
Appeal Decisions

Site visit made on 17 January 2017

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

Decision date: 24th February 2017

Appeal No.1: Appeal Ref: APP/X5990/Y/16/3160767

No.29 Coach and Horses, Greek Street, London W1D 5DH

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Alistair Choat against the decision of City of Westminster Council.
 - The application Ref 13/01317/LBC, dated 11 February 2013, was refused by notice dated 13 April 2016.
 - The works proposed are alterations to the rear elevation to include the installation of a new door at first floor level and a compressor on the external flat roof at rear first floor level. Internal alterations throughout the property.
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Appeal No.2: Appeal Ref: APP/X5990/W/16/3160768

No.29 Coach and Horses, Greek Street, London W1D 5DH

- 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 Alistair Choat against the decision of City of Westminster Council.
 - The application Ref 13/05719/FULL, dated 14 June 2013, was refused by notice dated 13 April 2016.
 - The development proposed is alterations to the rear elevation to include the installation of a new door at first floor level and a compressor on the external flat roof at rear first floor level. Internal alterations throughout the property.
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Decisions

Appeal No.1: Appeal Ref: APP/X5990/Y/16/3160767

1. The appeal is allowed and listed building consent is granted for alterations to the rear elevation to include the installation of a new door at first floor level and a compressor on the external flat roof at rear first floor level. Internal alterations throughout the property at No.29 Coach and Horses, Greek Street, London W1D 5DH in accordance with the terms of the application Ref 13/01317/LBC dated 11 February 2013 and as amended 14 June 2013 and the plans submitted with it subject to the conditions set out in the first schedule at the end of this decision letter.

Appeal No.2: Appeal Ref: APP/X5990/W/16/3160768

2. The appeal is allowed and planning permission is granted for alterations to the rear elevation to include the installation of a new door at first floor level and a compressor on the external flat roof at rear first floor level. Internal alterations throughout the property at No.29 Coach and Horses, Greek Street, London W1D 5DH in accordance with the terms of the application, Ref 13/05719/FULL,

dated 14 June 2013, subject to the conditions set out in the second schedule at the end of this decision letter.

Procedural matter

3. The initial description of the works advised on the application for listed building consent was "regularisation of alterations". However this was formally changed to that set out above, which is the description carried forward in the Appeal Form details. This being so, and because it more accurately describes the works, has been used in the formal decisions for both appeals above.

Application for costs

4. An application for costs was made by Mr Alistair Choat against City of Westminster Council. This application is the subject of a separate Decision.

Main Issues

5. These are in respect of both appeals a) whether the proposed works would preserve the Grade II listed building known as the Coach and Horses (listed as 33 Romilly Street (including No.29 Greek Street, The Coach and Horses Public House)) or any features of special architectural or historic interest that it possesses, b) whether or not they would preserve the character or appearance of the Soho Conservation Area and c) if they do not in either case, are there material considerations that would outweigh the desirability of their preservation as anticipated by the relevant sections of the Act.

Reasons

Special interest, character and significance

6. The special interest of the Coach and Horses as a Metropolitan Public House is most evidently expressed in the exuberant Neo-Classical remodelling of the facades in the later C19. This overlays and incorporates earlier phases of urban architecture of that Century and is ubiquitous to this part of the city. Special interest also resides in the interior, not only in the core components of structural fabric, including interior walls but also in the again layered re-workings of the main bar and entertainment areas within.
7. Such elements of structural fabric also include stair carpentry as the principal means of vertical communication within the building. The stair within the Romilly Street range is consistent in style and date with this component of the structure, most likely dating from the 1840s. As such it is of relatively simple carpentry though as an ensemble expressing the carpenter's craft it is a good example of its type and date, and contributes to the special architectural interest of the building as a whole.
8. Inns and Public Houses, as the focus for public leisure, recreation and entertainment, also have a distinct character and this is often imbued and expressed in the fabric and use of the building itself. Indeed this distinctive character can very readily contribute to that of an area and in fact constitute an important part of its significance. The Coach and Horses can make a particularly strong claim in this regard, being held by some to epitomise the gritty metropolitan colour that gives Soho its unique reputation in the capital and who's 'edge' and the reputation of some of its former denizens, still draws visitors with its air of vicarious excitement. The character of the Coach and

Horses then contributes to its significance in addition to its special architectural interest as a designated heritage asset and to the character and appearance of the Soho Conservation Area.

