
Appeal Decisions

Site visit made on 27 February 2017

by Susan Ashworth BA (Hons) BPL MRTPI

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

Decision date: 12th April 2017

Appeal A: APP/X5990/W/16/3164218 **28 Chilworth Street, London, W2 6DT**

- 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 Ms Maria Tamander against the decision of City of Westminster Council.
 - The application Ref 16/06397/FULL, dated 6 July 2016, was refused by notice dated 6 October 2016.
 - The development proposed is internal and external alterations and refurbishment of existing listed building to include the removal of existing non-original extension to the rear at first floor level to be replaced by a new single storey extension to create a 2-bedroom apartment; and the removal and replacement of 1 existing window to the rear.
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Appeal B: APP/X5990/Y/16/3164216 **28 Chilworth Street, London, W2 6DT**

- 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 Ms Maria Tamander against the decision of City of Westminster Council.
 - The application Ref 16/06398/LBC, dated 6 July 2016, was refused by notice dated 6 October 2016.
 - The works proposed are internal and external alterations and refurbishment of existing listed building to include the removal of existing non-original extension to the rear at first floor level to be replaced by a new single storey extension to create a 2-bedroom apartment; and the removal and replacement of 1 existing window to the rear.
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Decision

1. Appeal A: The appeal is allowed and planning permission is granted for internal and external alterations and refurbishment of existing listed building to include the removal of existing non-original extension to the rear at first floor level to be replaced by a new single storey extension to create a 2-bedroom apartment; and the removal and replacement of 1 existing window to the rear at 28 Chilworth Street, London, W2 6DT, in accordance with the terms of application Ref 16/06397/FULL, dated 6 July 2016 and subject to the following conditions:
 1. The development hereby permitted shall begin not later than three years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with the following approved plans: PL_001, PL_002, PL_120, PL_121, PL_122,
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PL_123, PL_124, PL_125, PL_126, PL_127, PL_128, PL_129, PL_130, PL_131, PL_132, PL_133, PL_134, PL_135, PL_136, PL_137.

3. All new work to the inside and outside of the building must match existing original work in terms of the choice of materials, method of construction, and finished appearance. This applies unless differences are shown on the approved drawings.
4. Building work which can be heard at the boundary of the site shall only be carried out between 08.00 and 18.00 hours Monday to Friday; 08.00 and 13.00 on Saturdays and not at all on Sundays, bank holidays and public holidays. Noisy work must not take place outside these hours.
2. Appeal B: The appeal is allowed and listed building consent is granted for internal and external alterations and refurbishment of existing listed building to include the removal of existing non-original extension to the rear at first floor level to be replaced by a new single storey extension to create a 2-bedroom apartment; and the removal and replacement of 1 existing window to the rear at 28 Chilworth Street, London, W2 6DT, in accordance with the terms of application Ref 16/06398/LBC, dated 6 July 2016 and plans submitted with it, and subject to the following conditions:
 1. The works hereby permitted shall begin not later than three years from the date of this decision.
 2. Building work which can be heard at the boundary of the site shall only be carried out between 08.00 and 18.00 hours Monday to Friday; 08.00 and 13.00 on Saturdays and not at all on Sundays, bank holidays and public holidays. Noisy work must not take place outside these hours.
 3. All new work to the inside and outside of the building must match existing original work in terms of the choice of materials, method of construction, and finished appearance. This applies unless differences are shown on the approved drawings.

Main Issue

3. The main issues in this case are the effect of the proposal on the special architectural or historic interest of the listed building and, linked to that, whether the proposal would preserve or enhance the character or appearance of the Bayswater Conservation Area.

Reasons

4. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require the decision maker, in deciding whether to grant consent for works or development affecting a listed building to have special regard to the desirability of preserving the building, its setting, or any features of special architectural or historic interest it possesses. Section 72(1) requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas.
5. 28 Chilworth Street is a substantial 4 storey, mid-terraced, public house with residential accommodation above. The building, which dates from the mid-19th century, is a Grade II listed building. The significance of the listed building lies in its age and architectural detailing. The upper floors of the front elevation

are symmetrical in design and first floor windows are pedimented and flanked by ionic pilasters. This detailing, and the higher parapet line, indicates the importance of the public house in the street scene. At the rear there is less uniformity to the fenestration pattern and detailing is considerably simpler. On top of a flat roofed projecting element sits a narrow, flat roofed extension which essentially forms a corridor with small room at the end, which, the main parties agree, is not a sympathetic element of the building.

