



Appeal Decision

Site visit made on 10 December 2014

by **E A Lawrence BTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 December 2014

Appeal Ref: APP/X5210/D/14/2227019

4 Warren Mews, LONDON, W1T 6AW

- 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 Ms Belle Lupton against the decision of the Council of the London Borough of Camden.
 - The application Ref 2014/2812/P was refused by notice dated 30 July 2014.
 - The development proposed is the creation of a roof terrace over part of existing flat roof with associated stair enclosure and privacy screen to rear.
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Decision

1. The Appeal is dismissed.

Main issue

2. The main issue is the effect of the proposal on the living conditions of the occupiers of Nos. 23 – 29 Conway Street (Nos.23 -29), with particular regard to privacy, daylight, sunlight and visual impact.

Reasons

3. A previous scheme for a roof terrace was dismissed due to the loss of privacy it would result in for the residents of Nos.23 -29. In assessing the previous scheme the appointed Inspector referred to the Council's Supplementary planning Document – *Design* (SPD) which recommends a distance of at least 18 metres between habitable room windows which directly face each other. Although this advice does not specifically apply to roof terraces, bearing in mind their potential recreational use, I share the view of the previous Inspector that the principles are comparable.
4. To address the concerns raised to the previous scheme the current Appeal proposal includes a 1.8 metre high Mansard roof extension and return slate privacy screen. This would prevent inter-looking between the roof terrace and the fourth floor windows opposite.
5. The proposed mansard extension would not however prevent inter-looking between the proposed roof terrace and the rear windows above fourth floor level at Nos.23 – 29. In addition, there would be scope for inter-looking between the sides of the proposed roof terrace and the rear windows above third floor level at Nos. 23, 27 & 29. In accordance with the submitted drawings these windows would be sited within a range of just 8 and 12 metres of the proposed roof terrace. Whilst such inter-looking would be at an oblique

- angle, due to their close proximity and the generous size of some of the windows the loss of actual and perceived privacy for the residents of those properties would be material. Although some of the rear windows at Nos.23 – 29 may only serve non-habitable rooms, others will serve habitable rooms.
6. To assess the impact of a development on daylight and sunlight the document *Site layout planning for daylight and sunlight* advises that if a new structure falls above a 25 degree line taken from a horizontal plane in line with the centre of the lowest window (or a height of 2 metres above floor level in the case of floor to ceiling windows) the new structure could result in a material loss of daylight.
 7. Taking the 2 metre high horizontal line shown on drawing No. WARm ga 203 it would appear that the existing mansard roof falls just inside the 25 degree line and both the extended mansard roof and stairwell would fall outside of it, in relation to any full height rear first floor windows at Nos.25 & 27. The impact would be greater for any windows that are less than full height. Accordingly and notwithstanding the fact that the proposed terrace would be less than six metres in width, it would result in reduced skylight and daylight for the occupants of Nos.25 & 27 within their rear facing first floor rooms.
 8. The situation would be exacerbated by the siting of the proposed roof terrace to the west of Nos.23 to 27. The proposed mansard roof extension and stairwell would result in some loss of sunlight during the late afternoon/evening within the rear facing lower storey rooms of Nos.23 – 27.
 9. In the absence of a sunlight assessment it is not possible to accurately assess the full extent of overshadowing that would result from the proposed scheme. Despite this it is clear that the combined loss of daylight and sunlight would detract from the quality of the living environment at Nos.23 - 27. At the same time, due to its combined proximity, height, width and solid construction the proposed stairwell and raised mansard would have an enclosing impact on the outlook from the windows, below fourth floor level, at Nos. 23 to 29. The contrived shape and appearance of the roof extension would add to its visual obtrusiveness.
 10. Concern has been expressed that the use of the proposed terrace would result in undue noise and disturbance for local residents. There is no doubt that the use of the proposed roof terrace would generate some noise and disturbance. However I noted a number of roof terraces in the locality and having regard to the busy and intensively developed character of the area, the noise and disturbance likely to be generated by the use of the proposed terrace would, on balance, be unlikely in itself to have a materially harmful impact on any local residents. The use of the proposed terrace would however add to the over-bearing nature and perceived loss of privacy experienced by nearby residents at Nos.23 – 29.
 11. Finally I have noted the concerns raised by residents in Warren Street and further to the south in Fitzalan Square. However, in view of the distance between these properties and the proposed roof terrace I am satisfied that the scheme would not have a materially harmful impact on the living conditions of those properties.
 12. Overall, the proposed terrace would have a materially harmful and unacceptable impact on the living conditions of the occupants of Nos.23 – 29,

due to various and combined degrees of loss of privacy, daylight, sunlight and its over-bearing visual impact. The scheme would conflict with policy CS5 of the London Borough of Camden Core Strategy (Core Strategy) and policy DP25 of the London Borough of Camden Development Policies (DPD). Amongst other things they seek to protect the living conditions of existing residents. In line with this the Camden Design Guidance Design 1 (CPG1) advises that whilst balconies and terraces can provide valuable amenity space, they can also cause nuisance to neighbours.

13. The scheme would also conflict with the National Planning Policy Framework (NPPF) which seeks to improve the conditions in which people live and to secure a good standard of amenity for all existing and future occupants of buildings. The design of the built environment should contribute positively to making places better for people. In view of the harm that would be caused by the proposed development it would also conflict with the social and environmental roles of sustainable development.
14. I conclude on the main issue that the scheme would unacceptably harm the living conditions of the occupants of Nos.23 – 29 and would conflict with policy CS5 of the Core Strategy, policy DP25 of the DPG, the CPG1 and NPPF.

Other matters

15. The Appeal site is located within the Fitzroy Square Conservation Area, although it is not listed or identified as making a positive contribution to the character or appearance of the conservation area. However the Appeal property is located in close proximity to various listed buildings, including 23 – 33 Conway Street. In addition a significant proportion of the buildings within Warren Mews are identified as making a positive contribution to the conservation area.
16. Any views of the proposed roof terrace from public places would be restricted to glimpses of the glazed screen around the terrace. This would be set back from the frontage of the building and would be largely unnoticeable within the street scene. Also, there are other roof terraces in the locality and so the roof terrace would not be seen as an isolated feature. As a consequence the proposal would preserve the character and appearance of the conservation area as whole and would not detract from its significance.
17. The proposed stairwell and raised mansard would have an enclosing impact on the rear elevations of Nos.23 – 27. It would detract from the symmetry of the roof of the host terrace, which is integral to its design and consistent with nearby terraces and in particular, the listed terraces in Warren Street and Conway Street. At the same time it would be visually awkward and contrived, resulting in a fragmented and visually cluttered roof. As a result the proposed stair well and raised mansard would have a negative impact on the setting of Nos.23 – 29. Although there are no public views towards the rear of these properties, the rear elevations and their setting are important to the significance of these listed buildings.
18. As stated in the NPPF where a 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 securing its optimum viable use. In this instance the benefits of making full use of the roof of the property and of providing an outdoor garden area to serve the host

dwelling would fail to outweigh the material harm that would be caused to the setting of the adjacent listed terrace.

19. Accordingly the scheme would conflict with the NPPF and policy DP25 of the DPD, which seeks to protect the setting of listed buildings from harm. This adds to my concerns regarding the impact of the proposed roof terrace on the living conditions of various local residents. Both individually and together these concerns would outweigh the benefits for the Appellant and their family that would result from the proposed roof terrace.

Conclusion

20. My conclusion on the main issue and other matters amount to compelling reasons for dismissing this Appeal, which could not be satisfactorily addressed through the imposition of conditions.

E Lawrence

INSPECTOR