



Appeal Decision

Site visit made on 24 May 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2022

Appeal Ref: APP/X5990/W/21/3288639

Flat 3, 17 Beethoven Street, London W10 4LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms P Chan against the decision of the Council of the City of Westminster.
 - The application Ref 21/05501/FULL, dated 26 July 2021, was refused by notice dated 12 November 2021.
 - The application sought planning permission for the insertion of 3 rooflights to the front roof and the construction of dormer to the rear roof and relocation of existing solar panels in connection with conversion of existing roof space into habitable accommodation without complying with a condition attached to planning permission Ref 20/08269/FULL, dated 8 March 2021.
 - The condition in dispute is No 1 which states that:
The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.
 - The reason given for the condition is:
For the avoidance of doubt and in the interests of proper planning.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. At the time of my site visit the development, which appeared to be in accordance with the amended plans submitted with this appeal, had already been installed. I have determined the appeal accordingly.

Background and Main Issue

3. Planning permission was granted for various roof alterations to the appeal property, including the construction of a rear dormer. The approved plans of the original permission¹ indicated that the windows of the dormer would be finished with opaque glazing. This was also secured via a separate condition. The requirement for obscure glazing was deemed necessary to prevent overlooking of neighbouring occupiers.
4. As noted, the rear dormer has since been constructed with a varied window design, namely it now consists of a two-panel sliding door with a glass

¹ Council ref: 20/08269/FULL

balustrade, which collectively form a Juliet balcony. The appellant is seeking to rectify the amended window design and alterations through a variation of the approved plans.

5. The main issue is therefore the effect of varying condition No 1 on the living conditions of neighbouring occupiers, with particular regard to privacy.

Reasons

6. The appeal property is a flat on the upper floors of 17 Beethoven Street. There are residential properties to the rear of the appeal site within close proximity, namely Nos 17A and 19A Beethoven Street.
7. The installed dormer windows are covered with a film which, whilst not constituting obscure glazing, nevertheless prevents all views out of them when closed. However, they are of a large, sliding design thus when opened, they provide a generous opening from which views of the properties to the rear, and beyond, can be achieved.
8. The inclusion of the balustrading and the generous size of the floor area immediately adjacent to the sliding door, which is large enough to place seating, would provide occupiers of the appeal property an opportunity to spend a considerable amount of time close to this window and obtain views directly into a bedroom of No 17A and oblique views into bedrooms at No 19A. This would result in an invasive loss of privacy for occupiers of those properties. The elevated positioning of the dormer results in far greater views into Nos 17A and 19A than could be achieved from the existing first floor terrace of the appeal property. In order to achieve privacy in the affected rooms, curtains/blinds would have to be used throughout the day, resulting in a further diminishing of occupier's living conditions.
9. The original permission did not specify whether the dormer windows were to be fixed closed. Nevertheless, their design as indicated on the plans suggests that they were to be full length floor to ceiling panels or casement type windows and no external safety panel was proposed. Therefore, it is reasonable to assume they would have to be fixed or hinged with a limit in the interests of health and safety. As such, I consider that views of neighbouring properties from the originally proposed windows would be significantly less than the amended design.
10. The appellant has indicated their willingness to install a restrictor to the window to limit the amount which it could open. There are no details before me. Nevertheless, I am not convinced that this would prevent all opportunities to overlook neighbouring properties. Presence of the balustrade and a single unbroken area of glazing would encourage more time to be spent near them. There is also no conclusive evidence before me to confirm that the dormer window is required as a method of fire escape from the property or that the current design is the only way to achieve this or how such a fixing would affect the use of the window as a means of escape. I therefore afford these matters limited weight.
11. Reference has been made to development at 15 Beethoven Street, where it is suggested that there was no requirement for fixed or opaque windows. No further details are provided thus I cannot be certain this example is directly comparable to the appeal proposal.

12. Accordingly, the proposed variation of condition No 1 of the original permission would harm the living conditions of neighbouring occupiers, with particular regard to privacy. Therefore, the condition remains reasonable and necessary. The proposal would therefore conflict with policies 7 and 38 of the City of Westminster City Plan 2019-2040 (April 2021) which have a collective purpose to ensure, amongst other things, that developments protect privacy and prevent overlooking.

Other Matter

13. I note the disputes between the appellant and neighbouring occupiers however this is not a matter for me within the context of this appeal.

Conclusion

14. For the above reasons and having regard to all matters raised, the appeal is dismissed.

H Ellison
INSPECTOR