



Appeal Decision

Site Visit made on 29 June 2021

by Martin Small BA(Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th July 2021

Appeal Ref: APP/X5990/W/20/3260636

106 Denbigh Street, London, SW1V 2EX

- 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 Mr David Taylor against the decision of City of Westminster Council.
 - The application Ref 20/04439/FULL, dated 14 July 2020, was refused by notice dated 9 September 2020.
 - The development proposed is described as to extend the upper maisonette on both first and second-floor levels over the full length of the existing closet wing. This would extend the kitchen at first floor (lower half landing level) to occupy the current terrace area. At second floor (lower half landing) the extension would provide improved cloaks wc and utility spaces; a new study and relocate the terrace at the upper half landing - roof level over. Alterations are aimed at improving the quality of the living arrangements of this 4 bedroom family home.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - i) the living conditions of the occupiers of No 108 Denbigh Street, with particular regard to privacy; and
 - ii) the character and appearance of the host property and the area, with particular regard to the Pimlico Conservation Area.

Reasons

Living conditions

3. To the rear of the appeal property is a 4-storey projection across part of the width of the rear elevation. This steps back at the upper two storeys with a roof terrace at first floor level above the projection below. The proposals are to extend the projection over the existing roof terrace to the same depth as the two storeys below and to add another storey with a new, partially inset, roof terrace above. This terrace would be partially sunken to a depth of approximately 0.97 m with low railings approximately 0.15 m high around.
4. I observed during my site visit that the existing roof terrace, being sited at the full depth of the rear projection, affords an extensive view over the rear elevations of properties in Moreton Terrace and Moreton Terrace Mews. The proposed roof terrace would be at a higher level but would be set back adjacent to the main dwelling.

5. Notwithstanding a concern from an occupier of a nearby dwelling over potential overlooking of their garden, the restricted size of the terrace, its being set back and the angle of view from its elevated position would mean that the degree of overlooking of properties opposite and below would be restricted. It would therefore not result in an unacceptable degree of overlooking of those properties and consequent loss of privacy for their occupiers.
6. However, the proposed terrace would be very close to and on the same level as a large window in the neighbouring property, No 108 Denbigh Street. The Council has provided evidence that this window serves a bedroom. Although the terrace would be set down, it would afford oblique but clear views into this bedroom, with a consequent significant loss of privacy. I acknowledge that views into habitable rooms of neighbouring properties are possible from the existing roof terrace and other terraces in the vicinity but it has not been demonstrated that these are comparable to the proposals before me.
7. I have considered whether it would be appropriate to impose a condition were planning permission to be granted requiring the erection of an obscure screen along the parapet of the terrace closest to No 108 to provide privacy. However, I am not confident that this itself would have an acceptable effect on the living conditions of the occupiers of No 108 or on the character and appearance of the host property and the area. I am not persuaded therefore that this would be an appropriate solution.
8. I therefore conclude that the proposals would be unacceptably harmful to the living conditions of the occupiers of No 108 Denbigh Street, with particular regard to privacy. Accordingly, in this respect, the proposals would be contrary to Policy S29 of the Westminster City Plan (2016) (City Plan) and Policy ENV 13 of the Unitary Development Plan (2007) (UDP) which, amongst other things, protect the living conditions of the occupiers of neighbouring properties.

Character and appearance

9. The appeal property is located within the Pimlico Conservation Area (the Area). In assessing the effect of the proposals, I have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Area. The National Planning Policy Framework (the Framework) sets out that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Great weight should be given to the conservation of designated heritage assets. Any less than substantial harm must be weighed against the public benefits of the proposals.
10. The Area's historic significance derives from its speculative development by Thomas Cubitt in the mid-19th century. The Area is characterised by stucco-fronted terraces of classical design built along straight streets and around three squares on a particularly distinctive diagonal grid street pattern. The terraces have rear projections, known as closet wings.
11. Denbigh Street follows this pattern and the appeal property is an unlisted 5-storey terraced dwelling with a lower ground floor and the top floor within a mansard roof. Nos 90 - 112 Denbigh Street have rear closet wings which vary in height, width and depth, resulting in a degree of variation in the appearance of the rear elevations.

12. However, an important characteristic of the terrace is the gap between the top of the projection and the mansard roof level which demonstrates the subservient relationship of the projections to the main dwellings. The railings around the proposed roof terrace would not add significantly to the height of the proposed extension so the proposals would reflect the established height of rear projections of Nos 90 - 112 and would retain the characteristic gap.
13. Consequently, the overall bulk of the proposed extension would not be harmfully at odds with that of other rear projections along the terrace. This was also the conclusion of the Inspector that allowed a previous appeal for the erection of a two storey extension to rear closet wing at first and second floor levels at the appeal property¹. I note that the Inspector for that case found that the design of the scheme before them would accord with the Pimlico Design Guide.
14. The proposed roof terrace would be accessed by a new door, which would introduce glazing into an area of the main dwellings where typically there is solid masonry. However, it would be set back and at a similar height to existing glazing on the appeal property and its neighbours. Although the door would be part of the main dwelling, visually it would relate to the rear projection. There is variety within the fenestration of the rear projections of these properties and so, in my view, the insertion of a door as proposed would not be harmfully at odds with the existing variation in the rear elevations of these properties.
15. Furthermore, the door would not reduce the physical gap between the projection and the mansard roof. Although the previous Inspector imposed a condition preventing the use of the approved extension as a roof terrace, there is no indication in that decision that this was due to a concern over the erosion of this gap.
16. I therefore conclude that the proposals would have a neutral effect on and thus preserve the character and appearance of the Pimlico Conservation Area and would not be harmful to the character or the appearance of the host dwelling. Accordingly, in this respect, the proposals would not conflict with Policies S25 or S28 of the City Plan or Policies DES 1, DES 5 or DES 9 or paragraphs 10.108 to 10.146 of the UDP.
17. These policies seek, amongst other things, to conserve conservation areas and to ensure that development achieves a high standard of design which respects and enhances character, heritage and local distinctiveness. The proposals would also comply with the Pimlico Conservation Area Audit Supplementary Planning Guidance and the historic environment policies of the Framework.

Other Matters

18. I understand the appellant's desire to improve the accommodation for himself and his family. However, as I have noted above, permission has been granted for extensions to the property which I understand to remain extant. These would result in the loss of the existing roof terrace but would provide the internal accommodation sought by the appellant. Whilst access to external space is important for health and well-being, I do not consider that it should be at the expense of significant harm to the living conditions of the occupiers of

¹ APP/X5990/W/19/3237579

neighbouring properties. Furthermore, I note that planning permission has been granted for a first floor rear extension with a terrace above², which I also believe remains extant and which could be erected as an alternative to the scheme approved on appeal, thus affording the appellant the opportunity to retain a terrace.

19. I see no reason why, were planning permission not to be granted for the proposals before me, either of the approved schemes would not be implemented. I therefore consider that these represent a realistic fallback position. However, as the approved schemes do not include a roof terrace in such proximity to a habitable room of a neighbouring property as that before me, they would not result in the harm from overlooking and loss of privacy I have identified above. Therefore, these approved schemes do not justify allowing this appeal.

Conclusion

20. Although I have found above that the proposals would preserve the character and the appearance of the Pimlico Conservation Area and the host property, they would conflict with the development plan taken as a whole in respect of the living conditions of the occupiers of the neighbouring property. There are no considerations, including the other matters raised, that indicate that a decision should be made other than in accordance with the development plan.

21. For this reason, the appeal is dismissed.

Martin Small

INSPECTOR

² 20/00668/FULL