



Appeal Decision

Site visit made on 18 October 2023

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2023

Appeal Ref: APP/X5990/D/23/3325210

62 Marne Street, City of Westminster, London W10 4JF

- 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 Gary Akers against the decision of the Council of the City of Westminster.
 - The application Ref 23/01665/FULL, dated 13 March 2023, was refused by notice dated 23 May 2023.
 - The development proposed is a rear extension.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effects of the proposed development upon the character and appearance of the host property and, whether it would preserve or enhance the character or appearance of the Queen's Park Estate Conservation Area; and
 - The effects of the proposed development upon the living conditions of neighbouring occupiers with particular regard to outlook and daylight.

Reasons

Character and appearance

3. The host property is located within the Queen's Park Estate Conservation Area (CA). The CA contains rows of terraced residential properties many of which are arranged in a grid-like pattern. The terraced properties exhibit a high degree of consistency in their design and appearance. Many properties incorporate ornate architectural detailing such as decorative stonework and multi-coloured brickwork. Turreted roofs are a notable and frequent feature within the CA. Many streets are tree-lined. This pattern of development, the consistent, traditional and ornate design features of the properties and the verdant character provided by the street trees, contribute positively to the character and appearance of the CA and its significance.
4. The host property is a traditionally designed terraced property which incorporates detailed design elements and building materials which are consistent with neighbouring properties. As such, it is very reflective of the form and appearance of buildings prevalent within the CA as a whole and for these reasons contributes positively to the character and appearance of the CA and its significance.

5. At the rear of the host property there is a traditionally designed single storey outrigger. This outrigger adjoins an outrigger of a very similar design at the neighbouring property. There are other outriggers with this similar appearance at other terraced properties in the area. The consistent appearance and projection of these rear outriggers contributes to the strength of uniformity that the design of these terraced properties exhibit.
6. The host property has previously been extended at ground floor to the rear. That extension incorporates a sloping roof profile whilst the rear elevation stops approximately in line with the traditional outrigger. For these reasons, the existing extension is sympathetic to the host property.
7. In the proposal, those parts of the existing traditional outrigger which adjoins the neighbouring terrace would be demolished. As a result, a feature which contributes positively to the character and appearance of the host property and, more widely, the design cohesion of the terraced houses in the area would be lost.
8. The replacement extension would be considerably longer than the existing traditional outrigger and many of those at the neighbouring terraces. It would match the width of the host property and would be largely flat roofed except for the roof lantern features. As a result, the proposed extension would form a large and quite box-like extension. Together, this full width, the considerable projection to rear and its roofscape would appear incongruous, unsympathetic to the scale, design and roofscape of the existing property and harmfully at odds with the consistent design features which prevail at these terraced properties. Even if suitably matching materials were utilised and, even if the demolition to be undertaken did not take place until a contractor was in place, these factors would not provide sufficient mitigation for the harm I have identified.
9. As the host property makes a positive contribution to the CA and as it incorporates a design very reflective of the character and appearance of the CA as a whole, in failing to be a sympathetic extension to the property, it follows that the proposed development would also fail to preserve or enhance the character or appearance of the CA. This would be the case even though the front of the property would not be affected by the development and, therefore, that there would be no harm when viewed from the highway on Marne Street itself.
10. The harm to the designated heritage asset would be less than substantial. Having regard to the statutory duty in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the harm to the designated heritage asset would be a matter of considerable importance and weight.
11. Consequently, for the reasons given, the proposed development would harm the character and appearance of the host property and would fail to preserve or enhance the character or appearance of the Queen's Park Estate Conservation Area. The proposed development would be contrary to Policies 38, 39 and 40 of the City of Westminster City Plan 2019-2040 (CP) and Policy 5 of the Queen's Park Community Council Neighbourhood Plan 2020-2040 (NP). In summary and, amongst other matters, these policies require that new development incorporates exemplary standards of design quality that respects existing and adjoining buildings, contributes positively to Westminster's townscape and preserves or enhances Westminster's conservation areas.

12. Furthermore, the National Planning Policy Framework (the Framework), sets out that any harm to a designated heritage asset requires clear and convincing justification. The Framework further sets out that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
13. In this case, I have been provided with no clear and convincing justification for the harm I have identified and, I have no substantive evidence before me that there would be any public benefits derived from the development that would outweigh the less than substantial harm to the CA.

