



Appeal Decision

Site visit made on 18 October 2023

By Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd November 2023

Appeal Ref: APP/X5990/D/23/3327690

10 Chapel Street, City of Westminster, London SW1X 7BY

- 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 10 Chapel Street Ltd against the decision of Westminster City Council.
 - The application Ref 22/07009/FULL, dated 18 October 2022, was refused by notice dated 22 May 2023.
 - The development proposed is a new basement level, single storey rear extension at lower ground level, single storey rear extension at ground level, alterations to openings, new raised garden area to rear.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are the effect of the proposal on:
 - The character and appearance of the host dwelling and local area, with reference to Belgravia Conservation Area (the CA);
 - Undeveloped land, with reference to soil depth; and
 - The living conditions of neighbouring residential occupiers, with reference to outlook and privacy.

Reasons

Character and Appearance

3. The appeal dwelling is a mid-terraced house with a lower ground floor with four main floors and a mansard floor above. It has a railing enclosed area to the front and a lower ground floor courtyard to the rear, which is substantially covered by a rear conservatory extension and a brick outshoot which extends to second floor level.
4. The appeal dwelling is the middle house in a group of three houses in the terrace that are of similar period, architectural expression and scale. To the rear, the remaining area of the original courtyard that has not built on is mostly paved with small, raised brick built planting beds. This area of courtyard

- is tightly enclosed by tall walls and rear outshoots from the neighbouring properties.
5. The appeal dwelling is located on a street substantially made up of similarly scaled late 18th and early 19th century terraced houses, but with larger building at either end in what appear to be in commercial, or embassy use. The designation of the CA within which it sits recognises its value as a heritage asset. The significance of the CA rests in the cohesive appearance and character of the 19th Century Cubitt development and streets of late 18th and early 19th Century terraced houses. The Belgravia Conservation Area Audit (2023) (the BCA Audit) identifies many local houses and properties to be of architectural and townscape significance, including the appeal dwelling.
 6. In line with the duty imposed on me by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have given considerable importance and weight to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
 7. The BCA audit identifies the appeal dwelling as an unlisted building of merit. The significance of which rests in its mainly unaltered appearance as part of a terrace group of similar properties that form a key feature in the BCA. This results in it being a Non-Designated Heritage Asset (NDHA), as defined by the provision of the Planning Practice Guidance. Accordingly, I have considered the effect of the proposal in line with paragraph 203 of the National Planning Policy Framework (2023) (the Framework).
 8. The proposal includes the excavation of a new basement, which would extend to the full extent of the courtyard and house. The proposal would also replace the existing conservatory with a single storey extension at lower ground floor level, which would extend to the full depth of the courtyard, replacing the existing conservatory. At ground floor level a new single storey extension is proposed that would adjoin to the side of the existing outshoot but would extend further rearward and would slightly wraparound the outshoot. Larger replacement windows are proposed for the rear elevation of the outshoot, which would match the windows in the main rear elevation of the appeal dwelling. Both of the proposed extensions and the existing outshoot would have green planted flat roofs with skylights.
 9. From my site visit it would appear that there would be some visibility of the rear brick and glass ground floor extension from the public realm near to 5 Chester Close. This would include the upper part of the proposed extension, where it would wrap around the rear outshoot. From the rear rooms of the properties enclosing the rear of the appeal dwelling, the full extent of the proposed extensions would be visible. The scale of the extensions, particularly upward, would be readily apparent and would appear as over-scaled in relation to the appeal dwelling, its neighbours and courtyard context. The proposed extensions would, therefore, appear as unduly prominent and incongruous additions to the appeal dwelling and to the group of 3 terraced houses from both public and private viewing points.
 10. The appellant has drawn my attention to other rear extensions that have been approved within the CA. These do demonstrate that rear extensions can be achieved locally, but from the material before me, these appear to have

entirely differing contexts and designs to that of the proposal and would have been considered on their own individual merits. I have done likewise with the proposal, which is a main tenet of the planning system and have afforded these only moderate weight in my considerations.

11. The proposal would result in an extended house that would fill the entire appeal plot and would remove the relationship between the appeal dwelling and its original rear courtyard completely. The existing courtyard space currently plays an important role in relieving the intense density of development that surrounds it. The proposed extensions, due to their scale, box massing and infilling of the courtyard space, would significantly increase the density of development at the rear of the appeal dwelling.
12. This would significantly alter the visual relationship between the appeal dwelling and adjacent houses in the group of terraced houses with courtyards which the appeal dwelling forms part. I find that, when combined with the contemporary design of the proposed extensions, which would demonstrably and unsympathetically contrast with the design of the original dwelling, this would result in significant harm to the character and appearance of the appeal dwelling and its significance as a NDHA, as well as harm to the significance of the BCA.

