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# Appeal Decision

Site visit made on 27 June 2023

by **C Rafferty LLB (Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 10 July 2023

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**Appeal Ref: APP/X5210/W/22/3313883**

**Flat at 1<sup>st</sup> and 2<sup>nd</sup> Floor, 87 Constantine Road, London NW3 2LP**

- 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 Philip Roys against the decision of Camden Council.
  - The application Ref 2022/0330/P, dated 26 January 2022, was refused by notice dated 6 September 2022.
  - The development proposed is the erection of second floor rear extension with roof terrace, installation of doors at rear first floor and doors and Juliet balcony at second floor level, erection of dormer to rear roof slope with photovoltaic cell panels above and installation of photovoltaic cell panels to front roof slope
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. I have taken the description of development from the decision notice, which provides a more accurate representation of the scheme than the application form.

## Main Issues

3. The main issues are the effect of the development on: the character and appearance of the property and area, including whether it would preserve or enhance the character or appearance of the conservation area; and the living conditions of occupiers at No. 85 Constantine Road with regard to privacy.

## Reasons

### *Character and appearance, Conservation Area*

4. The site is a mid-terrace property divided into two self-contained flats, situated in the Mansfield Conservation Area (the CA). The immediate part of the CA is residential in nature, made up of traditional style terraced properties that, while not identical in design, share a notable level of consistency in style and form, particularly along the front elevation. To the rear, the properties are less uniform in nature, with a variety of additions and alterations visible.
5. The proposal seeks to erect a second floor rear extension at the property. This would square off the existing rear projection, creating similarity in form and scale to the projection at No. 85 which it would adjoin. The main parties agree this element would not result in visual harm. The proposal also seeks to install PV panels to the front roofscape and the proposed dormer. While these are contemporary in design, I observed such panels at other properties on Constantine Road. While not a defining feature of the street or CA, it remains

that the panels would not be the first addition of this kind. Furthermore, due to the rooftop positioning and slimline, subtle nature, visibility of these would be limited from both the street and neighbouring sites. As such, this element would not cause visual harm to the property or area.

6. However, a rear dormer is also proposed. Other examples of rear dormers are visible from the site, being Nos. 77, 83 and 85 Constantine Road. These are not identical but retain an overall subservience in the roofscape. Even though No. 77 is a full width dormer, like those at Nos. 83 and 85 it retains a setback from the eaves. This allows the historic roofline of the properties, although not unaltered, to remain evident and readily appreciated from this location.
7. In contrast, the proposed dormer, although set down from the ridge and having been reduced in scale, would retain both a sizeable width and extend to the eaves, disguising the historic roofline and appearing as a substantial addition. Its size ensures the habitable space of the dwelling is maximised and its position relative to the eaves negates the need for steps onto the proposed terrace, which the appellant was advised were unsuitable. Nevertheless, in the context of the other visible dormers it would appear bulky, appearing to overwhelm this level of the property and failing to read as subservient.
8. The dominance of the proposed dormer would be highlighted by the terrace onto which it would open. Although this would provide amenity space and escape routes, its presence would nevertheless draw attention to the upper level built form, creating visual clutter together with the dormer. I note examples of other terraces in the area. However, the terrace from the site is at a lower level than that proposed and is accessed via the main elevation so as to be an overall subtle addition. In this immediate context, the proposed upper terrace adjoining the sizeable dormer would combine to create an overwhelming feature that would appear out of place.
9. Reference has been made to varied rear elevations in the area, with examples provided of properties in Constantine Road and surrounding streets. While this is noted, many of these dormers do not extend both a significant width across the roof and to the eaves in the same manner as the proposal. A cluster of properties in Constantine Road do feature sizeable dormers with access to terraces. However, these are some distance from the site and do not form part of its immediate setting, which features more subservient additions at roof levels and a visible historic roofline. As such, these other properties do little to justify the design of the proposal, which does not respond to the form and qualities of immediately surrounding buildings.
10. The dormer would incorporate a double glazed screen and sliding door with aluminium frames, further signalling its presence. Additional glazing would be present at the rear Juliet balconies, which would also be incongruous features in the immediate setting in their own right. Even acknowledging the surrounding variety in fenestration and the light and ventilation that would be provided at the property, this combined level of glazing and use of contemporary materials would appear overtly modern, at odds with the largely traditional style of the both the property and the immediate surrounds.
11. These alterations would be to the rear, imperceptible from Constantine Road, and set back from the railway line and many views of it. However, even acknowledging the variation in rear elevations and the presence of sizeable adjoining basketball courts, for the reasons given the proposal would cause

visual harm when experienced in the context of neighbouring dwellings, which have largely sympathetic rear alterations. While the proposal would only be viewed indirectly and in passing by railway users, it would be readily experienced from immediately surrounding dwellings, and the basketball court if it were to be used, where its incongruous nature would be evident.

