



Appeal Decision

Site visit made on 17 January 2023

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2023

Appeal Ref: APP/X5990/W/22/3306455

49 Alderney Street, London SW1V 4HH

- 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 Charles Mitchell against the decision of City of Westminster Council.
 - The application Ref 22/00174/FULL, dated 11 January 2022, was refused by notice dated 1 July 2022.
 - The development proposed is erection of rear extensions to lower ground and upper ground floor flats; amalgamation of lower ground and ground floor units into one unit; and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposed development was amended following initial submission of the planning application and the description has changed accordingly. I have therefore relied on the description used on both the Council's decision notice and the appellant's appeal form for the purposes of determining this appeal.

Main Issues

3. The main issues are:
 - i) Whether the proposed development would preserve or enhance the character or appearance of the Pimlico Conservation Area; and
 - ii) The effect of the proposed development on the living conditions of neighbouring occupiers to the rear, with regard to privacy.

Reasons

Conservation Area

4. The appeal site comprises the ground and lower ground floors of a converted terraced house in the Pimlico Conservation Area (the CA). The house has been converted into flats, with the ground and lower ground floors currently being separate units.
5. The proposed development would involve extensions to the rear and the amalgamation of the ground and lower ground floor units to provide one larger unit spread over two floors with access to the rear garden area, that is currently only accessible from the lower ground floor unit.

6. The Pimlico Conservation Area Audit Supplementary Planning Guidance (the CAUSPG) sets out a detailed appraisal of the CA's key characteristics, and the Pimlico Design Guide Supplementary Planning Guidance (the PDGSPD) provides guidance for alterations to buildings in the CA.
7. The site lies within one of the traditional mid-19th century 'Cubitt' terraces that are located throughout the CA and provide a significant contribution to its overall character. The CAUSPG identifies 49 Alderney Street as an unlisted building of merit. Such buildings make a valuable contribution to the townscape and can be of architectural interest in their own right. By definition, they are cited as having particular value to the character and appearance of the CA and their demolition or unsympathetic alteration will be resisted.
8. The CAUSPG identifies Alderney Street as one of the secondary routes and spaces of the CA, within which the varying use of materials and detailing within a street provides a visible link to the pattern of development in Pimlico, as individual local builders took contracts for small stretches of terrace, applying detail as they wished.
9. In this regard, the appeal property forms part of a group of three buildings including the adjacent Nos 45 and 47 Alderney Street which feature similar architectural features to their rear elevations, notably the tripartite sash windows featuring partial stained glazing. Although the rear elevations are only visible from the private homes and gardens of neighbouring properties, and they are not specifically referenced in the CAUSPG or the PDGSPD, their relationship with one another provides a significant contribution to the character of these buildings and to the CA as a whole.
10. Though there are numerous examples of rear extensions of varying scale and detail along the street, the proposed development would introduce a two-storey extension across a substantial width of the rear elevation of the property. This would substantially alter the character and result in an uncomfortable relationship with neighbouring dwellings, particularly those at Nos 45 and 47. The scale of the development and loss of the characteristic window detailing would have an adverse effect on the character and appearance of the host property and this group of buildings when viewed from the rear.
11. The appellant's statement refers to an intention to replace the characteristic windows with the very same details. However, this is not reflected in the submitted plans, with clear differences in the size of the window openings and overall detailing between the existing and proposed plans. The appellant has suggested like-for-like details could be secured by condition. However, because I have not been provided with any alternative plans, I am unable to make a judgement on their suitability. Similarly, I cannot be satisfied that such an approach would accord with the 'Wheatcroft Principles'¹, insofar as depriving those who should have been consulted on the revised proposals an opportunity of such consultation.
12. For the reasons above, I conclude the proposal would fail to preserve the character or appearance of the host property and the Pimlico CA, and would result in less than substantial harm to its significance as a designated heritage asset.

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37].

