



Appeal Decision

Site visit made on 10 July 2019

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 1 August 2019

Appeal Ref: APP/X5990/W/19/3223539

Flat 13, 92-94 Putney House, (including land to the rear of 88-90) Great Titchfield Street, London W1W 6SF

- 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 Dedman against the decision of the City of Westminster.
 - The application Ref 18/04127/FULL, dated 18 May 2018, was refused by notice dated 2 October 2018.
 - The development proposed is the demolition of the single storey residential dwelling in the rear courtyard and erection of a new two storey building for use as 1 x 3 bedroom residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the proposal from the appellant's appeal form which corresponds with the description on the Council's Decision Notice as this more accurately describes the proposed development.
3. During the course of the appeal, the appellant in their Statement of Case muted the submission of new materials of glazed brick/tiles and zinc roofing in order to overcome the first reason of refusal on the Decision Notice which relates to the inappropriate use of materials and the impact these have towards the CA. In general, the appeal process is not the appropriate place to evolve the scheme; and the scheme that is considered at appeal ought to be the same one that was considered by the Council.
4. There is no evidence that these new proposed materials formed part of the scheme that the Council made its decision on, or that these options have been subject to any form of discussion with the Council or consultation with residents who also had similar concerns regarding materials. In accordance with the 'Wheatcroft Principles',¹ it would not be appropriate to consider these additional materials within my decision as the acceptance of such would deprive those who should have been consulted on the changed materials or the opportunity of such consultation. As such, I will base my decision upon the materials that were assessed by the Council during the original planning determination.

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

Main Issues

5. The main issues are the effect of the development on:

- the character and appearance of the East Marylebone Conservation Area (CA), with particular regard to the use of materials; and
- the living conditions of the surrounding occupiers, with particular regard to outlook and sense of enclosure.

Reasons

Character and Appearance of the CA

6. The significance of the East Marylebone CA is noted in the East Marylebone Conservation Area Audit which shows the appeal property being part of the Victorian and Edwardian regeneration of the area where historic worker's dwellings were demolished for larger apartment blocks such as Mansion Houses for a more affluent occupant. It is also noted that there is a fine grain of the townscape which includes sizes of plots and building lines which are important in establishing the pattern and density of development. The layout and contribution of spaces has a significant impact on the character of the area, which dictates the scale of development and level of enclosure or openness. In this particular location there is a prevalence of brick to walls and buildings, some of which appear to be historic outbuildings constructed alongside the mansion blocks which align the street.
7. I note comments that this particular site or the contribution of rear outbuildings is not mentioned in the CA Audit, however the role of such a document is to describe the general character and appearance of an area and whilst the rear of properties is not mentioned, this does not necessarily mean that these areas are not important or do not contribute to the character or appearance of the area. Whilst the site is part of the private realm, the CA covers the entire site and elements such as gaps, spaces and the appearance and authenticity of works and detailing such as materials are important aspects into how a development integrates into this rear environment.
8. The proposed timber cladding is not of a particular high quality and does not age well compared with other materials such as brick. The cladding would have an incongruous appearance unlike nothing around it and in my mind would be detrimental to the character and appearance of the CA in this location. Whilst I acknowledge comments that the CA as a whole is made up of a variety of architectural designs and periods, in this particular location to the rear of this Mansion block, the appearance to the rear is quite consistent with the Victorian and Edwardian development with minimal contemporary intervention.
9. Notwithstanding these comments, even if I was to accept the suggested glazed tile/brick as muted, this too would not be appropriate in my opinion as these particular materials are typically used to elevate the status of a building and would increase prominence and compete with the appearance of the mansion block in this rear environment, rather than be subservient and ancillary to it.
10. That said, it is clear to me that for reason of its inappropriate materials the proposed scheme would cause unacceptable harm, and thus fail to preserve the character and appearance of the conservation area.

11. Although serious, the harm to the heritage asset in this case would be 'less than substantial,' within the meaning of the term in paragraph 196 of the National Planning Policy Framework (the Framework). Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 196 requires that, where a proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal.
12. Whilst a benefit of the scheme would include the increase of a bedroom and a larger dwelling for a larger family, the overall number of dwellings would remain the same. The appeal property would have high environmental credentials and would be constructed on a previously developed site which has good accessibility to surrounding services and facilities; the short term employment provided in the construction of the scheme; and the increased expenditure locally from future residents. All of these benefits are important policy objectives. However, these benefits would also be present in a scheme which did not utilise these materials. Therefore I do not consider that these benefits are sufficient to outweigh the harm caused to the Conservation Area where great weight should be given to the asset's conservation.
13. The scheme therefore conflicts with the Framework, which directs, at paragraph 193, 'that great weight should be given to the asset's conservation ... irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance'.
14. On the basis of the above I conclude that the development would result in significant effects to the character and appearance of the CA and would be contrary to S25 Westminster's City Plan 2016 (WCP) (which seeks that development conserve the conservation areas); Policy S28 of the WCP (which seeks that development incorporate exemplary standards of design quality through use of high quality and durable materials); and Policy DES 1 of the Westminster Unitary Development Plan 2007 (UDP) (which amongst a number of design principles, seeks that development utilise high quality, durable materials which maintains the character of existing buildings and the spaces between them. I note that Policy DES 5 of the UDP which relates to alterations and extensions has been cited on the Decision Notice, however this is not considered relevant given that the proposed scheme is a new building, rather than an extension or alteration.

Living Conditions

15. According to the Council's calculations the existing single storey building to the rear has a wall height of approximately 2.68 metres tall to the eaves and an overall height of approximately 4.3 metres at the rear boundary. The building is currently setback approximately 3.3 metres from the rear of flats at Nos 92-94 and a similar setback to the rear of Nos 88-90. Given this restricted setback, the level of openness and outlook as well as sense of enclosure experienced by the lower ground and ground floor apartments is already quite poor given that this is their only outward looking aspect. The proposed building would have a larger footprint so that the setback from the existing apartments would be reduced to 1.9 metres, combined with a taller overall height of 5.83 metres towards the rear of Nos 92-94. Whilst the setback to Nos 88-90 would remain unchanged, the noticeable change would be the increase of height with a change from a lean-to roof to a greater wall height with mansard roof.

16. There are a combination of habitable and non-habitable windows to the rear of the mansion blocks, some of which are chamfered via canted bay windows. However, given the very restricted level of outlook and enclosure already experienced from the rear of the flats of the mansion blocks, particularly to the lower ground and ground floor level, the decrease in setback combined with the increased built form would erode the outlook and sense of enclosure currently experienced to a significant and unacceptable level. To me, the appeal scheme would demonstrably cause harm to the living conditions of the existing residents and result in an unacceptable level of enclosure.
17. Consequently, the scheme would be contrary to Policy S29 of the WCP (which amongst a number of principles, seeks to resist proposals that would result in an unacceptable loss of residential amenity); and Policy ENV13 of the UDP (which amongst a number of principles, seeks to restrict development which has a significant increase in the sense of enclosure).

Conclusion

18. For the reasons given above, I conclude that the appeal should be dismissed.

J Somers

INSPECTOR