



Appeal Decision

Site visit made on 18 January 2022

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday 8 March 2022

Appeal Ref: APP/X5210/W/21/3282158

10a and 12 Belmont Street and Flat 5 No.10 Belmont Street , LONDON NW1 8HH

- 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 Livio Venturi (of Designated Contractors Ltd) against the decision of London Borough of Camden.
 - The application Ref 2021/1297/P, dated 18 March 2021, was refused by notice dated 28 July 2021.
 - The development proposed is described as 'Creation of roof terrace to No.10a and No.12 Belmont St and privacy screening to Flat 5, 10 Belmont St to prevent overlooking.'
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address above is taken from the Council's decision notice as it provides greater clarity as to the properties that make up the appeal site. The appellant has also used the Council's version of the address on his appeal form.
3. The above description of the development is taken from the application form. However, the Council has described the development on the decision notice as '*Erection of spiral staircases at rear of 10a and 12 (3rd floor) to provide access to new roof terraces on 10a and 12, with railings at front, sides and rear; provision of glazed screen to adjacent balcony of flat 5, 10 Belmont*'. The appellant has used this description on his appeal form and in his Statement, and in doing so has agreed to the Council's description. It more fully describes the proposed development shown on the plans as it includes the spiral staircases and glazed screens. It is clear from the evidence that the Council dealt with the proposal on this basis and so shall I.

Main Issues

4. The main issues are:
 - The effect of the proposal on the living conditions of existing occupiers of Flat 5 with particular regard to noise & disturbance, privacy, outlook and light, and
 - The effect of the proposed development on the character and appearance of the host property, roofscape and nearby locally listed buildings.

Reasons

5. The appeal site comprises a pair of modern (circa 2016), 4-storey with basement, terraced town houses (Nos.10a and 12) and the adjacent Flat 5, which is located in the adjacent building No.10 Belmont Street, a former piano factory (the 'piano factory') which is now a converted 6-8 storey block of residential flats. Some of the piano factory flats have balconies and roof terraces including pergolas, some of which were granted under separate planning applications. Nos.10a and 12 sit as part of a short terrace of three dwellings that reads as a diminutive adjunct to the piano factory building, with a clean contemporary flat roof profile.
6. Nos.10a and 12 formed a terrace with No.14, and together with the adjacent piano factory are locally listed¹ non-designated heritage assets. From what I saw, their significance would have derived mainly from their social, historic and architectural interest. However, the replacement with the modern Nos.10a and 12 would to my mind diminish the integrity of the heritage asset as a whole. Nonetheless, the imposing presence of the piano building and the adjacent terrace in which the appeal buildings sit, make a positive contribution to the character and appearance of this predominantly residential area.
7. The proposed development involves the creation of two roof terraces on the existing flat roofs of the new town houses Nos.10a and 12. Access to each roof terrace would be via an external metal spiral staircase from each of the existing top floor rear balconies that serve these properties. Around the edge of the roof terraces would be 1.5 metre high metal railings. The railings and staircase would be powder-coated in the same dark colour to match the metal work used for the balconies on the adjacent piano factory flats. Adjoining the proposed roof terrace of No.10a are a balcony off a master bedroom and two en suite bathroom windows all belonging to Flat 5.

Living conditions

8. I was able to visit Flat 5 and stand on the balcony which is accessed by full height glazed doors from the master bedroom, and also stand in both en suite bathrooms. Despite the floor level of the bathrooms and balcony being lower than the level of the roof terraces, I was able to clearly look out onto the roofs of Nos.10a and 12. The windows of Flat 5 would be immediately adjacent to, and touchable from, the roof terrace of No.10a. The spiral staircase to this roof terrace would be in very close proximity to the master bedroom balcony.

