



Date: 28 November 2013
PINS Refs: APP/X5210/A/13/2206683
Our Ref: 2012/2754/P
Contact: Jenna Litherland
Direct Line: 020 7974 3070
Jenna.Litherland@camden.gov.uk

Chris Ries
teamp11@pins.gsi.gov.uk

Dear Mr. Ries,

**Appeal by Ms R Hossack
Site at 2a Conway Street, London, W1T 6BA**

Summary

This appeal is against refusal of planning permission on 5 April 2013 for:

Erection of roof extension with terrace over, creation of terrace at rear third floor level and enlargement of rear second floor level terrace through erection of metal platform and creation of a doorway, all in connection with provision of studio flat within roof extension.

Permission was refused on three grounds relating to impact on amenity of adjoining occupiers and a fourth ground relating to car free requirements.

The property sits in a tight relationship with other properties which include residential uses. There is no objection in land use terms to the introduction of new residential accommodation at roof level, nor to the proposed works in design terms within the conservation area. However the proposal would result in harm to the amenity of existing residential occupiers.

The Council's case is largely set out in the officer's delegated report which details the site and surroundings, the site history and an assessment of the proposal. A copy of the report and decision notice were sent with the questionnaire.

In addition I would be grateful if the Inspector would take into account the following information and comments before deciding the appeal.

Development Plan Policies

The 'Development Plan' for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004 is the Camden Core Strategy and Camden Development Policies of the Local Development Framework. In addition, Supplementary Planning Guidance adopted in 2011 and updated in 2013. Policy is up to date and in accordance with the NPPF. The relevant LDF policies and SPG guidance are set out in the officer report.

Reasons for refusal recapped

Planning permission 2012/2754/P was refused for the following reasons:

1. The proposed roof extension and screening to the fourth floor roof terrace, by virtue of their bulk, mass and proximity to habitable windows at 2D Conway Street and the flat at fourth floor level at 44 Maple Street, would result in a loss of outlook to the habitable rooms at these flats to the detriment of the amenity of their occupiers
2. The proposed roof terrace on the roof of the extension, by virtue of its proximity to habitable room windows at 2D Conway Street and at fourth floor level at 44 Maple Street, would result in an increase in overlooking and loss of privacy to these properties to the detriment of the amenity of their occupiers.
3. Insufficient information has been provided to demonstrate that the development would not have an adverse impact upon the residential amenity of the occupiers of the residential units at second and third floor level at 2 Conway Street in terms of daylight.
4. The proposed development, in the absence of a legal agreement to secure car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area

This statement will address the appellant's comments on the reasons for refusal.

Comments of the appellant's grounds of appeal.

The appellant's grounds of appeal is summarised below in italics and addressed beneath

The Handling of the application

The appellant makes reference in their grounds of appeal that there has been some inconsistency in the handling of the application as the application was originally recommended for approval and then subsequently refused. Reference is also made to the fact that it took 10 months for the application to be determined.

The delay in the determination of the application was unfortunate. This was due to a combination of initially seeking amendments to try and overcome the amenity concerns and workload pressures.

The appellant states in paragraph 4.4 of their statement that the Council's concerns with the application were not discussed with the applicant.

This is not the case. The agent was informed that the application would be refused before the final decision was made on the application. The Council does seek to work with applicants to try and resolve problems with their proposals, but after amendments had been made it became clear that in order to address the amenity issues (impact on outlook, privacy and light) satisfactorily, the scheme would need to be significantly different. Such revisions would have required a fresh application to be made.

The proposal was altered substantially from the time of the previous original application (ref: 2011/5165/P) as a result of concerns the case officer had in relation to loss of amenity to neighbours as well as other issues in terms of the design. The new scheme was significantly amended in order to try to overcome these issues. It was originally considered by the case officer that these amendments could be sufficient to ensure that proposal would not result in significant harm to the amenity of the neighbouring occupiers. However following further detailed assessment of the proposal, it was concluded that the proposal would result in disproportionate harm to amenity. As such, it was recommended that the application was refused.

Daylight and Sunlight – Reason for refusal 3.

