
Appeal Decision

Site visit made on 27 June 2017

by A J Mageean BA (Hons) BPI PhD MRTPI

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

Decision date: 15th August 2017

Appeal Ref: APP/X5990/Y/17/3173051

Flat 12, 69 Westbourne Terrace, London W2 3UY

- 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 Thomas Dane Limited against the decision of City of Westminster Council.
 - The application Ref 16/08244/LBC, dated 26 August 2016, was refused by notice dated 18 November 2016.
 - The works proposed are retention of wooden trellis on rear flat roof of property.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The works previously undertaken included a timber canopy which had been removed at the time of my site visit.

Main Issues

3. The appeal concerns a Grade II listed building located within the Bayswater Conservation Area. As a result of the statutory duties relating to such designated heritage assets, the main issues are firstly whether the works preserve the listed building or any features of architectural and historic interest it possesses, and secondly whether the character or appearance of the Conservation Area is preserved or enhanced.

Reasons

4. Westbourne Terrace is a grand terrace of houses dating from around 1840. These four storey properties, with additional attic rooms, front onto a private service road within a tree lined avenue. They are listed as a group comprising No's 33-77. Their stucco front facades have a classical appearance and include projecting Greek column porches, continuous first floor bombé balconies and pedimented first floor windows.
5. Whilst the appellant describes how these buildings have previously been neglected and subsequently restored, including some rebuilding of their front elevations, it is clear that as a group the frontages of these properties retain much of their original architectural and historic interest. Furthermore, this grouping forms part of the composition of nineteenth century grand boulevards and squares which characterise and unify the Bayswater Conservation Area.

6. The plain stock brick of the rear elevations of these buildings is, in contrast, modest and without adornment. Furthermore, due to changing land levels these elevations are of significant height, rising up to around seven floors, giving them a sombre and austere appearance. Whilst not specifically referenced in the list description or by architectural commentators, such lack of adornment was typical of the period and therefore forms an integral part of the special architectural interest and heritage significance of these listed buildings.
7. It is clear that there have been some alterations and additions to these rear elevations, including some areas of rebuilding and an extension to the hotel to the south east. Small scale alterations to windows and the addition of metal railings are also noticeable in relation to the treatment of rear outriggers, which are mostly several floors lower than the host buildings. However, when considered as a whole, notwithstanding existing alterations, the integrity of the intended plain and utilitarian character of this part of the terrace is retained.
8. The appeal site relates to a central flat within a converted property which appears at third and fourth floor level on the rear elevation. Existing alterations to the flat include the addition of a plain black metal railing around three sides of the rear roof terrace, which appears at the fourth floor level at the rear of the building. This is accessed via a contemporary single pane glass doorway from a room used as a bathroom. The appeal works relate to an Iroko timber trellis which has been attached to, and is slightly higher than, the inner side of the railings.
9. The appellant suggests that the trellis does not harm the historic fabric of the building as it is attached to railings which, it is argued, are a modern and unsightly addition. However, even though the enclosure of rear flat roofed areas is not a common feature of these buildings, the existing metal railings are of simple, functional appearance and, importantly, they maintain a good degree of visibility of the building. In contrast the greater density of the trellis creates a more solid appearance which draws attention to this uncharacteristic feature and disrupts the plain and utilitarian character of the rear elevation.
10. The appellant also argues that the trellis succeeds in integrating the old and new elements of the building, and suggests that the works are subservient to the appearance of the terrace taken as a whole. However, whilst I accept that this is a small scale addition and that the timber forming the trellis has started to weather to a relatively subdued silvery grey colour, in the context of the overall plain and unembellished appearance of the building this appears as an uncharacteristic addition and is not well integrated.
11. I noted on my site visit that some vegetation has been introduced adjacent to the trellis, and also the appellant's intention to soften the appearance of the trellis with such greenery. Unlike the greenery framing the front of these properties such embellishment is not characteristic of the rear façade and as such the introduction of this vegetation would not reduce the harm identified.
12. The appellant refers to the metal railings and established planting on the roof terrace of the adjoining flat, though details of these works and their lawful status have not been presented.
13. I have therefore considered the appeal proposal on its own merits and found that the trellis fails to preserve the special architectural interest of this listed

building. In this respect there is conflict with Section 16(2) of the Act¹, which requires the decision taker to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest that it possesses. There is also conflict with the National Planning Policy Framework (the Framework), which at paragraph 132 states that in taking such decisions great weight should be given to the conservation of heritage assets, with any harm requiring clear and convincing justification. In paragraph 134 the Framework goes on to state that where a proposal would lead to less than substantial harm to the significance of such an asset that harm should be weighed against the public benefits of the proposal.

14. In this case I consider that the harm, though serious, would be less than substantial in the terms set out by the Framework. In terms of public benefits the appellant refers to the value of the works in assisting with the longevity and practical functioning of the apartment and wider building, thereby helping to secure its optimal viable use, future maintenance and conservation. Reference is also made to how such works accord with the relevant policies of Westminster's Unitary Development Plan 2007 (UDP) and Westminster's City Plan 2016 (City Plan) in relation to the protection of listed buildings, as they suggest that conservation needs to be balanced with modern convenience. In particular the appellant notes that the City Plan Policy S25 refers to historic buildings being *upgraded sensitively to improve their environmental performance and make them easily accessible*.
15. However there is no suggestion that the viable use and functioning of the apartment or wider building would be undermined without the trellis, nor that the provisions of Policy S25 are directly relevant to this case. Furthermore, the overall thrust of the relevant development plan policies is the fundamental importance of the protection of heritage assets, with any alterations requiring clear justification.
16. I understand that the trellis has been introduced to provide privacy to the appellant when using the roof terrace, which I note would be a private benefit. I accept that without the trellis this area would be substantially open. However such visibility is common amongst most other roof terraces in this area. In terms of privacy, my view is that the terrace is both sufficiently elevated above the Mews properties below, and distant from the office development to the north east, to prevent any significant overlooking.
17. The appellant also refers to the lack of objection from other consultees, including English Heritage, as an indication of the work's appropriateness. However, the statutory duty to protect listed buildings is such that the lack of formal objection cannot be taken to infer the acceptability of these works.
18. Therefore the public benefits identified are not sufficient to outweigh the harm caused to the heritage significance of the listed building.
19. The second main issue is the effect of the proposal on the wider Conservation Area. A proportion of this rear elevation, and specifically the appeal site itself, is hidden from public view, though it is visible in private views from surrounding properties including Chilworth Mews. As such I accept that its lack of public visibility means that the addition of the timber trellis does not have a harmful effect on the character and appearance of the wider Conservation Area, which

¹ Planning (Listed Buildings and Conservation Areas) Act 1990

would be preserved. In this respect the proposal would comply with Policy DES 9 of the UDP and Section 72 of the Act².

Other Matters

20. The appellant's response to the objection from the occupiers of the basement flat is that the trellis itself is not likely to cause significant shadowing to their patio. I accept this to be the case. Nonetheless this consideration is a neutral matter, weighing neither in favour nor against the works.

Conclusion

21. I have accepted that the introduction of the trellis would preserve the character and appearance of the Bayswater Conservation Area. However this does not overcome the harm in relation to the failure to preserve the special architectural interest and heritage significance of this Grade II listed building, which is decisive in this case. For this reason the appeal is dismissed.

AJ Mageean

INSPECTOR

² Planning (Listed Buildings and Conservation Areas) Act 1990