street and Tachbrook Street form an intimate setting and context for the appeal site.
13. While I do not have the full details of the existing roof terraces before me, they nevertheless contribute to the context of the appeal site and the character and appearance of the area. Furthermore, I note that many have balustrades similar to those proposed.
14. In respect of the replacement sash window with a door, I acknowledge that the upper floor windows along the terrace at Charlwood Place provide a consistent pattern. However, there are already several doors at upper floor level within the locality and I do not consider that the replacement of the sash window would appear out of place.
15. Taking the above into account, the proposal would not appear incongruous in the context of surrounding development. Consequently, while the proposal would be prominent in views from neighbouring properties it would, due to its location to the rear of the host building and the surrounding context cause no harm to the significance of the CA. Therefore, the character and appearance of the CA would be preserved.
16. Finally, the Council identify the host building as an unlisted building of merit. The proposal would be confined to the rear of the building where it would not be viewed from public vantage points. The proposed timber decking would be hidden by the parapet roof, resulting in a discreet addition, while the existing aperture would not be altered to facilitate the replacement door, thus ensuring that the proposal does not significantly alter the fabric of the building. Further, the proposed doors would relate well to the windows in the rear elevation in terms of their design and materials. Moreover, the proposed balustrade is of simple design and size and so would not dominate the rear of the building. I also note that similar railings have been approved at the lower floor flat, so that the proposed balustrade would not appear as an incongruous addition. Therefore, the proposal would cause no harm to the appearance of the building.
17. I conclude that the proposal would not cause harm to the character and appearance of the Pimlico Conservation Area or the host building. The proposal would accord with CP Policies 38, 39 and 40. These policies seek, amongst other things, to ensure that alterations respect the character of existing and adjoining buildings, that development contributes positively to Westminster's townscape and preserve or enhance the character and appearance of its conservation areas.

Conclusion

18. I have found that the proposal would result in harm to the living conditions of the occupants of 5 Charlwood Place. Whilst the proposal would not cause harm to the character and appearance of the host building or the Pimlico Conservation Area, the lack of harm in this regard is a neutral factor in my overall assessment.

19. For the above reasons, having considered the development plan as a whole, the approach in the National Planning Policy Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Scott Britnell

INSPECTOR