Living conditions

14. The host property adjoins terraced properties on either side. To one side is 60 Marne Street (No 60). On my visit I noted that the property on the other side had no door number but, the Council refer to this property as No 64. I have no reason to conclude this is incorrect. A rear single storey outrigger at No 60 contains 2 windows and a door with windows which flank the appeal site. In the space between this outrigger and the existing single storey extension at the host property, No 60 has a ground floor window within its rear elevation. Like other properties in the terraced row, No 60 is served by a back garden much of which is covered by decking.
15. In the proposal, the existing rear extension and rear outrigger serving the host property would be replaced with an extension which, with an additional projection of 3m, would be considerably longer. Its side elevation wall would be cited on the common boundary with No 60 and thereby right next to No 60's garden. Although the proposed extension would be largely flat roofed, at the top of the flat roof the extension would be 3m high, much higher than the existing fence which divides the No 60 plot from the host property. The solid brick-built form of the extension would also be more imposing than the existing fence and landscaping growing along it.
16. The proposed extension would, therefore, run alongside a significant proportion of No 60's garden and run closely alongside and significantly past the flanking windows within No 60's outrigger. It would be closer still to the ground floor window within No 60's rear elevation and the extent of projection past this window would be even greater than the windows within the outrigger. For these reasons, the proposed extension would create a harmful dominating and enclosing effect upon the garden and, the nearby windows of No 60, unacceptably reducing the levels of outlook presently available to its occupiers.
17. The gardens to the rear of the host property and No 60 are to the north of the houses. The houses will, therefore, already cause some impacts upon the levels of sunlight and the shading this side of the properties receive. However, it is the effects upon daylight which the Council refer to in its refusal reasoning and, given its length, proximity and height, I have no substantive evidence which demonstrates to me that the proposed extension would not also significantly reduce the levels of daylight that the occupiers of No 60 receive. The proposed extension may not unacceptably infringe upon the privacy of the occupiers of No 60 or other occupiers but this would serve as no mitigation for the harmful effects upon outlook and daylight.

18. Therefore, the proposed development would cause unacceptably harmful effects upon the living conditions of the occupiers of No 60 with particular regard to outlook and daylight. The proposed development would conflict with Policies 7 and 38 of the CP which set out that development should be neighbourly and provide a good standard of amenity, including by ensuring that the effects of development upon daylight and sense of enclosure would be acceptable.
19. The Council's refusal reasoning also cites harm to the living conditions of No 64. In coming to the above conclusions in respect of No 60, I was able to view the outrigger, window placement and garden of that property during my site visit sufficiently to fully inform my views.
20. I was unable to obtain the same standard of views of the rear of No 64 or its plot. I cannot, therefore, form my views on the effects of the proposed development upon the occupiers of No 64 with the same certainty. However, I have already identified unacceptable harm would occur upon the occupiers of No 60. In the first main issue I have also identified that the proposed development would harm the character and appearance of the host property and would fail to preserve or enhance the character or appearance of the CA. Given this and, given I am dismissing the appeal, the effects of the proposed development upon the occupiers of No 64 are not, in these particular circumstances, determinative. Even if I were in the position to conclude that no harmful effects would occur upon the occupiers of No 64, this would not outweigh the harm to the occupiers of No 60 nor the harm I have identified in the first main issue.

Other Matters

21. The principle of extending the property may be acceptable. However, in the main issues I have identified that this particular proposal would harm the character and appearance of the host property, the CA and the living conditions of neighbouring occupiers and would, therefore, be unacceptable.
22. The accessibility of the extension may be acceptable for use and for the property's occupiers and the design may provide them with acceptable living conditions. The proposed extension may also have been designed to be energy efficient whilst no trees would be harmed. Furthermore, I have no reason to conclude that the proposed development would cause flooding or be the subject of any unacceptable flood risk. However, these matters do not outweigh the harm I have identified in the main issues.
23. On the basis of the evidence before me and my own observations on site, I have no reason to conclude that extensions of the type proposed and, which have wrought comparable effects are part of the prevailing character of the area. The presence of any other extensions in the area is therefore of limited weight in my decision.
24. The appellant refers to permitted development rights. However, I have no substantive evidence before me which indicates that the proposed development would be permitted development. Therefore, this is a matter of very limited weight in my determination.

Conclusion

25. For the above reasons, having taken account of the development plan as a whole and all other relevant material considerations, the appeal is dismissed.

H Jones

INSPECTOR