
Appeal Decisions

Site visit made on 21 February 2017

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 27 February 2017

Appeal A: APP/X5990/W/16/3163321 **36 Southwick Street, London W2 1JQ**

- 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 Mountstar Investments Limited against the decision of City of Westminster Council.
 - The application Ref 16/06884/FUL, dated 20 July 2016, was refused by the Council by notice dated 5 September 2016.
 - The development proposed is the erection of a two storey extension to the rear of the building to accommodate two no. x one bedroom flats.
-

Appeal B: APP/X5990/Y/16/3163334 **36 Southwick Street, London W2 1JQ**

- 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 Mountstar Investments Limited against the decision of City of Westminster Council.
 - The application Ref 16/06885/LBC, dated 20 July 2016, was refused by the Council by notice dated 5 September 2016.
 - The works proposed are the erection of a two storey extension to the rear of the building to accommodate two no. x one bedroom flats.
-

Decisions

1. I dismiss both appeals.

Main Issues

2. These are;
 - The effect of the proposal on the architectural and historic significance of the listed building and its setting within the Bayswater Conservation Area.
 - The effect of the proposal on the living conditions of neighbouring residential occupiers with particular regard to outlook.

Reasons

Policy

3. The building is listed at Grade II and with reference to a group value along with its neighbours in the terrace. The buildings are situated within the Bayswater Conservation Area. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to the desirability of preserving the buildings or their setting or any features of special
-

- architectural or historic interest which they possess. Section 72(1) of the same Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
4. Paragraph 132 of the National Planning Policy Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. The courts have determined that considerable importance and weight should be given to harm found to the significance of listed buildings.
 5. The various requirements in statute and central Government guidance are reflected in the stated Policies of the Development Plan as follows. Policies S25 and S28 of the Westminster City Plan (July 2016) concern heritage and design respectively. Within the Unitary Development Plan Policy DES 1 sets out the principles of urban design and conservation, Policy DES9 concerns the protection of conservation areas, and Policy DES 10 concerns listed buildings. Policy DES5 appears of particular note as it sets out the circumstances under which rear extension would generally be allowed or refused.
 6. With regard to the second main issue, City Plan Policy S29 states that the council will resist proposals that result in an unacceptable material loss of residential amenity and developments should aim to improve the residential environment, and Policy ENV 13 of the Unitary Development Plan states at part F that developments should not result in a significant increase in the sense of enclosure or overlooking, or cause unacceptable overshadowing, particularly on gardens, public open space or on adjoining buildings, whether in residential or public use.
 7. The design policies accord with the statement at paragraph 56 of the Framework that the Government attaches great importance to the design of the built environment; good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Heritage Assets

8. The appellant's heritage consultant refers to first-hand experience of listing terraces and expresses the view that at the time they were listed for their group value as street-scape. Certainly the street façade of the terrace is of intrinsic architectural and historic interest and along with other terraces in the street and in Star Street, is a positive contributor to the character and appearance of the conservation area. The appeal premises within the terrace, are distinctive and have significance through their wider form over the previous mews entry, their stucco finish and architectural embellishments to windows and parapet line, although the ground floor elevation is that of a modern public house.
9. A view through to the rear however does not reveal the traditional mews arrangement as is evident opposite between 27 and 31, but rather an elongated rear addition, gates and modern development beyond. On gaining access to the mews entry, the extent of the addition and modern development becomes particularly apparent, along with the substantial alterations to the rear of the properties on Sussex Gardens. Whilst there would have been a

- planning balance to be applied in the decisions that led to these changes, they exist now as part of the setting and context of the rear of the listed buildings.
10. Looking at the rear elevations of the terrace, and notwithstanding the way the modern works impinge on the rear of numbers 32 and 34, there remain elements of architectural and historic significance in the fenestration and particularly the round-topped staircase windows. That to the appeal premises appears to have been foreshortened when the stair was re-ordered to be approached from the side door, resulting in a first floor addition that upsets the rhythm of the rear façades and detracts from the composition more than is the case with the varied ground floor additions. Another jarring feature is the ventilation ducts on this and the neighbouring building.
 11. There has been some discussion over the extent to which the rear of the building and the site of the proposed extension interact with the conservation area. Views from ground-level public places are very limited, and the significance of the gap on Star Street will be considered later, but there are numerous private view points, with the college buildings having the potential for greater numbers of receptors. Whilst not of the magnitude that should be afforded truly public viewpoints, limited weight does attach to such views, although further reduced due to the substantial change that has already occurred to the former mews area, which the rear of the terraces would traditionally have addressed.
 12. The rationale behind the layout and form of the proposed first and second floor addition is for it to be linked to the main building by only the width and height of the existing stair projection, so that the effect on the historic fabric would be little, or no more than has already occurred. This single height and restricted width of link would then become a two storey part of similar width some 1.8m or so away from the rear face of the terrace, containing an access to the lower flat and new stairs to serve the proposed upper flat. The one-bedroom flats would have a similar layout on each floor extending to the rear parapet of the existing ground floor addition and to its full width, dimensioned on drawing 1099/04 as being 4.5m from the rear face of the terrace. There would be a flat roof behind a low parapet. As a result of these dimensions the drawings indicate a sheer wall of three storey height on the south and east sides, that to the north being more confused by the existing neighbouring arrangements.
 13. The extension would be plain and utilitarian in appearance, lacking the roof and opening detailing of the college buildings, but as such would echo aspects of the treatment of the rear of the terrace. It would appear box-like and the stair tower would be in too close a proximity to the rear of the terrace, where the gap would be the 1.8m or so previously referred to. Whilst the north part would be the more spacious dimensioned 4.5m adjacent to the less significant features of the rear wall, the narrow gap would be adjacent to what remains of the round-topped staircase window, which as stated is a distinctive and repeating feature along the back of the terrace. Such proximity would undermine the architectural significance of the building and cause harm.
 14. Turning to the effect on the conservation area, none of this would be seen from the footway on Southwick Street since the visual cut-off of the soffite of the former mews entry prevents a view and the unacceptable aspect is too close to the rear of the terrace to be seen also. That uncomfortable proximity would be apparent to the private viewpoints, but as stated, limited weight applies to this

