
Appeal Decision

Site visit made on 15 June 2022

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 June 2022

Appeal Ref: APP/X5990/W/22/3293160

Flat 3, 39 Hereford Road, London W2 4AB

- 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 Simon Hutton against the decision of City of Westminster Council.
- The application Ref 21/04201/FULL, dated 21 June 2021, was refused by notice dated 23 August 2021.
- The development proposed is the construction of additional floor to extend existing flat.

Decision

1. The appeal is allowed and planning permission is granted for the construction of additional floor to extend existing flat at Flat 3, 39 Hereford Road, London W2 4AB in accordance with the terms of the application, Ref 21/04201/FULL, dated 21 June 2021, subject to the conditions in the attached schedule.

Main Issues

2. The main issues in this case are: whether the proposal would preserve or enhance the character or appearance of the Westbourne Conservation Area; and whether or not the proposed terrace would harm the living conditions of occupants of the upper floor flat at Baynards House and 113 and 115 Westbourne Grove, with regards to noise and disturbance, privacy and outlook.

Reasons

Westbourne Conservation Area

3. The appeal property is part of a short terrace of Victorian buildings on the west side of Hereford Road close to its junction with Westbourne Grove. Commercial uses occupy the ground floors of nearby properties with the upper floors used for residential purposes. The upper floors of the front elevation include stucco window surrounds, sash windows, cornicing and classically inspired styling and proportionality. These architectural attributes collectively positively contribute to the character of the building and the Conservation Area. A grand cornice, shorter height windows and simplified architraves around the windows distinguish the existing top floor of the building from the remainder of it. The top of the building is lined with a plain white rendered band that is repeated in terraced properties on Westbourne Grove. The rear elevation has a simpler form with a brick façade and sash windows.
4. Baynards House adjoins the appeal property. It is of a different style, scale and finish to the appeal property, and it rises above it. Residential properties occupy Baynards House which broadly reflects the varied scale and style of properties on Hereford Road and Westbourne Grove.
5. Although the height of the appeal property would be increased, and visible in

the street scene, it would be subordinate to Baynards House and broadly similar to Nos 113 and 115. The height of the building would respond to the general height of terraces and villas that make up the Conservation Area. Setting the extension back from the front elevation would ensure that it would not be out of kilter with the scale, mass and height of the buildings either side.

6. The additional floor would be read as a continuation of the existing building's design though it's set back would create a new stepped relationship. However, there are examples in the local area of the uppermost parts of buildings being stepped back from dominant front elevations. In this regard, the proposal would be no different and the proposed use of materials would assist in ensuring that the extension sympathetically responds to the character and appearance of the existing building and the nearby area. This includes the proportion and siting of the sliding sash windows in the proposed extension that would respond to the existing rhythm of fenestrations.
7. The existing rendered band which provides a visual termination of the appeal building would be retained and increased in depth. Whilst not suggested, a planning condition could be imposed so that this band retains its current characteristic depth. The addition of built form above this would reflect the arrangement found on some nearby buildings. The proposed rendered band at the top of the proposal would respond to the use of materials in the area.
8. To create access to the additional floor, the landing for the internal staircase would be midway up a window in the building's rear elevation. This window would be split into two to separate the proposed new flat from the staircase. This detail is not shown on the proposed rear elevation and the appearance of the window is likely to be different to that shown. Therefore, to ensure the visual appearance of the rear elevation remains cohesive, a planning condition could be imposed to secure details of this window arrangement.
9. I conclude, on this issue, that the proposal would preserve the character and appearance of the Conservation Area and as a result it would accord with Policies 38, 39 and 40 of the City Plan 2019 – 2040 (City Plan). These policies jointly seek high quality new development that has regard to the character and appearance of the existing area, adjacent buildings, height and massing, materials so as to conserve or enhance heritage assets in a manner appropriate to their significance. Furthermore, for these reasons, the proposal would accord with Chapters 12 and 16 of the National Planning Policy Framework.

Living conditions

10. A terrace is proposed to the front of the proposed extension to provide a modest outside amenity space for the proposed two bedroom unit. The inclusion of a terrace is in response to City Plan Policy 12 which seeks appropriate external amenity spaces to be provided.
11. The terrace would be capable of being used by a small number of people, but its use would be linked to the proposed flat. The terrace would sit next to a habitable room window in Baynards House. Owing to the close relationship, occupants of the neighbouring flat in Baynards House would experience an unacceptable loss of privacy. Furthermore, residents living in the upper floors of Nos 113 and 115 would also experience an unacceptable loss of privacy due to future occupants of the proposed flat using the terrace. In both cases, there would be a direct line of sight into their respective windows. However, a suitable planning condition to secure screening to either side of the terrace

could overcome the loss of privacy for the neighbouring occupiers. Moreover, this could be done without introducing a prominent feature to the street and the Conservation Areas as any screens would be viewed in conjunction with the glazed balconies to the front of Baynards House.