Undeveloped Land and Soil Depth

13. The proposed basement and lower ground floor extension would be to the full extent of the area of courtyard not currently covered by building or structures. This would result in there no longer being any area of open undeveloped ground with access to soil on the appeal plot.
14. The appellant has argued that even if the basement did not extend under the courtyard, the proposed lower ground floor extension would extend over the existing area of open courtyard and that, consequently, Part B of Policy 45 of the City Plan 2019-2040 (2021), which sets out the criteria for the extent and depth of basements, does not apply. However, the proposal before me does include a basement. I have therefore considered the effect of the combination of the proposed lower ground floor extension and basement on undeveloped areas of soil availability and depth against the requirements of this policy.
15. As the proposal does not include the retention of undeveloped area with access to soil, it fails to meet the criteria for such developments set out in this policy. However, the proposal does include areas of green roof, which collectively provide a significantly greater area of planting than that provided by the existing courtyard and also the full potential area of planting that it could provide. This greater area of planting proposed is, however, above the structure of the proposed extension and the existing outshoot and is limited in depth compared to the undeveloped ground beneath the courtyard.
16. Whilst the area of planting on the roof of the proposed lower ground extension would appear to have a soil depth of approximately 600mm, the areas of planting on the roofs of the proposed ground floor extension and outshoot would be considerably shallower. Consequently, the proposed areas of planting would not appear to be of a depth that would sustain larger plants, especially trees, and would require intensive management. For these reasons, I find that,

although the area of planting provided by the proposal would be greater than the undeveloped ground beneath the courtyard, the depth of the proposed planting areas would provide significant constraints on the scale quality and biodiversity provide by planting in these areas. As such, the proposed planting areas would not compensate for the loss of an undeveloped area that could provide planting with a depth of soil for sustainable planting.

Living Conditions

17. The roof of the proposed lower ground floor extension would provide an amenity space for the occupiers of the appeal dwelling, with areas of planting and paved terrace. This would cover an area greater than that of the existing open courtyard, which currently provides a more limited amenity space. The proposed amenity space would, however, be a full floor higher than the courtyard.
18. This increase in area and the higher level of the proposed amenity space would allow users of the space to be in closer proximity to the windows of surrounding dwellings at 9 and 11 Chapel Street (No.9 and No.11), allowing for views into living spaces of neighbouring occupiers. Similarly, the ground floor extension would allow for views through its glazing back towards the living spaces at No.9 .
19. Whilst occupiers of houses in this densely developed area are already in close proximity with each other, the level of privacy for those occupiers, whilst already compromised, does allow for a certain degree of privacy. I note that a 1.8 metre tall timber fence is proposed that would screen some of the views into the ground floor living space of No.9. However, the remaining and more immediate views into the living spaces of No.9 and No.11 Chapel Street resulting from the proposal, would be experienced by the occupiers of these neighbouring dwelling as intrusive, which would lead to a loss of privacy.
20. The densely developed nature of the local area results in an already intense sense of enclosure at the rear of the houses in this part of the terrace. The height and bulk of the proposed rear ground floor extension and the height and extent the proposed 1.8 metre timber fence would, due to their proximity to the windows onto living spaces at the ground floor of No.9 and No.11, further add to this sense of enclosure. This would be to an extent that would be experienced by the occupiers of No.9 and No. 11 as oppressive.
21. For these reasons, I find that the proposal would be harmful to the character and appearance of the appeal property and its significance as a NDHA and harm to the character and appearance and to the significance of the BCA. Further I find, for the reasons given that the proposal would result in substantial harm to the living conditions of neighbouring residential occupiers. I further find, for reasons given, that the proposal would result in a significant loss of open ground for planting, without suitable alternative compensatory provision.
22. This would not accord with Policies 7, 33, 38, 39, 40 and 45 of the City Plan, Policies D3 and HC1 of the London Plan (2021) and Sections 12 and 16 of the Framework. These collectively seek to ensure that development is of high quality design, having due regard to the importance of preserving or enhancing

heritage assets, have soil depth to support sustainable planting and do not undermine the quality of life of neighbouring residential occupiers.

Planning Balance and Conclusion.

23. I find that harm to the character and appearance of the appeal dwelling and its significance as an NDHA would be substantial, although I find that the harm to the character and appearance and significance of the BCA would be less than substantial. For the reasons given I also find that the proposal would result in significant harm to the living conditions of neighbouring residential occupiers and would result in a significant loss of open ground for sustainable planting.
24. The proposed rear extensions, alterations and rear roof terrace would increase the size of the appeal dwelling and improve amenity for occupiers. However, it would not provide any further bedrooms and the proposed development would be of primarily private benefit.
25. I must give considerable importance and weight to the effect on the significance of the BCA, in addition, I have given substantial weight to the effects on the character and appearance of the appeal property as an NDHA and to the living conditions of neighbouring residential occupiers and moderate weight to the loss of open ground for planting. I consider that the harm I have identified would significantly outweigh the benefits of the proposal.
26. For the reasons given, I conclude that the appeal should be dismissed.

Conclusion

27. The appeal is dismissed.

Victor Callister

INSPECTOR