Noise and disturbance

9. Two separate households would be able to each use their roof terrace. This would introduce people talking and laughing, possibly playing music, and the sound of footsteps on the metal staircases as people go up and down in close proximity to the windows and balcony of Flat 5, which currently does not occur. The submitted plans show an indicative layout of the tables and seating on each terrace capable of comfortably accommodating at least about a dozen people, indicating to me they are sizeable spaces capable of hosting larger gatherings with family and friends. The indicative seating layout also shows that it would be possible to place seating or tables immediately adjacent or very close to the windows and balcony of Flat 5. As a result, the use of the roof

¹ According to the appellant the local listing refers to the original houses that have been demolished, which have now been replaced with the current versions of Nos.10a and 12.

terraces and staircases would introduce activity and noise and disturbance to this roof space that is not currently experienced by occupiers of Flat 5. Furthermore, it is not uncommon for people to use 'patio heaters' or other heating to sit out in colder weather or in the evenings. Outdoor spaces can also often be illuminated. Therefore the roof terraces could potentially be in use most of the year and during hours of darkness, which would expose the occupiers of Flat 5 to more prolonged noise and disturbance.

10. The en suite bathrooms are not 'habitable' rooms, but I saw that the rooms were in fact large and spacious and acted as extensions to the bedrooms they served. Any noise and disturbance from the roof terraces would likely be experienced in the bedrooms too, which are habitable rooms, especially if the roof terraces were in use during the evenings and night time, and if windows were open.
11. I acknowledge that in denser urban areas there are generally accepted higher levels of noise and lower levels of amenity. Whilst the roof terraces would be for private residential use, for the reasons described above this would not necessarily correlate with insignificant levels of noise and disturbance. It would not be possible to impose conditions to control days and times when the roof terraces and staircases would be in use.
12. Overall I find there would be unpredictable and unacceptable levels of noise and disturbance in close proximity to windows and a balcony beyond what the occupiers of Flat 5 could reasonably be expected to endure. Whilst there may be a close relationship with other balconies on the piano factory, or the smaller semi-enclosed balconies lower down on Nos.10 and 12, the proposal represents an entirely new and different relationship imposed on neighbouring occupiers.

Privacy

13. Due to the configuration and proximity of the roof terraces to windows and a balcony, mutual privacy for both users of the terraces and occupiers of Flat 5 would need to be protected. To this end, a privacy film would be applied to the en suite bathroom windows and Georgian wire cast glass panels would be installed around parts of the existing balcony closest to the roof terrace.
14. The installation of obscure glazed bathroom/en suite windows is a fairly typical arrangement. In this instance it would help prevent direct mutual overlooking of the roof terraces and the en suite bathrooms and balcony. However, this would not prevent shadows and silhouettes being seen against the glass, from either the roof terraces or rooms of Flat 5. Hence I find the proposed privacy film to the windows and proposed glazed panels to the balcony would not provide adequate mitigation to secure mutual privacy, or perceptions of overlooking.

Outlook

15. As already described above, bathrooms typically have obscure glazed windows of some sort. The large and unobstructed windows are a striking feature of the en suite bathrooms, giving them a pleasant and unfettered outlook. One en suite bathroom has a second window that would not be affected. Nonetheless, reducing the outlook from these rooms would diminish their appeal.
16. Moreover, the erection of obscure glazed panels around part of the sides of the balcony of the master bedroom would enclose most of this outside space, akin

to being in a box. I saw that the wall that surrounded the balcony was not full height - I had unobstructed views from the balcony across the roofs of Nos.10a and 12 and could reach over the wall had I wanted to. Therefore, I disagree with the appellant's claim that the existing balcony is "enclosed by a high surrounding wall". The proposed glass panels would therefore have a significant adverse impact on outlook compared to what is there now.

17. I saw that the master bedroom already has full height windows along the east side of the room, which provide the room with its principal views. From the plans it is also clear that the principal outdoor amenity space for Flat 5 is the large balcony off the main living area. Nonetheless, the enjoyment of the bedroom balcony would be compromised by the obscure glazed panels.
18. The obscure glazing that would be imposed on a neighbouring property, in the form of privacy film or obscure glass panels, would amount to an unneighbourly form of development that would create an unacceptable sense of enclosure and a poor and oppressive outlook for users of this room.

