

Appeal Decisions

Site visit made on 27 September 2016

by Jane Miles BA (Hons) DipTP MRTPI

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

Decision date: 16 November 2016

Appeal A: APP/X5990/W/16/3150169

9 Chester Street, London SW1X 7BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mr & Mrs Omamofe Boyo against the decision of City of Westminster Council.
 - The application ref: 16/00691/FULL, dated 27 January 2016, was refused by notice dated 9 May 2016.
 - The application sought planning permission for "erection of a full width extension at rear lower ground and upper ground floor level with terraces at upper ground and first floor level and new doors onto terrace at rear first floor level" without complying with a condition attached to planning permission ref: 14/11880/FULL, dated 12 May 2015.
 - The condition at issue is condition 1 which states: "The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter".
 - The reason given for the condition is: "For the avoidance of doubt and in the interests of proper planning".
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Appeal B: APP/X5990/Y/16/3150180

9 Chester Street, London SW1X 7BB

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to vary a condition of a listed building consent.
 - The appeal is made by Mr & Mrs Omamofe Boyo against the decision of City of Westminster Council.
 - The application ref: 16/02304/LBC, dated 22 February 2016 and refused by notice dated 9 May 2016, sought to vary condition 1 of a listed building consent ref: 14/11765/LBC, granted on 12 May 2015, for the following works: "Erection of a full width extension at rear lower ground and upper ground floor level with terraces at upper ground and first floor level and new doors onto terrace at rear first floor level. Associated internal alterations".
 - The condition at issue is condition 1 which states: "All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission".
 - The reason for the condition is: "To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Belgravia Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007".
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Decisions

1. Appeals A and B are both dismissed.

Preliminary Matters

2. Notwithstanding the wording of the conditions described in the banner headings to these appeals the purpose of the appeal applications is, in effect, to substitute revised plans to provide for an infill extension at upper ground floor level in place of the terrace which was approved in the scheme permitted in 2015. Similar wording is incorporated into the development description used by the Council in processing the appeal applications.

Reasons

3. No. 9 is a Grade II listed building in the Belgravia Conservation Area (CA). Thus, further to paragraph 2 above, the **main issue** in this case is the effects of the proposed infill extension on the special architectural and historic interest of the listed building and its significance as a heritage asset, and on the character and appearance of the (CA) and its significance.
4. As noted in the Council's information leaflet for this CA its key features include a high degree of townscape uniformity and a formal street pattern. Much of it was laid out in the 1820s, with many long terraces originally of uniform mass, height, classical style and detailing, often with mews buildings to the rear. These features and the CA's historical role in the development of this area of London contribute to its character and appearance and/or to its significance as a heritage asset.
5. No. 9, with five storeys over a basement level, is part of one of the long terraces which contributes to the CA's character, appearance and significance. It is one of seven substantial buildings within the terrace that are listed together¹ as a 'row of houses' dating from the early 19th century. The special interest of no. 9 and its neighbours lies primarily in their original style, scale, proportions and detailing, which are typical of their era. That applies not just to the principal front elevations but also to the characteristically more modest and plain elevations at the rear, despite any later alterations or additions. The rear elevation of no. 9 contributes to its heritage significance both architecturally and historically in terms of understanding how 19th century townhouses such as this functioned.
6. The Council's response to the appeals explains that part of the rationale for approving the full width rear extension proposals in 2015 was that stepping the upper ground floor extension slightly further back than the lower ground floor extension below it would be effective as a means of mitigating the effects of their width. I agree that doing so would help to ensure the extensions as a whole appear proportionate to the principal building, without being unduly dominant or detracting from its character, appearance and special interest.
7. In assessing the impacts of the 'infill' extension now proposed at upper ground floor level the key point is not the narrowness of the terrace that would be lost but the resultant and significant increase in the continuous height of the extension's rear wall, across the full width of the building. That tall and wide expanse of wall would be a very dominant feature, irrespective of the doors

¹ Nos. 8-14 (consecutive)

and windows within it. Thus the extension would seriously detract from the proportions and architectural integrity of the listed building and would diminish its significance by making it more difficult to understand and appreciate the historic building form. The infill extension would also have a harmful effect in diminishing the contribution that no. 9 makes to both the terrace of which it is part and the CA's character, appearance and significance.

8. The proposed revision to the scheme approved in 2015 would therefore conflict with saved Policies DES 1, DES 5 and DES 10 of the City of Westminster Unitary Development Plan (UDP) (2007) and with Policies S25 and S28 of Westminster's City Plan: Strategic Policies (2013). It would also conflict with more recent policy guidance in the *National Planning Policy Framework*, which is an important material consideration.
9. In terms of policy guidance in the *Framework* the harm to the significance of the listed building and the CA would be less than substantial, but there would be harm nonetheless. It is therefore necessary to consider whether there would be public benefits sufficient to outweigh that harm. In this case however the creation of additional internal space would be a private rather than a public benefit. In the absence of any public benefits sufficient to outweigh the harm that would be caused, and having had regard to all other matters raised, I therefore conclude the proposed revisions should not be allowed. It follows that neither of the conditions at issue should be varied and that both appeals must fail.

Jane Miles

INSPECTOR