6. At the time of my site visit extensive works were underway to renovate the public house and convert the upper floors into residential units.¹ The appeal proposal, which would form part of that wider scheme of works, seeks to replace the unsympathetic first floor extension with a larger extension to form an additional bedroom to the first floor flat. The new extension would have a flat roof and would be clad in lead. It would incorporate an air conditioning duct which would project slightly above the roof. New windows would be traditionally proportioned and detailed to reflect existing windows on the rear elevation.
7. I understand that the existing extension does not benefit from listed building consent. Nevertheless it is clear that the structure was built some time ago and I am unaware of any enforcement action to secure its removal. Whilst I note the Council envisaged the removal of the extension as part of the previously approved scheme, I am unaware of a mechanism by which such a benefit could be achieved.
8. Whilst it is an important component of the listed building, the rear elevation is less sensitive in heritage terms than the front. The modern, simple design and materials of the extension would contrast with and complement the robust brick appearance of the rear elevation. As a result, it would be clearly seen as a 21st century addition to the original building. Its simple form and small scale would make it a subservient addition that would respect rather than compete with the form and bulk of the listed building, which would remain legible. Whilst I have taken into consideration the Council's concerns about the appearance of the air intake duct, it has been designed to be an integral part of the structure and would be read with it.
9. For these reasons the replacement of the existing extension with a more sympathetic extension would enhance the appearance of the listed building and would not harm its significance. In addition, because of its form and size the existing extension has very limited potential for an alternative use. The proposed extension, which would not be substantially larger than it, would provide an additional bedroom and therefore be economically beneficial.
10. The site lies within the Bayswater Conservation Area which is characterised generally by 19th century terraced properties and open space set out in a formal arrangement. Gloucester Mews, which lies at the rear of the site, and which is accessed through an archway in the appeal building, features properties of smaller scale and appearance.
11. The rear of the building and the existing extension are clearly visible from within the mews and from private properties around it. However, the extension would be no closer to the mews than the existing and only slightly higher where the air intake duct would be accommodated. The extension

¹ Application refs: 15/01224/FULL & 15/01225/LBC, 15/07555/FULL & 15/07556/LBC

would not, therefore, be unduly prominent in the public realm. Moreover, I noted at my site visit that there are first floor extensions on neighbouring properties and photographs indicate that there is an extension of a similar size at one of the adjoining terraced properties on Chilworth Street. Consequently it would neither be an unusual or, for the reasons set out above, harmful feature in the Conservation Area.

12. The Council has drawn my attention to recent appeal decisions at the neighbouring property 30 Chilworth Street.² These appeals related to a proposal that would have, in effect, in-filled a light well over two floors, thereby affecting the plan form of the building which in itself made a positive contribution to the building's significance. The extension before me has a different context in that it is a replacement extension that would not have a harmful effect on the plan form of the building but would leave the existing plan form legible. Whilst it would be within the setting of the neighbouring building, as it would be an appropriate addition for the reasons outlined above, it would not harm that setting.
13. The National Planning Policy Framework sets out the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Great weight should be given to the asset's conservation in line with the requirements of the Act.
14. In this case, for the reasons set out the proposal would preserve the listed building and features of special interest it possesses and would preserve the character and appearance of the Conservation Area. As such it would meet the statutory requirements of the Act. In addition, for the same reasons the proposal would be in accordance with Policies S25 and S28 of Westminster's City Plan: Strategic Policies 2016, and Policies DES 1, DES 5, DES 9, and DES 10 of the Council's Unitary Development Plan 2007 which in various ways, and amongst other things, seek to preserve or enhance heritage assets.

Other Matters

15. I have taken into consideration the concerns of the neighbouring residents about the proposal. I note that the immediately adjoining property, 1A Gloucester Mews West relies to a certain extent on light from sky lights in its roof and I am aware that there are windows in the basement courtyard of 30 Chilworth Street. It seems to me that the extension will be highly visible from both of those properties. However, the Daylight and Sunlight Study submitted with the proposal concludes that the proposal would have a low impact on the light receivable by those neighbouring properties. The Council does not dispute these findings and there is no technical evidence before me to the contrary. Accordingly I am satisfied that the proposal would not unduly affect living conditions of neighbouring residents in terms of light.
16. I understand that works have been taking place at the site for some time causing noise and inconvenience to local residents. This is common at many building sites particularly where buildings are situated in close proximity to one another. I also note allegations of damage to property. However, building works are a temporary situation that will cease once operations are complete. The extension would be a limited additional part of the overall scheme and a condition to limit working hours would also limit any nuisance.

² Appeal refs: APP/X5990/Y/16/3143322 & APP/X5990/W/16/3143714

17. I understand from what I have read that unauthorised works to the premises have been undertaken during the course of recent building operations. This is a matter for the Council and has no bearing on my decision which I must treat on its own merits.

Conditions and Conclusion

18. The Council has suggested certain conditions in the event of the appeal being allowed and I have considered them in the light of advice on conditions set out in the Planning Practice Guidance (PPG). For the avoidance of doubt and to provide certainty I have imposed the time limit condition and have specified the approved plans. In order to protect the living conditions of neighbouring residents a condition limiting working hours is necessary.
19. In order to preserve the character and appearance of the listed building a condition requiring that new work matches the existing building is also reasonable and necessary.
20. For the reasons outlined above, and taking into account all other matters raised including a letter of support from a local resident, the appeals are allowed and planning permission and listed building consent are granted subject to these conditions.

S Ashworth

INSPECTOR