13. Accordingly, the proposed development would conflict with Policies 38, 39 and 40 of the City of Westminster City Plan 2019-2040 (Adopted April 2021) (the 'CP'). Together, these policies seek, among other objectives, to ensure development positively contributes to Westminster's townscape and streetscape having regard to the character and appearance of the existing area, adjacent buildings and heritage assets; to ensure heritage assets and their settings are conserved and enhanced in a manner appropriate to their significance; and that development is sensitively designed, having regard to the prevailing scale, heights, character, building lines and plot widths, materials, architectural quality and degree of uniformity in the surrounding townscape. It would also conflict with the guidance in the National Planning Policy Framework (the Framework) and Paragraph 12.2 of the PDGSPD, which have similar aims.

Heritage balance

14. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which is supported by the Planning Practice Guidance (the PPG), requires the decision maker to have special attention to the desirability of preserving or enhancing the character or appearance of designated conservation areas within which development may occur. In addition, Paragraph 199 of the Framework states that great weight should be given to an asset's conservation, and that this is irrespective of whether harm is substantial or less than substantial.
15. I have found that the proposed development would fail to preserve or enhance the character or appearance of the CA, and would result in less than substantial harm to its significance as a designated heritage asset. In accordance with Paragraph 202 of the Framework, I am required to weigh this harm against the public benefits of the proposal including, where appropriate, securing its optimum viable use. I will return to this later in my decision.

Living conditions

16. The property features a modest rear garden area at lower ground floor level. The dwellings opposite to the rear on Cambridge Street feature a similar arrangement. The proposed development would extend the lower 2 storeys of the building closer to the rear of those on Cambridge Street, with the sunken nature of the rear garden leading to the ground floor appearing as the first floor when viewed from the rear.
17. Although the existing rear elevation features a similarly sized rear window to that proposed, the limited existing depth of the garden and reduced proximity of the proposed window to the rear boundary would increase overlooking towards the dwellings on Cambridge Street. This would adversely affect privacy from the rear windows and gardens of these dwellings and would harm the living conditions of occupiers to an uncomfortable degree.
18. Though I acknowledge that there are numerous other examples of extensions with upper floor windows along the street, I am not aware of the context surrounding these developments, the length of time they have existed or whether they may have been original features. As such, whilst other neighbouring properties may currently enjoy a lesser sense of privacy than those living in the immediate vicinity of the appeal site, it remains the case that the proposed development would adversely affect the living conditions that neighbouring occupiers currently enjoy.

19. In relation to potential mitigation of the above effects, I note there are currently boundary features including fences and shrubs that provide a degree of screening along the various boundaries relative to the property. However, I can give only limited weight to this matter insofar as there is no guarantee these features will be retained or survive in perpetuity even if imposed by condition.
20. I have also considered the appellant's suggestion that a condition could be imposed requiring the ground floor window to be fixed shut and obscure glazed to prevent overlooking. However, in my view this would not be appropriate mitigation as the window would serve a bedroom, from which a degree of outlook would be expected.
21. For the reasons above, I conclude the proposed development would be harmful to the living conditions of neighbouring occupiers to the rear through loss of privacy, which would conflict with Policies 7 and 38(C) of the CP. Together these policies seek, among other objectives, to ensure a good standard of amenity for new and existing occupiers by preventing unacceptable impacts in terms of privacy and overlooking.

Planning Balance

22. Having found that the development would result in less than substantial harm to the significance of a designated heritage asset, this does not equate to a less than substantial planning objection. The Framework and PPG require that less than substantial harm should be weighed against the public benefits of the proposal.
23. There would be some limited and short-term economic benefits associated with the construction of the proposed development, and longer-term social benefits arising from the provision of a family-sized type dwelling. However, based on the great weight to be given to the asset's conservation, I do not find these benefits would outweigh the identified harm.
24. In accordance with the balancing exercise contained in Paragraph 202 of the Framework, I conclude, even when considered in combination, that the benefits of the proposal would not outweigh the less than substantial harm to the significance of the CA.

Conclusion

25. The proposed development would conflict with the adopted development plan, and there are no material considerations indicating a decision otherwise than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

P Storey

INSPECTOR