

Appeal Decisions

Site visit made on 29 November 2016

by R Barrett BSc (Hons) MSc Dip UD Dip Hist Cons MRTPI IHBC

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

Decision date: 29th December 2016

Appeal Ref: APP/X5990/W/16/3155650

19E, Pembridge Square, London W2 4EJ (Appeal A)

- 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 conditions subject to which a previous planning permission was granted.
 - The appeal is made by Belinda Greenwell against the decision of City of Westminster Council.
 - The application Ref 16/02248/FULL, dated 10 March 2016 was refused by notice dated 8 June 2016.
 - The application sought planning permission for erection of first and second floor rear and side extensions to 19E Pembridge Square, and alterations to roof, without complying with a condition attached to planning permission Ref 14/11067/FULL, dated 16 January 2015.
 - The condition in dispute is No 1 which states that: 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 Ref: APP/X5990/Y/16/3155680

19E, Pembridge Square, London W2 4EJ (Appeal B)

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to vary or discharge conditions of a listed building consent.
 - The appeal is made by Belinda Greenwell against the decision of City of Westminster Council.
 - The application Ref 16/03359/LBC, dated 13 April 2016, was refused by notice dated 8 June 2016.
 - The application sought listed Building Consent for erection of first and second floor rear and side extensions to 19E Pembridge Square, and alterations to roof, without complying with a condition attached to planning permission Ref 14/11068/LBC, dated 3 November 2014.
 - The condition in dispute is No 1 which states that: 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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Decision

1. Appeal A and Appeal B are dismissed.
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Main Issues

2. In respect of both appeals, whether the proposed railings would preserve the special architectural or historic interest of this grade II listed building and preserve or enhance the character or appearance of the Bayswater Conservation Area (BCA). In respect of Appeal A, additionally, whether it would preserve the living conditions of neighbouring residents in Prince Edward Mansions, with regard to privacy and noise and disturbance.

Procedural Matters

3. Planning permission and listed building consent have been granted for extensions and roof alterations to the appeal property¹. That development and works were underway at the time of my site visit. The appeal development would alter those approved schemes. The proposed alteration would include railings and a metal trellis to enclose a small roof terrace on one side.
4. Additional plans have been submitted in support of both appeals². As these do not alter the proposed scheme their consideration as part of this appeal would not prejudice the interests of third parties. I have determined the appeal accordingly.
5. I have noted some disagreement between the two main parties regarding the relationship with the adjacent property. However, I was able to assess the relationship between the proposed roof terrace and Prince Edward Mansions, on my site visit and using the appeal plans.
6. Despite reference to planning permission Ref 14/11067/FUL in section 5 of the application form for Appeal B, it is clear to me from other appeal documentation that Appeal B relates to condition 1 attached to listed building consent Ref 14/11068/LBC, dated 13 April 2016. I have referred to this in the banner heading above.

Reasons

Listed Building and BCA (Appeal A and B)

7. The appeal site includes a three storey, detached villa set back from the street behind a modest frontage. It has a prominent gable roof with a simple flat roofed side extension and generally an individual and distinctive Victorian character and appearance, which adds to its significance.
8. It sits to the rear of the grade II listed 19 Pembridge Square, between that building and Prince Edward Mansions on the other side. Both are handsome detached properties of considerably greater scale. The appeal dwelling fits between them, contrasting with their imposing scale and more formal and decorative finish. Its smaller scale and simpler decoration reflects its historic relationship with those buildings, which contributes to its setting and its significance as a heritage asset.
9. The appeal dwelling is included within the BCA. The BCA includes the formal and Classically influenced detached villas of Pembridge Square and the fine Victorian apartment blocks that front onto Moscow Road. Variation and some

¹ Planning permission Ref 14/11067/FULL and LBC Ref 14/11068/LBC

² Existing section BB; PR50 Rev B; PR 300 Rev B; PR301 Rev B; appendix 5 of the appellant's statement of case which includes photographs and sketches of the appeal proposal

contrast in the built form within the BCA can be seen and contributes to its character and appearance generally. The appeal site, being smaller in scale and simpler in form and detailing, contrasts with the formality and larger scale of the neighbouring buildings. I note that it has a different roof form and balustrade treatment. Those contrasts contribute to the variation in the built form within the BCA and its character and appearance generally.