The proposals and their effect on the special interest on the listed building and character and appearance of the conservation area

9. The proposals encompass a range of works that have been undertaken to the building over the past decade, some are contentious, some are not. The Council do not object to the creation of the door on the landing to the rear that gives access off the stair. Neither do they take issue with the condenser unit similarly located in the well to the rear. From my inspection of these works I found no basis to take a different view. Moreover, there have been certain works such as the removal of later internal block walls on the upper floors that have restored the proportions of these spaces, to the better revelation of the significance of the asset.
10. However, two key areas of work remain, specifically the removal of a section of the earlier C19 staircase in the former 33 Romilly Street range and the installation of a pair of extract vent cowlings in the upper sash of a first floor window in Romilly Street. These works have facilitated the installation of a modern kitchen at this point in the building, located to serve visitors in the bar on the ground floor and those visiting the tea room on the first. The removal of this section of the stair has also the effect of curtailing access to the Romilly Street rooms above, which are effectively rendered redundant save as spaces of storage. Both works are by most standards, significant interventions to the fabric of the building, affecting its evidential value (in terms of fabric removal) and aesthetic value (in terms of its appearance).
11. However, whilst the stair has been physically removed from its location, its complete constituent elements have been retained, marked, bundled-up, recorded in architectural reference drawings and are securely stored in the rooms above. Moreover, whilst the vents are an uncompromising insertion through the first floor sash window, they appear to avoid damage to the window carpentry, having necessitated the removal of the glass only to allow their fixing. These factors do in my view mitigate the impact of the proposed works, though even so, it cannot be reasonably argued that they would collectively preserve the special architectural interest of the building, the desirability of which is clearly anticipated by the Act and which the Courts have made clear is a matter of considerable importance and weight. For the same reasons they would conflict with the expectations of paragraph 132 of the National Planning Policy Framework (the Framework) which anticipates great weight being given to the conservation of designated heritage assets.
12. Insofar as the works would fail to preserve the special interest of the building, particularly with regard to the kitchen vents, so too may it be concluded they would fail to preserve the appearance of the conservation area, contrary to the expectations of section 72 of the Act and to development plan policy that seeks to underpin these statutory objectives.

Other material considerations

13. However, the extent of the harm is to a degree mitigated by the safe storage of the intact components of the stair and the avoidance of actual harm to the window carpentry. It is also not strictly true to say that the upper rooms of the

Romilly Street range are cut-off and in accessible for maintenance and inspection. A hatch facilitates access here and it was apparent from my visit that it was regularly used to ensure the sound repair of this part of the building; indeed it was secure and entirely dry at the time of my inspection.

14. Moreover, whilst the viability of the current use is not explored in a great degree of evidential detail, there are persuasive indicators as to its fragility. That is not to say the building would have no market value within this use, but rather there is the sense that in its current function, which nurtures the general faded *boho* charm and ambience that truly safeguards its specific character as a renowned Soho Pub is vulnerably to loss. Indeed despite and perhaps because of the number of pubs in the district, competition for custom is strong, and any diminution of the offer, be it beer or tea and cake, could adversely affect footfall, current business viability and the operation of the business in its current manner.
15. These may appear nuanced arguments, but the character of an area is a subtle and delicately made entity, and easily and perhaps irreparably diminished by quick and unmeasured decisions. In my view such an outcome could have the effect of significantly diminishing the character and significance of the heritage asset and as a consequence the character of the Soho Conservation Area.
16. It may be the case that the proposals do not preserve completely the building's special architectural interest. However, the degree of harm is, in relation to the special interest of the building as a whole, limited, and is mitigated by the retention, ordered storage and recording of the stair components. This harm could be further mitigated by the imposition of a condition, as suggested by the Council, that measures be put in place to reinstate the stair on the termination of the current lease on the property. Conclusively, in this regard I conclude that the celebrated character of the pub can be reasonably safeguarded until such time as the works may be reversed. The same holds true for the venting equipment serving the kitchen at first floor.
17. I have taken full account of the judgement of the Courts and the need to acknowledge the considerable importance and weight to be afforded the desirability of preserving the listed building and the conservation area. However, In the very specific circumstances of this case, I conclude that the failure to preserve the special interest of the building and the desirability of doing so, is outweighed by the benefits to the safeguarding of the character of the Public House as one of the defining historic social institutions of the area.
18. For the same reasons I conclude that, although the appearance of the conservation area may not be actually preserved, this would also be outweighed by the benefits of sustaining its vibrant and renowned character. So, although there would also be a degree of conflict with the policies of the development plan, specifically S25 and S28 of the Westminster City Plan and policies DES1 and DES10 of the Unitary Development Plan all of which seek to safeguard the interest of heritage assets, conservation areas and ensure a high standard of design, the material considerations identified here outweigh that conflict.
19. Such an approach would also be consistent with that set out in paragraph 134 of the Framework. Although I judge the cumulative harm to be less than substantial in this case, this paragraph nevertheless requires that any such quantified harm be considered against any public benefits of the proposal,

