

Appeal Decision

Site visit made on 18 October 2016

by A A Phillips BA(Hons) DipTP MTP MRTPI

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

Decision date: 7 November 2016

Appeal Ref: APP/X5210/W/16/3155444 16A Mackeson Road, London NW3 2LT

- 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 Mrs Victoria McNamara against the decision of the Council of the London Borough of Camden.
 - The application Ref 2016/0906/P, dated 16 March 2016 was refused by notice dated 13 May 2016.
 - The development proposed is to replace existing UPVC window to front ground floor bay, replace existing kitchen door (UPVC) ground floor, remove bedroom window and replace with door, fit railings around roof (steel) to form a balcony. Replace conservatory UPVC windows with same and replace garden door (previously UPVC) with new.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I note from the planning application form and my observations on site that the application is retrospective. The development has been completed in full. I have determined the appeal on that basis.
3. There has been some discrepancy between the date of the planning application and the date of the Council's decision notice. This has now been remedied and the date of the planning application has been confirmed as 16 March 2016.
4. I have further noted that as a consequence of resolving this matter the address on the planning application form has changed from 16A Mackeson Road to 16 Mackeson Road, which has triggered the signing of Ownership Certificate B. However, it is clear to me that the proposal only relates to 16A and I can deal with the appeal on that basis.

Main Issues

5. The main issues are the effect of the proposed development on:
 - i. the character and appearance of the host property and the Mansfield Conservation Area; and
 - ii. the living conditions of the occupants of neighbouring residential properties with particular reference to privacy.
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Reasons

6. The property the subject of this appeal is part of a mid-terraced property located in the Mansfield Conservation Area. It is three storeys to the front, but owing to there being a lower ground floor level is four storeys to the rear. Some properties in the area remain as single houses whilst others, including the appeal property, have been divided into flats. The appeal property itself is a ground floor flat with mezzanine level.

Character and appearance

7. Although UPVC windows have been installed on a few properties along the street the majority retain their traditional timber sash windows which are significant in their positive contribution to the character and appearance of the property and the wider Conservation Area.
8. Policy CS5 of the Camden Core Strategy 2010-2025 (CS) states that the Council will give particular consideration to protecting and enhancing the environment and heritage. Policies CS14 of the CS and DP24 of the Camden Development Policies 2010-2025 (CDP) state that all development should be of the highest standard of design and respect the character, setting, form and scale of neighbouring properties and the character of the existing building. Policy DP25 relates to conserving the Borough's heritage and states that development will only be permitted in conservation areas that preserves and enhances the character and appearance of the area. Chapter 4 of Camden Planning Guidance Design (updated 2015) (CPG) relates to guidance for extensions and alterations to properties. It clearly states that alterations to properties should always take account of the character and design of the property and its surroundings. The guidance has specific reference windows and states that where it is necessary to replace the original windows or those in the style of the originals, they should be replaced like with like in order to preserve the character of the property and its surroundings. Furthermore, where timber is the traditional window material replacements should be in timber and UPVC is not acceptable for aesthetic and environmental reasons.
9. In this case the significance and interest of the appeal site lies in its role, as part of the group of traditionally built terraced properties, in defining the character of this part of Camden and the wider Conservation Area. The timber sash windows are particularly important to this. Although it is my understanding that the new UPVC windows and doors have replaced existing UPVC ones, those which were replaced could not have been original or in the style of the original since the original windows and doors on the property will have been timber. Therefore, in accordance with the development plan replacement and new windows and doors should be timber.
10. As a non-traditional material on the building UPVC has harmed the property's integrity, undermined its inherent character and positive contribution to local distinctiveness and detracted from the overall appearance of the locality. This is because the modern windows are an incongruous addition to the traditional form and design of the property, and the frontage in particular, drawing the eye. In turn the unsuitable alterations harm the quality of the terrace of properties and its contribution to the character and appearance of the Mansfield Conservation Area. Although some of the alterations have taken

- place at the rear of the property they are nonetheless clearly visible from nearby and do demonstrably harm the appearance and integrity of the building.
11. The design of the terrace railings is acceptable and does not harm the character and appearance of the host property and the Conservation Area in which it is situated.
 12. There is little evidence that the integrity of the terrace has been significantly compromised by uncontrolled alterations in the past.
 13. Given the scale of the proposed alterations within the context of the Conservation Area as a whole, I consider that it has caused less than substantial harm to the character and appearance of the Mansfield Conservation Area. In accordance with paragraph 134 of the National Planning Policy Framework (the Framework), I must weigh the harm against the public benefits of the proposal.
 14. There may be some benefits from the proposal and the appellant considers that these include securing a sustainable future for the heritage asset. In my view the public benefits would be minimal, and insufficient to outweigh the harm identified. I conclude therefore that the development fails to accord with national policy.
 15. For these reasons the development would fail to preserve or enhance the character and appearance of the host property and the Mansfield Conservation Area and, as such, would conflict with Policies CS5 and CS14 of the CS, Policies DP24 and DP25 of the CDP and the Framework.

Living conditions

16. Policy CS5 of the CS states that the amenity of residents will be protected by making sure that the impact of developments on neighbours is fully considered. DP26 of the CDP identifies that in order to protect the quality of life of neighbours planning permission will only be granted for development that does not harm amenity, including visual privacy and overlooking.
17. Given the elevated nature of the rear balcony, its close proximity to the private rear gardens of 14, 16B and 18 Mackeson Road there are clear elevated views of neighbouring rear gardens. Views into private gardens to the rear are mitigated to a degree by the presence of boundary treatments, trees and other landscaping.
18. Furthermore the balcony created by the installation of the railings would also provide clear views into the rear habitable rooms of properties on Lisburne Road which back onto the site, including No 21 in particular. Views back into the rear bedroom 14 Mackeson Road would also be particularly clear and significant.
19. The resultant level of direct and uninterrupted overlooking into nearby private rear gardens and into the rear windows of neighbouring properties would be significant to the extent that it would lead to an unacceptable loss of privacy prejudicial to residents' enjoyment of their properties.
20. Although I agree that a privacy panel could be erected between the balcony and the rear window of No 14, this would not mitigate the unacceptable overlooking and resultant loss of privacy to other properties in the vicinity.

21. The appellant states that the purpose of roof terraces is to provide essential outdoor space to improve the amenity of occupants rather than them being constructed as viewing points for overlooking neighbouring properties. Nonetheless, in this particular case a direct consequence has been to provide a means of overlooking into nearby properties and unacceptably harming the living conditions of their occupants in terms of loss of privacy.
22. The appellant has also drawn my attention to other roof balconies and terraces in the area. I observed on site that there are nearby roof terraces at 18 Mackeson Road and 23 Lisburne Road. However, their relationship with private amenity spaces locally and habitable rooms is very different to the appeal case. As such, I do not consider that they provide direct parallels to the appeal proposal and give them limited weight. In any case I have determined the appeal on its merits.
23. On this matter I conclude that the proposal would harm the living conditions of the occupants of neighbouring residential properties with particular reference to privacy. The proposal would therefore conflict with the amenity requirements of PolicyCS5 of the CS, Policy DP26 of the CDP and the Framework.

Conclusion

24. For the above reasons and taking account of other matters raised I conclude that the appeal should be dismissed.

Alastair Phillips

INSPECTOR