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# Appeal Decision

Site visit made on 16 May 2017

**by M Seaton BSc (Hons) DipTP MRTPI**

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

**Decision date: 08 June 2017**

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**Appeal Ref: APP/X5990/W/17/3170921**

**46D Leamington Road Villas, London, W11 1HT**

- 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 Mrs Jacqueline Phillips against the decision of the City of Westminster Council.
  - The application Ref 16/00912/FULL, dated 21 January 2016, was refused by notice dated 19 September 2016.
  - The development is the installation of a boiler flue on the front elevation at second floor level.
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## Procedural Matter

1. The application form describes the works in extensive detail in the form of a statement, whilst the Council's decision notice refers to the works as *retention of a boiler flue on front elevation at second floor level*. However, the act of retention is not defined as development in section 55 of the Town and Country Planning Act 1990, and I have therefore assessed the appeal on the basis of the above description of development.

## Decision

2. The appeal is dismissed.

## Main Issue

3. The main issue is whether the development preserves or enhances the character or appearance of the Aldridge Road Villas and Leamington Road Villas Conservation Area.

## Reasons

4. The appeal site accommodates an unlisted Victorian residential building, set within a substantial terrace, and specifically comprises a second floor apartment. The building is located within the Aldridge Road Villas and Leamington Road Villas Conservation Area.
  5. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) places a duty upon the decision-maker, in the exercise of planning functions, to have special regard to the desirability of preserving or enhancing the character or appearance of conservation areas.
  6. Leamington Road Villas is highlighted as accommodating some notable groups of terraces, with the terrace within which the appeal site is located observed to
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- possess some characteristic and detailed architectural features. The appeal building is identified as being an unlisted building of merit, and it is clear contributes positively to the significance of the heritage asset.
7. The consistent and repeated detailing and form of the front elevation of the terraces within Leamington Road Villas is a visually prominent feature and characteristic. The black boiler flue replaces an existing air brick at second floor level and projects 125mm from the front elevation. Whilst the flue is relatively modest in scale in the context of the terrace, it nevertheless appears as an unattractive and obtrusive feature on the principal front elevation. Whilst I accept that in itself it has a limited impact upon the character and appearance of the Conservation Area as a whole, it is nevertheless still harmful to that character and appearance.
  8. I recognise there are other flues and features such as alarm boxes and external cabling related to roof aerials located on the front elevations of the terraces and semi-detached properties within Leamington Road Villas. However, notwithstanding all such various works as referred to by the appellant, I observed the original character and appearance of the terraces remain largely intact, and that its significance does not include the ad-hoc additions of modern features and equipment. However, I have little substantiated evidence before me regarding the lawfulness or otherwise of the various works previously undertaken, or of their particular planning circumstances. Furthermore, I have also had regard to the Council's submissions related to the circumstances surrounding the existing flue at 46C Leamington Road Villas, which was ultimately granted a Certificate of Lawfulness as a consequence of it having been in situ for in excess of 4 years. Whilst I acknowledge the importance of consistency in decision making, I find that the presence of other features and alterations does not justify the additional harm to the significance of the conservation area which would arise should this appeal succeed.
  9. The National Planning Policy Framework (the Framework) makes a distinction between development causing substantial harm to the significance of a designated heritage asset, and works that would lead to less than substantial harm. The government's Planning Practice Guidance (the Guidance) further notes that works that are moderate or minor in scale are likely to cause less than substantial harm or no harm, although even minor works have the potential to cause significant harm.
  10. In this case, I find that the works cause less than substantial harm for the reasons described. I have had regard to the appellant's reference to the undesirability of siting the flue within the small bedroom to the rear of the apartment, and the internal implications that this would have. However, on the basis of the evidence provided, I am not persuaded that this and the other points made regarding possible routing would be sufficient reason to discount this as a viable alternative to the harmful option which has been pursued. Whilst I accept that the scheme addresses the appellant's need for an improved boiler and so improves the dwelling as part of the local housing stock, the absence of persuasive evidence that this represents the only feasible solution reduces the weight I afford to this public benefit. In terms of what is before me, I consider that the public benefits are not sufficient to outweigh the harm I have identified.

11. As a consequence, I therefore conclude that the scheme fails to preserve or enhance the character and appearance of the Aldridge Road Villas and Leamington Road Villas Conservation Area, contrary to the requirements of s72(1) of the Act. Accordingly, I find the installation of the boiler flue to be contrary to Policies S25 and S28 of the Westminster City Plan: Consolidated with all changes since November 2013 (2016), and saved Policies DES 1, DES 5 and paragraphs 10.108 to 10.128 of the City of Westminster Unitary Development Plan (2007). These policies seek to secure the conservation of Westminster's heritage assets through exemplary standards of urban design and architecture, which reflect the style and details of the existing building, and which preserve or enhance the character or appearance of conservation areas. In addition, given the great importance of the heritage asset, the scheme would be contrary to the core planning principles of the Framework, that require, amongst other things, the conservation of heritage assets in a manner appropriate to their significance.

### **Conclusions**

12. For the reasons given above, the appeal is dismissed.

*M Seaton*

INSPECTOR