including securing its optimum viable use. I consider the last clause of this paragraph to be particularly relevant to this case, as maintaining the current use as the optimally viable one, so safeguarding the character of the institution, can in my view very much be considered a public benefit. Here, these benefits would in my view clearly outweigh the degree of harm identified such that the appeals should be allowed.

Conditions

20. In the very particular circumstances of this case the attachment of conditions are especially important to the grant of conditional consent or approval. In doing so I have had close regard to those conditions suggested by the Council and to the advice on such matters set out in the Framework and National Planning Practice Guidance.
21. In respect of Appeal No.1 it is essential that a condition is attached requiring that prior to the expiry, surrender, forfeiture, transfer or assignment of the present lease, the reinstatement of the section of removed staircase is secured. It is necessary that the method for this reinstatement is carried out with the prior approval of the Council. Similarly it is also necessary to secure, in the same circumstances, the removal of the kitchen fittings and the extract vents and the reinstatement of the glazing to the window. Both provisions are required in order that the special architectural interest of the building is appropriately safeguarded and the character and appearance of the conservation area preserved.
22. Although having noted the comments of the appellant on the subject, in respect of the Appeal No.2 conditions are also attached requiring ensuring noise levels from the installed plant and extract equipment are contained within accepted limits, to safeguard the living conditions of adjacent occupiers.

Conclusion

23. The Council and others may be concerned that such an outcome will set an undesirable form of precedent for others within the city and indeed elsewhere pursuing alterations to listed buildings to follow. I consider this to be unlikely as the very specific, if not unique circumstances of this case, and the expectation that all other cases will be assessed on their particular merits, very strongly militate against such an outcome.
24. For all the reasons given above, and having taken all matters into account, I conclude that both appeals should succeed subject to the conditions attached.

David Morgan

Inspector

Schedules of conditions

First schedule

- 1) All parts of the removed staircase shall be retained within the building in a safe and secure storage area. Within one calendar month of the date of this decision details or the record of the constituent parts, and accompanying drawings shall be submitted to Westminster City Council as a record of the elements removed.
- 2) Also within one calendar month of the date of this decision the appellant must provide the City Council with a certified copy of the current lease for the premises. Within three months prior to expiry of the lease, dated the 23 June 2019, its surrender, forfeiture, transfer or assignment (whichever is the sooner) you must first advise the City Council of such termination and then reinstate the staircase using the stored parts and remove the kitchen fittings and extract vents through the Romilly Street window and restore the window with glazing. The precise details of the means of reinstatement shall be submitted to the Council for approval prior to the notice within one calendar month of the invocation of these works. The works shall be carried out in strict accordance with the approved works.

Second schedule

- 1) 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. No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6841 (2008) in any part of a residential and other noise sensitive property.
- 2) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
- 3) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property,

unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

- 4) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:
- (a) A schedule of all plant and equipment that formed part of this application;
 - (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
 - (c) Manufacturer specifications of sound emissions in octave or third octave detail;
 - (d) The location of most affected noise sensitive receptor location and the most affected window of it;
 - (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
 - (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
 - (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
 - (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
 - (i) The proposed maximum noise level to be emitted by the plant and equipment.