



Appeal Decision

Site visit made on 15 September 2022

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2022

Appeal Ref: APP/X5990/W/21/3289890

34 Westmoreland Terrace, London SW1V 4AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Adam Chiang against the decision of City of Westminster Council.
 - The application Ref 21/02326/FULL, dated 9 April 2021.
 - The development proposed is a mansard roof extension, the installation of replacement windows and door to front elevation at basement, second and third floors, the widening of the existing front lightwell and the provision of a rear patio door at basement level.
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Decision

1. The appeal is dismissed and planning permission is refused for a mansard roof extension, the installation of replacement windows and door to front elevation at basement, second and third floors, the widening of the existing front lightwell and the provision of a rear patio door at basement level.

Procedural Matters

2. The appeal is against the non-determination of a planning application by the Council. Had it been in a position to do so, the Council would have refused the planning application on the main issues listed below, having regard to development plan policy and material considerations. Additionally, privacy has been raised by third parties. The site visit involved the inspection of the appeal site, as well as neighbouring properties in Westmoreland Terrace and Sussex Street.
3. The appellant and a third parties have submitted daylight and sunlight assessments based on the Building Research Establishment Site Layout Planning for Daylight and Sunlight, a Guide to Good Practice 1991. This has recently been revised. The Council and third parties have made no further comment further on this. The appellant maintains his original conclusions remain valid. These further comments have been considered in this decision.

Main Issues

4. The main issues are (a) whether the proposal would preserve or enhance the character or appearance of the Pimlico Conservation Area and (b) the living conditions of the occupiers of the dwellings on Sussex Street and Westmoreland Terrace, having regard to light, outlook and privacy.

Reasons

Character and appearance

5. The appeal site comprises a three storey classical designed dwelling which was re-built, probably post war. It is brick fronted on the upper floors rather than stucco constructed, like most properties within the street. It is one of a few properties without a mansard type roof within the area and backs onto terraced dwellings in Sussex Street. To the rear, there is a flat-roofed two storey extension with basement. The appeal site and terrace are located within the Pimlico Conservation Area.
6. The Westminster Pimlico Conservation Area Audit (PCAA) details how a speculative developer, Thomas Cubitt began to build here in the mid-1830s, with subsequent developers continuing a distinctive classical building design style. Housing comprises mostly stucco-fronted terraces built along straight streets and around squares. Street design is strongly characterised by the matching pattern and appearance of terraced dwellings. To the rear, elevations are subservient in design compared to the front façades and of simpler architecture. Nevertheless, their elevations remain generally balanced with regularly spaced and matching fenestration features. It is these architectural and historic qualities that are of importance and contribute to its significance and special interest of the Conservation Area.
7. At No 34, the front façade has a distinct classical design in keeping with other terraced dwellings. The rear has a more subordinate and simpler architecture, but windows are generally regularly spaced out, such as on the two storey extension. The exception is the window pattern of the top storey but nevertheless, there is an overall balance to the elevation and it is in keeping with the classical design qualities of the housing within the Conservation Area. Consequently, the appeal property positively contributes to the character and appearance of the Conservation Area.
8. The PCAA identifies the appeal property as suitable for a roof extension and there are other examples of roof extensions at neighbouring properties. On the frontage, the stepped back mansard design of the proposed extension would be in keeping with its neighbours. However, the rear part of the extension would consist of a brick face continuous with that of the storeys below, and irregular shaped and sited windows. There would be little physical articulation to the bulk and mass of the extension and as such, the form and design of it would be visually overbearing and unsightly. It would be in stark contrast to the neighbouring properties along Westmoreland Terrace which have more traditionally designed mansard type roofs. The haphazard positioning and differently sized windows would emphasise the irregularity of the existing arrangement of windows below, which would draw attention to the unsightliness of the extension and compound its adverse effects on the architectural quality of the building and Conservation Area.
9. On the front façade, the existing windows would be replaced with new timber sash windows. The existing lightwell would be enlarged in keeping with those on the street. The Council has raised no objections to this part of the scheme and subject to the implementation of approved details, this would result in the enhancement of the frontage. However, the adverse effect of the extension to the rear would be significant for the reasons indicated and overriding.

10. For all these reasons, the extension would fail to preserve the character and appearance of the Conservation Area taken as a whole. Accordingly, the proposal would conflict with Policies 38, 39 and 40 of the Westminster City Plan (CP) 2019-2040, which collectively and amongst other matters, requires development to be of exemplary standards of design, positively contribute to its landscape and streetscape, conserve and enhance the character and appearance of the Conservation Area and be sensitively designed, having regard to the prevailing scale, heights, character architectural quality and degree of uniformity in the surrounding landscape.