Paragraph 5.4 of the appellant's statement suggests that sunlight to No. 44 Maple Street and 2 Conway Street would be hardly affected and that there would be no significant reduction in daylight. The appellant states that a specialist advisor has advised that the appeal proposal does not present any issues in respect on daylight to No. 2D Conway Street.

The Council has concern in relation to loss of daylight at the second floor and third floor level flats at No. 2 Conway Street. The appellant's contentions are not supported by any evidence what so ever. There is no submission of a daylight and sunlight assessment or any correspondence from said specialist.

Both i) the Council's CPG6 – Amenity and ii) BRE 'Site layout planning for daylight and sunlight: A guide to good practice when assessing daylight issues to existing developments', set out guidelines for assessing whether a proposal will impact on a neighbour building in terms of loss of daylight and sunlight.

The guidance states that a 25 degree line should be projected from the centre of the lowest windows on the existing building and if the whole of the new development is lower than this line then this line the proposal is unlikely to have a substantial effect on the daylight enjoyed by the occupants of the existing building. If the building extends above the 25 degree line a more detailed test should to be carried out the fully assess the loss.

In this instance, it is clear that the proposed extension would sit above a 25 degree line drawn from the centre of the lowest windows at the second (No. 2D Conway Street) and third floor flat at No. 2 Conway Street. As such, it is likely that the proposal would result in the loss of a noticeable level of daylight which would cause harm to neighbour amenity. In the absence of a daylight study to show otherwise this is considered unacceptable. It should be noted that the windows which would be affected at the third floor flat (No. 2D Conway Street) are the sole windows serving the bedroom and kitchen of a 1 bedroom flat. As such, as a result of this development, over 50% of the habitable rooms of this flat would suffer a loss of daylight. The layout of the flat second floor level is not known to the case officer. The impact is likely to be worse at this lower level in this case.

Outlook – Reason for refusal 1

In terms of outlook the appellant states in paragraph 5.4 that the roof extension will be set back from the parapet and will sit in front of the higher roof and party wall to No. 4 Conway Street and that the impact on outlook should be assessed in the context of the area and the nature of the site and surroundings.

The Council does not contest the above. Outlook has been assessed in the context of area. It is concluded that the proposed roof extension would harm the outlook of the occupiers of the flats at third floor level at No. 2 (flat 2D) and the flat at fourth floor level at 44 Mable Street. The window at 3rd floor level at No. 2D Conway Street which faces the application site serves the sole bedroom of a 1 bed flat. The case officer gained access to this flat during the assessment of the application. The window at fourth floor level at No. 44 also serves a bedroom. These windows would be located at a distance of 3.5 metres from the proposed extension. It is considered that given the close proximity of the proposed extension to these windows, it would create a heightened sense of enclosure which would harm the amenity of the occupiers of these flats. At No, 2D Conway Street this would be further exacerbated by the addition of the privacy screen between the proposed terrace at third floor level and the existing terrace at No. 2D Conway Street.

It is acknowledged that the existing outlook from these windows is not ideal as they look onto the party wall with No. 4 Conway Street, However this is located 10.7 metres from the windows. Given this distance the party does not dominate the outlook and the sky is visible either side and above the built form. (See appendix 1-photos taken from the bedroom window at 2D Conway Street.) . If this development were to be constructed, the outlook from these windows would be reduced to a solid wall at a distance of 3.5 metres away. This would dominate the outlook from these windows and would block views of the sky. The loss of decent outlook would result in substantial harm to neighbour amenity.

Overlooking – Reason for refusal 2

The appellant states in paragraph 5.5 of their submission that the proposed roof terraces would not result in overlooking as there is already access to the roof of 2A Conway Street so overlooking to habitable room windows at 2D Conway Street and fourth floor level at 44 Maple Street already exists and the proposed situation would be no worse.