Light

19. I have no doubt that the privacy film and obscure glazed balcony panels would result in some reduction in light levels to the rooms they serve. However, both ensuite bathrooms are large each with large windows, one even has a second window. As a result, rooms are already adequately naturally lit. As already described, the master bedroom has a second larger full height window to provide light. I am satisfied that there would not be an unacceptable reduction in light levels to these rooms.
20. To conclude on this main issue, I have found there would be unacceptable harm to the living conditions of occupiers of Flat 5 with regards to noise and disturbance, privacy and outlook. The absence of harm with regard to light carries neutral weight in my consideration. Accordingly the proposal would be contrary to Policy A1 of the London Borough of Camden Local Plan (the 'Local Plan') which seeks to ensure, amongst other things, that the amenity of neighbours is protected taking account of factors such as privacy, outlook, light and noise.

Character and appearance

21. The railings would not be solid, so would appear to some degree as a lightweight structure. However, the railings would be erected close to the edges of the roof terrace and would protrude up beyond the clean simple lines of the existing flat roofs. Views of the railings from the west would be more limited as longer range views of the building and its profile are interrupted to some extent by the intervening flats and landscaping. Views of the rears of the houses and the proposed roof terraces would be more visible from within the area at the rear which contains pedestrian routes and a communal play area for the surrounding blocks of flats. The spiral staircases would also be a noticeable visual addition to the overall skyline, as they would break up the line of the railings. Although there are balconies on the piano factory building, including the stacked alignment closest to the proposed roof terrace, I find these are read as an integral part of a much larger building that has had a number of alterations and additions and are less visually intrusive than what is proposed on top of two town houses.

22. In addition, outside furniture, patio heaters, parasols, storage facilities and other domestic paraphernalia would likely be placed on the roof terraces for use by their occupiers and would be visible through the railings. Due to the height of the railings, some items could well protrude upwards beyond them, as was evident on other balconies and terraces I saw on the adjacent piano factory building. This would disrupt the relatively simple lines of the railings and reduce the effect of a lightweight structure.
23. It is also likely that occupiers would want to create additional privacy and erect privacy screens around the railings. Privacy measures, such as screening panels, planting and nets of artificial vegetation creating 'cages' as well as pergolas were also clearly evident on nearby balconies and terraces.
24. The uncontrolled population of the roof terraces with a myriad of domestic items, screening and planting would add clutter and visually detract from the existing simple roofscape. What I saw on neighbouring balconies and terraces reinforces my view that the appeal proposal would be harmful to the character and appearance of the host properties and the area.
25. The translucent glazed panels to the balcony would not be very visible, sitting within the existing metal frame of the balcony. I am satisfied that this element of the proposal would not detract from the character and appearance of the property or the area.
26. Paragraph 203 of the National Planning Policy Framework (the 'Framework') requires the effect of an application on the significance of a non-designated heritage asset to be taken into account when determining the application. The historic integrity of the locally listed buildings has been somewhat reduced by the demolition of some of the buildings and erection of Nos.10a and 12. Nonetheless, I find the proposed railings and staircases would add clutter to the roofscape that would diminish the setting of the locally listed buildings.
27. I conclude that the proposal would cause significant harm to the character and appearance of the host properties, which form part of a locally listed terrace, and the surrounding area. I have not been presented with any other considerations that would outweigh this finding. Accordingly, the proposal would be contrary to Local Plan Policies D1 and D2. These collectively seek, amongst other things, to ensure that development respects the local context and character, and preserves Camden's rich and diverse heritage assets, including those which are locally listed.

Other Matters

28. I acknowledge that the proposal would provide enlarged and improved outside amenity space for two existing houses, the appreciation of and the need for which has likely been increased during the Covid-19 pandemic. The terraces would be for the private use of occupiers of Nos.10a and 12 with no public benefit, and whose occupiers are not without some amenity space which was presumably considered acceptable at the time of their construction. This does not outweigh the harm I have identified.
29. As planning permission runs with the land I must determine the proposal on its planning merits. Therefore, the lack of representations from local residents does not diminish the harm that I have identified. The suggested conditions would do little to overcome these harms.

Conclusion

30. The proposed development would not accord with the development plan and there are no other considerations which outweigh this finding. For the reasons given I conclude that the appeal should be dismissed.

K Stephens
INSPECTOR