Living conditions

11. Surrounding the appeal dwelling, properties on Westmoreland Terrace and Sussex Street form a tight triangular pattern of development. This results in a close relationship between the windows and private spaces of these properties. Private outdoor spaces are restricted in size and shape, and generally sited at a lower basement level. At 62 Sussex Street, the terraced dwelling has a single storey projecting ground floor extension with balcony terrace above.
12. The appellant's daylight and sunlight assessment (DSA)¹, based on British Research Institute (BRI) guidance², considered the effects of the development on the windows of neighbouring dwellings at 60, 62 and 64 Sussex Street, and 38 Westmoreland Terrace, having regard to daylight and sunlight, and found no adverse effect. There has been criticism of the appellant's DSA.
13. However, a third party DSA³, based on the same BRI guidance, has been submitted. It found that all windows for Nos 62 and 64, and No 38 complied with an average daylight factor analysis (ADF). The third party DSA did find failings in the Vertical Sky Component (VSC) and No Sky Line (NDL) analysis for the surveyed properties. For the VSC test, there was deviation from recommended light levels for five windows at No 62, three windows at No 64 and one window at No 38. For the NDL test, the deviation from recommended light levels related to three windows at No 62 and 2 windows at No 64.
14. However, the area is characterised by a close-knit pattern of housing and therefore standards for light should not be rigorously applied. Dwellings have been built close to one another creating an intimate physical built environment and therefore, lower standards of light are acceptable compared to lower density locations. Furthermore, the DSAs only provide guidance on the development's likely effects on daylight and sunlight and in the case of the VSC tests, the windows deviate only marginally from the recommended levels. In respect of 69 and 71 Westmoreland Terrace, there would be no material impact on daylight due to the width of the street. Taking all these considerations into account, including the nature of rooms affected, it is concluded that there would be no significant loss of daylight to the occupiers of neighbouring properties.
15. In terms of sunlight, the third party DSA found sunlight levels were acceptable for the properties surveyed and in terms of overshadowing, the properties met a 2hr sunlight to amenity test. The 2hr sunlight to amenity test was only

¹ Daylight and Sunlight Assessment, the Daylight Lab, February 2021, REF: 2116/LIGHT.

² BRE's "Site Layout Planning for Daylight and Sunlight, a Guide to Good Practice", Second Edition, PJ Littlefair 2011.

³ Daylight, Sunlight and Overshadowing Assessment on the surrounding properties, 34 Westmoreland Terrace London SW1V 4AL, Anderson, Wilde & Harris, 28 June 2021.

carried out on 1 day in March and does not show results in December. However, the results of this test can only improve through the summer when the sun is higher in the sky, and therefore overshadowing is not considered significant. On my site visit, it could be seen that the extension would affect sunlight coming into the ground floor living room of a property of No 58 during the afternoon. However, the property also has other windows at first floor and above that would receive greater amounts of sunlight, and taken over the year, the loss of sunlight to this window would not be significant. For all these reasons, the loss of sunlight would not be sufficient to justify a refusal of the proposal.

16. Another DSA associated with a previous application detailed different findings on the loss of light but this was for a differently designed extension, and therefore, it has limited weight in the determination of this appeal.
17. In terms of outlook, there is already a closeness of high built form. Even in this environment, there would also be distance separation from neighbours' amenity areas, windows and openings, and therefore, there would be no detrimental loss of outlook. Similarly, the closeness of built form between opposing dwellings already results in intervisibility and therefore, privacy levels are already correspondingly reduced. The extension would not significantly change this situation.
18. For all these reasons, the living conditions of the occupiers of the neighbouring properties would not be compromised, having regard to light, outlook and privacy. Accordingly, the proposal would comply with Policies 7 and 38 of the WCP (in respect of living conditions), which collectively and amongst other matters, require a good standard of amenity and development to be neighbourly by protecting and where appropriate enhancing amenity, by preventing unacceptable impacts in terms of daylight and sunlight, sense of enclosure and overshadowing.

Heritage and planning balance

19. The extension would result in less than substantial harm in accordance with the National Planning Policy Framework (the Framework) for all the reasons indicated. It is necessary that this identified harm is weighed against the public benefits of the proposal.
20. The upgrade of the existing dwelling to provide improved accommodation would largely be a private benefit. There would only be a small public benefit through enhancing a dwelling as part of the Council's housing stock. There would be an enhancement of the front façade but the development as a whole would harm the character and appearance of the Conservation Area. Considerable importance and weight are attached to the desirability of preserving the character and appearance of the Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. For all these reasons, the harm to the significance of the Conservation Area would outweigh the scheme's benefits.
21. The extension would harm the character and appearance of the Conservation Area as a whole and there would be conflict with design and heritage policies of

CP and the development plan taken as a whole. For the reasons indicated, there are no material considerations to outweigh that finding.

22. The alterations to the existing façade are acceptable and clearly separable from the roof extension. However, after corresponding with the appellant, it is unclear whether those works have been carried out and therefore a split decision would not be appropriate in this instance.

Conclusion

23. For the reasons given above and having regard to all other matters raised, I conclude that the appeal is dismissed and planning permission is refused.

Jonathon Parsons

INSPECTOR