This is not considered to be the case. The roof of 2A Conway Street is not a roof terrace. Access to the roof is provided by a step ladder and is for maintenance purposes only. As such, it is contested that there is already overlooking issues between the two properties. Concern is raised by the Council in relation to overlooking from the roof top terrace. A person standing on the terrace would be able to look down onto the roof terrace belonging to No. 2D Conway Street and into the bedroom windows at 2D Conway Street and 44 Maple Street. The roof terrace is located at a distance of 2.1 metres from the terrace at No. 2D Conway Street and 4.2 metres from bedroom windows at 2D Conway Street and at fourth floor level at No. 44 Maple Street. This distance is not sufficient to address concerns of overlooking. It is considered that the level of overlooking would harm the amenity of the occupiers of both No. 2D Conway Street and 44 Maple Street. The option of addressing this overlooking through the addition of privacy screen has been considered. However, in this instance this would not be acceptable as the addition of further screening would result in additional height and bulk to the extension which would adversely affect the appearance of the building and the conservation area.

The appellant also implies in their statement that the roof terrace at No. 2D Conway Street is unauthorised.

There is no planning history for the roof terrace. However it appears to have been in use for over 4 years, as such it would be immune from enforcement action. The Council has photographic evidence dating from 2007 which shows that the roof is being used as a roof terrace (See appendix 2).The aerial photo shows greenery and what looks like roof terrace paraphernalia on the roof. The street photo shows flower boxes surrounding the perimeter of the roof terrace.

Car-free development – Reason for refusal 4

Paragraph 5.7 of the appellant's statement confirms that they would be willing to enter into a S106 agreement with respect to car free development.

The Council and appellant are working to agree a draft of the agreement. This will be sent to the Planning Inspectorate once agreed by both parties.

Policy DP18 states that the Council expects all development to be car free in the Central London Area. The reasons for this are to facilitate sustainability and to help promote alternative, more sustainable methods of transport. The appeal site is located within the Central London Area and has high public transport accessibility (PTAL score of 6b). This site is also located within a Controlled Parking Zone (CPZ) which suffers

from high levels of parking stress. The proposal should be secured as car free by the means of a Section 106 legal agreement should the appeal be allowed.

A planning obligation is considered the most appropriate mechanism for securing the development as car free as it relates to controls that are outside of the development site and the ongoing requirement of the development to remain car free. The level of control is considered to go beyond the remit of a planning condition.

Conclusion

On the basis of information available and having regard to the entirety of the Council's submissions, including the content of this letter, the Inspector is respectfully requested to dismiss the appeal.

In accordance with Government advice and without prejudice to the Council's case, should the Inspector find in favour of the appellant the Council would seek to impose the following conditions and S106 obligations.

Conditions

1. The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The details of the facing materials to be used on the building shall not be otherwise than as those submitted to and approved by the Council in writing before any work is commenced on the relevant part of the development. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

3. The development hereby permitted shall be carried out in accordance with the following approved plans: cws_lp_001; pl 101; pl 102 (received 09/07/2012); pl 103 (received 09/07/2012); ple 101 (received 09/07/2012), ple 102 (received 09/07/2012); pls 101; s102; plx 001; plx 002; ple 001; plex 002; plsx 001.

Reason:

For the avoidance of doubt and in the interest of proper planning.

4. A 1.8 metre high screen, details of which shall have been submitted to and approved by the Council, shall be erected along the south eastern side of the side roof terrace, at the south eastern side and north western side of the rear terrace, and along part of the north eastern side of the rear terrace as shown on plans pl 102 and p e 101 prior to commencement of use of the roof terrace and shall be permanently retained and maintained thereafter.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy CS5 of the London

Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

5. The lifetime homes features and facilities, as indicated on the drawings and documents hereby approved, including adequate widths and clearance of doorways and halls, turning space for wheelchairs, flexibility to install handrails and hoist in the bathroom and a chair lift to the stairs, windows at an accessible height, and controls, fixture and fitting at an accessible height, shall be provided in their entirety prior to the first occupation of any of the new residential units and shall be permanently maintained and retained thereafter.

Reason: To ensure that the internal layout of the building is acceptable with regards to accessibility by future occupiers and their changing needs over time, in accordance with the requirements of policy CS6 of the London Borough of Camden Local Development Framework Core Strategy and policy DP6 of the London Borough of Camden Local Development Framework Development Policies.

Legal agreement

A S106 legal agreement to secure the following:

- *That the residential unit would be car free.*

If any further clarification of the appeal submissions are required please do not hesitate to contact Jenna Litherland on the above direct dial number or email address.

Yours sincerely,

Jenna Litherland
Senior Planning Officer
Culture and Environment Directorate