12. The use of the terrace could give rise to additional noise and disturbance but due to the site's location in a busy environment containing different noise sources, alongside the likely use of the terrace, I consider that neighbouring occupants would have a good standard of living in this respect. Moreover, due to the scale, layout and massing of buildings on Hereford Road and Westbourne Grove, I consider that, despite the additional scale and massing that the proposed extension would bring, that the outlook from Nos 113 and 115 would not be affected unacceptably.
13. I conclude, in respect of this issue, that the proposal would not, subject to a planning condition to add screening, harm the living conditions of occupants of the upper floor flat at Baynards House and Nos 113 and 115, with regards to noise and disturbance, privacy and outlook. As such, the proposal would accord with City Plan Policies 7 and 38(C) which jointly, among other things, seek development to ensure that it does not cause unacceptable impacts in terms of privacy so that new and existing occupiers have a good standard of amenity.

Other Matters

14. The Bayswater Conservation Area is to the east side of this part of Hereford Road and it extends in two pockets to the east of the appeal site. However, noting the scale, massing, style, detail and arrangement of properties within this Conservation Area, I consider that the proposal would have a neutral effect on its setting. As such, its significance would be preserved.
15. An extraction flue serving the restaurant on the lower floors is to the rear of the appeal building. It currently terminates above roof level, but the proposal would change this, and the extraction flue would terminate below the new roof. No concerns have been raised about future occupants living conditions, and the appeal scheme relates solely to flat 3 and not the restaurant. Thus, imposing a planning condition would not be relevant to the development to be permitted.

Conditions

16. I have imposed a plans condition in the interests of certainty. Conditions relating to the windows, render, the finish of the parapet and railings are all necessary in the interests of securing an acceptable appearance of the building and to preserve the character and appearance of the Westbourne Conservation Area. Given the nearby residents, a condition to control when particularly noisy aspects of building works can take place is necessary though I have amended this to omit reference to controls found in other legislation. A condition to secure privacy screens to the north and south elevations of the terrace is necessary in the interests of neighbouring occupants' privacy.

Conclusion

17. The proposal would accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this.
18. For the reasons given above I conclude that the appeal should be allowed.

Andrew McGlone

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: TQRQM21161163451335; 21.02/001/A; 21.02/002/A; 21.02/003/A; 21.02/004/A; 21.02/005/A; 21.02/010/A; 21.02/011/A; 21.02/012/A; and 21.02/013/A.
- 3) Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only: between 08.00 and 18.00 Monday to Friday; between 08.00 and 13.00 on Saturday; and not at all on Sundays, Bank Holidays and Public Holidays. You must carry out piling, excavation and demolition work only: between 08.00 and 18.00 Monday to Friday; and not at all on Saturdays, Sundays, Bank Holidays and Public Holidays.
- 4) The new windows shall be formed in glazing and white painted timber framing and shall operate in a vertically sliding manner only.
- 5) The new areas of render shall be formed in a smooth finish which shall be painted and permanently maintained in a white colour.
- 6) The new external railings shall be formed in black coloured metal and shall be maintained in that colour.
- 7) Before the balcony hereby permitted is brought into use, details of privacy screens, of a height no greater than 1.8 metres including the parapet wall, to be erected along the north and south sides of the balcony shall be submitted to and approved in writing by the Local Planning Authority. Details shall include its detailed design and the use of materials, along with elevation and section drawings. The privacy screens shall thereafter be installed in accordance with the approved details before the balcony is brought into use and retained thereafter.
- 8) Before the additional floor is first occupied, details shall be submitted to and approved by the Local Planning Authority showing the design and construction of the window in the rear elevation serving flat 3/communal staircase. The development shall be carried out in accordance with the approved details.
- 9) Notwithstanding condition 2 details shall be submitted to and approved in writing by the Local Planning Authority before the parapet wall serving the terrace is constructed showing how it will be finished whilst retaining the current depth of the painted render parapet. The development shall be carried out in accordance with the approved details.

END OF SCHEDULE