10. The proposed railings, planters and trellis would sit above an existing side extension. They would, together, add clutter at roof level and detract from the simple roof form of the appeal building. They would result in a more complex skyline, which would be visible from the street and the neighbouring properties. As cast iron trellis work and railings are not a characteristic of the simple and restrained decoration on the appeal building, they would appear out of place, even though they are a common Victorian decoration and would pick up on the vertical lines through the appeal building.
11. As the appeal proposal would be sited on an existing side extension and due to its light weight appearance, it would not materially diminish the separation between the appeal site and Prince Edward Mansions. As it would be set back behind the frontage of the appeal building, it would not be prominent, even though it would be seen from the street and from neighbouring properties.
12. Overall, however, the appeal development would detract from the significance of the listed building. I have identified that the appeal site contributes to the character and appearance of the BCA. It therefore follows that it would fail to preserve that character and appearance also.
13. I am aware that the appeal development would provide additional outdoor amenity space for current and future occupiers and I appreciate that outdoor space is limited at the appeal site at present. Further, it could screen some features on the side elevation of Prince Edward Mansions. However, those matters do not outweigh the harm that I have identified to the significance of the listed building and the BCA.
14. I conclude that the appeal development would fail to preserve the special architectural or historic interest of the listed building and would fail to preserve or enhance the character and appearance of the BCA. For these reasons, it would generally fail to accord with Westminster's City Plan: Strategic Policies (2013) (WCP) Policies S25 and S28 and City of Westminster Unitary Development Plan (2007) (UDP), Policies DES 1, DES 6 and DES 10. Those policies, together, aim to conserve Westminster's extensive heritage assets and ensure exemplary standards of sustainable and inclusive urban design and architecture. In particular, it would conflict with UDP Policy DES 6 (A) (1), which states that permission may be refused for roof level alterations where they would adversely affect either the architectural character or unity of a building.

Living Conditions (Appeal A)

15. The proposed roof terrace, even though it would be set back from the edge of the roof, would be very close to windows on the side of Prince Edward Mansions. Some of those windows, even though not all on the same level as the appeal development, and not directly in front, light habitable rooms. As the proposed roof terrace would be so close, privacy into those rooms would be harmfully reduced. Whilst the proposed trellis would reduce the potential for

overlooking, it would not overcome it. I have noted the proposed planting, which it is suggested would be maintained. Whilst this would again reduce the potential for overlooking, planting is not a permanent feature and it would be very difficult to ensure its effectiveness as a screen through the planning regime.

16. Moreover, as the proposed roof terrace would be so close to habitable rooms of flats at Prince Edward Mansions, even though small, its use would be likely to result in some additional harmful noise and disturbance. I also consider that this concern could not be overcome by a planning condition, as it would be very difficult to enforce.
17. I appreciate that this is an urban area and some inter-visibility and noise spill exists between properties. However, the appeal proposal would harmfully increase the existing potential for overlooking and noise and disturbance. It would thereby reduce the living conditions currently enjoyed by occupiers of those affected flats at Prince Edward Mansions.
18. I conclude that the appeal proposal would harmfully adversely affect the living conditions of neighbouring residents at Prince Edward Mansions, with regard to privacy and noise and disturbance. It would therefore fail to accord with WCP Policies S29 and S32 and saved UDP Policies ENV 6 and ENV 13. These, together, resist proposals that result in an unacceptable material loss of residential amenity and state that developments should aim to improve the residential environment.

Public Benefits

19. In accordance with paragraph 132 of the National Planning Policy Framework (the Framework), I accord great weight to the conservation of a designated heritage asset. I consider that the harm to the significance of the listed building and the BCA, together, would be less than substantial; a matter to which I attach considerable importance and weight. However, in this case, no public benefits, as identified in paragraph 134 of the Framework, are before me, which would outweigh that harm.

Other Matters

20. Other roof terraces in the locality are brought to my attention. However, none replicate the circumstances of this appeal.

Conclusion

21. For the above reasons, and taking all other matters raised into consideration, I conclude that both appeals should be dismissed.

R Barrett

INSPECTOR