in conservation area terms. The gap in the elevation along Star Street is small and at a high level, and there remain doubts over exactly how that cut-off would operate. The gap between the two-storey stair tower and the rear of the terraces would be in line with this street façade gap, and the replicated link would be no worse than at present. There may be fleeting views of the two storey stair tower, but set back and largely subsumed into the backdrop of the Sussex Gardens terrace. Such a view, if achievable, would not equate to real harm and the character and appearance of the conservation area would be preserved.

15. Nevertheless, considerations over the preservation of listed buildings do not rely on a public view and the proximity of the proposed addition would harm the significance of the listed building. With regard to Policy DES5, whilst sections (A) 1), 4) and 5) on being to the rear, reflecting the style, detailing and use of materials are satisfactorily accorded with, the proposal would 2) visually dominate a significant element of the building and 3) would not be appropriate in scale. It is acknowledged that with regard to section 6) on ductwork, there would be enhancements.
16. The level of harm is 'less than substantial', a differentiation required between paragraphs 133 and 134 of the Framework. In this case the latter applies and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
17. There would be benefits in removing some unsightly and inappropriate work to the rear of the terrace, limited in weight as far as the conservation area is concerned for the previously stated reasons of visibility, although the ductwork is more apparent through the gap in Star Street than the addition would likely be. There would be clear public benefits in the provision of modern purpose-built housing in this highly accessible location. But, in both considerations there is no certainty that the provision of two units necessitates the placement of the stair tower so close to the round-topped window.
18. In the heritage balance, the benefits fail to outweigh the harm, and it is concluded that the proposal does not reach the standard of design sought in Policy DES5 and paragraph 56, and does not preserve the listed building as required by statute, national guidance and Development Plan policies.

Living Conditions

19. The appellant's consultant has carried out a daylight and sunlight appraisal making use of recognised Building Research Establishment guidance. It is stated that there is no daylight or sunlight reason why planning permission should not be granted for this scheme, and the limited falling-short in the case of one window in 63 Star Street (a vertical sky component score of 0.79 against the BRE target of 0.8) in the context of this internal corner is acceptable. It is the fact that no objections have been lodged, although good planning should not rely only on such responses or lack of them.
20. There is more to outlook than is the result of calculations, as there could often be a visual or emotional perception of being hemmed-in or 'too shut in' as asserted in this case by the Council. The arrangement at the rear of the remainder of this part of Star Street is open due to the set-back arrangement of the college building and the space to its north boundary. Behind numbers

63 and 64 and to the rear of 38 Southwick Street there is already a degree of enclosure due to the plan form and ground floor works.

21. On the information available and from observations on site, the addition of the proposed two further floors of unrelieved brick wall above the present parapet would risk appearing oppressive in the outlook from number 63. Number 64 Star Street would be further towards the open land of the college and whilst the brick wall would be an addition to the outlook, the effect would not be significantly adverse in planning terms. It is less certain what the arrangements are at 38 Southwick Street although the Council refer to a tunnelling effect, but as that outlook would remain eastwards into open space, the effect would be limited and acceptable in a tight urban situation.
22. Policy S29 refers to an *unacceptable* material loss of residential amenity, and Policy ENV 13 refers to *significant* increase in the sense of enclosure, referring also to the *unacceptable* overshadowing of gardens. Whilst this level of harm is not likely to be reached for number 64 or number 38, there is this risk with regard to 63 Star Lane, due to the more direct relationship and relative levels.

Conclusions

23. The effect on the occupiers of the property at 63 Star Street is judged to be of a severity that Development Plan policies seek to avoid. The proposal has also been found to be unacceptable with regard to its proximity at the full two storey height to the rear of the listed building and a feature of its architectural and historic significance. The requirements of the statutory tests in sections 16(2) and 66(1) of the 1990 Act have not been met, and the proposal is contrary to Development Plan and national policies on design and the preservation of designated heritage assets. For the reasons given above it is concluded that both appeals should be dismissed.

S J Papworth

INSPECTOR