12. The proposal would cause visual harm to the site and the contribution it makes to the surrounding character and appearance. As such, despite the lack of comments from the Mansfield Conservation Area Advisory Committee, I find it would neither preserve nor enhance the character or appearance of the CA. Its effect would be localised and would be 'less than substantial' harm. Nevertheless, the Framework makes it clear that great weight should be given to the conservation of heritage assets. Paragraph 202 specifies that where development will lead to less than substantial harm to the significance of a designated heritage asset, this should be weighed against its public benefits. The proposal would incorporate elements to tackle climate change and result in additional residential floorspace. However, given the limited overall public benefits in these regards, this would not outweigh the harm identified.
13. For the reasons given above, I find the proposal would have an adverse effect on the character and appearance of the property and area, and would fail to preserve the character or appearance of the CA. As such, it would fail to comply with Policies D1 and D2 of the Camden Local Plan 2017 insofar as they seek to ensure that development respects the local context and character and preserves and enhances the historic environment, and that development that causes less than substantial harm to heritage assets will not be permitted unless the harm is outweighed by public benefits. The Hampstead Neighbourhood Plan Area does not include the appeal site.

#### *Living Conditions*

14. Due to its placement at third floor level, the proposed terrace would be sited close to the rear dormer window at No. 85 Constantine Road. I accessed No. 85 during my visit, observed the room served by this window, and viewed the site from this position. While the terrace would afford ample outlook towards surrounding rear gardens, even with the perimeter screening proposed, clear and direct views into this dormer window and associated room would remain possible. Proposed screening is limited in height and even combined with the raised parapet and adjacent skylight, would do little to interrupt the views in this direction.
15. As a result, the proposed terrace would result in harm to the living conditions of occupiers at No. 85 by resulting in both actual and perceived overlooking. As outdoor space for the associated residential unit, the terrace would likely be used for prolonged periods of time, particularly during good weather, reducing the enjoyment of the associated room at No. 85 by occupiers of that dwelling.
16. While another terrace exists at the opposite side of No. 85, this is set at a lower level than the dormer window such that it would not have the same level of impact with regard to overlooking. Although the current occupier at No. 85 has no objection to the proposed terrace, it remains that the proposal would result in such harm to current and potential future occupiers.
17. For the reasons given above, I find the proposal would have an adverse effect on the living conditions of occupiers of No. 85 Constantine Road with regard to privacy. As such, it would fail to comply with Policy A1 of the Camden Local

Plan 2017 insofar as it seeks to ensure that the amenity of neighbours, including visual privacy, is protected. The Hampstead Neighbourhood Plan Area does not include the appeal site.

### **Other Matters**

18. The appellant has referred to pre-application discussions with the Council. However, I must make my decision on the basis of the proposal as it appears before me and can give limited weight to the content of such discussions. In addition, while the appellant's frustrations with the Council throughout the application and appeal process are noted, these do not go to the planning issues. The Council's reasons for refusal have been substantiated with reference to local policy and relate to the planning merits of the proposal.
19. The impact of planning policies and proposals on different groups of the community has been considered. In this regard, I note submissions from the appellant relating to their personal circumstances, including a letter referring to medical issues. In considering this appeal I have also had due regard to the Public Sector Equality Duty contained in the Equality Act 2010, in particular the need to eliminate discrimination, advance equality of opportunity and foster good relations between those with protected characteristics and others. Following careful consideration of these matters I am satisfied that the impact of dismissing this appeal is proportionate and justified.
20. The proposal seeks to address climate change and ensure the sustainability of the property, with reference to heat pumps, solar panels, exterior insulation and double/ triple glazing. This is a benefit of the proposal that is promoted by both local and national policy. However, given the limited overall contribution that would be made in this regard, this attracts only moderate weight. In addition, while additional residential floorspace would be provided, this is limited in the overall context of the area such that it carries little weight.
21. As addressed above, reference has been made to numerous terraces and dormers within the wider area. However, while consistency in decision making is important, each proposal is assessed on its own site specific circumstances and reference to development elsewhere carries little weight.

### **Planning Balance and Conclusion**

22. The squaring off of the rear extension and proposed PV panels would not cause visual harm to the property, area or CA. This represents a lack of harm that is neutral in the planning balance. Nevertheless, I have found that the specific design of the other elements of the proposal would cause harm to the character and appearance of the property and area, including the CA, and the living conditions of neighbouring occupiers. The identified benefits and other considerations, even taken together, above do not outweigh this harm.
23. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

*C Rafferty*

INSPECTOR