
Appeal Decision

Site visit made on 19 August 2019

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 5th September 2019

Appeal Ref: APP/X5990/W/18/3211112

1 and 2 Garden Court and Blackstone House, Middle Temple, London EC4Y 9BW

- 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 The Honourable Society of the Middle Temple against the decision of City of Westminster Council.
 - The application Ref 17/08153/FULL, dated 8 September 2017, was refused by notice dated 23 April 2018.
 - The development proposed is internal and external alterations to 1 & 2 Garden Court and Blackstone House, including: comprehensive repair works; refurbishment of fixtures and fittings; change of use of 1 x residential unit to offices; and the formation of new openings in the rear of Blackstone House and 2 Garden Court to allow for the provision of an atrium connecting the buildings at second, third and fourth floor levels.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has included revised drawings with the appeal and has asked that the scheme depicted therein is considered as the appeal scheme. The amendments include a revised rear section and the removal of the existing external escape stairs (which is to be retained in the scheme considered by the Council for this appeal). Guidance issued by the Planning Inspectorate indicates that if an appellant thinks that amending a proposal will overcome the local planning authority's objections, then a fresh application should be submitted. It adds that the appeal should not be used to evolve a scheme and that it is important that what is considered by the Inspector is essentially what was considered by the local planning authority and on which interested people's views were sought.
3. It is clear that discussions between the appellant and Council continued after the refusal of the appeal scheme; a fresh application was submitted for a revised scheme and the Council granted planning permission for it. I have details of that approval. Separately, the appellant has sought to revise the appeal scheme and has stated that affected neighbours at Aldwych Chambers have been engaged in this process (as well as for the approved scheme). A group letter from a number of addresses at Aldwych Chambers has been submitted in support of the revisions. However, I note that not all addresses are represented, when I compare this to the addresses notified of the planning

application by the Council. Additionally, it is not clear if the freeholder has been given the opportunity to make comments on the proposed revisions. It seems apparent that some neighbours/interested parties were not formally given the opportunity to express written comments to the Planning Inspectorate as part of the appeal process, specifically for the proposed revised scheme. In this way I consider that they may have been hindered in expressing a view on the proposed revisions and so it is possible that their interests may be prejudiced if I were to consider the proposed revisions as part of the appeal. Therefore, taking account of the principles established in the *Wheatcroft* case, I shall not consider the appeal on the basis of the proposed revisions but I shall determine it on the basis of the scheme as determined by the Council.

Main Issues

4. The main issues in this appeal are the effects of the proposal on the significance of the heritage assets and secondly, the effects on nearby residents.

Reasons

5. Blackstone House is an unlisted building which sits within the Strand Conservation Area in the City of Westminster. Nos 1 and 2 Garden Court is a grade II listed building within the Temple Conservation Area, in the City of London. The City of London has granted planning permission and listed building consent for the scheme as far as it relates to their area. Both buildings are used as barrister's chambers. The adjacent Aldwych Chambers contains residential properties, resulting from a relatively recent conversion from chambers.
6. Although not listed, Blackstone House is identified within the Strand Conservation Area Audit as a building of merit, and I consider that it makes a positive contribution to its character and appearance. It also sits within the setting of Garden Court and close to Middle Temple Garden, a grade II registered garden within the City of London.
7. Although there is a gap between the 2 buildings at the upper levels, an infill extension has been constructed at the lower level, which is hidden from view by a stone wall. I also observed the fire escape which is set within the gap towards its rear which is acknowledged to be a negative feature of the area. The gap is variously described by the Council and the appellant and is around 4.3m in width, according to the appellant's statement. The gap helps to provide a visual break between the 2 different buildings which are of different styles and character and in this sense, I consider the gap to be significant. The Council describe the gap as assisting to distinguish the different buildings which have a collegiate character, consistent with the wider area. I agree that the gap provides a visual punctuation which distinguishes these 2 different positive features.
8. The proposal would have glazed walls and a glazed roof and would be set back slightly from the end elevation of Garden Court. I observed those parts of the surrounding area from where views of the extension would be possible, including Middle Temple Gardens and land adjacent to Queen Elizabeth Building. From these areas I consider that the proposal would appear prominent and would not blend with the more muted tones of the brick and

stone structures around it. It would represent an obvious feature which would result in the harmful loss of separation between the 2 buildings. Even though views of the proposal would only be possible from these relatively restricted areas, I consider that it would have a harmful effect on the character and appearance of the area and on the setting of the listed buildings and garden.

9. I consider that the level of harm arising would amount to "less than substantial harm", as set out in the National Planning Policy Framework. Any such harm should be balanced against any public benefits that may arise from the scheme. The appellants set out that the proposal would bring better facilities and connectivity between the 2 buildings and the absence of this could mean that the buildings would be vacated by the current occupiers. However, I note that planning permission has since been granted by the Council for a revised scheme which would appear to provide very similar facilities and levels of connectivity and so these benefits do not uniquely arise from the appeal scheme. The proposal would also go some way to obscuring the existing fire escape. Whilst this would be a benefit, I consider that it is insufficient to outweigh the harm that I have identified. Therefore, taken in combination, I consider that the public benefits as set out would be insufficient to outweigh the harm. As a result, the proposal is contrary to Policies S25 and S28 of Westminster's City Plan and Policies DES 1, DES 5 and DES 10 of the Unitary Development Plan.
10. Turning now to the effects on neighbours, I was able to see the relevant windows to the flats within Aldwych Chambers at my site visit. I agree that the residents within a number of those properties experience a restricted outlook due to the narrow gap and the existing fire escape. I consider that the proposed extension at its rear would have an additional and negative effect on the restricted outlook of those residents. This would be contrary to Policy S29 of Westminster's City Plan and Policy ENV 13 of the Unitary Development Plan.

Conclusions

11. I have taken account of the scheme that has been subsequently approved by the Council. Whilst it is not for me to seek to justify that decision, I can see that the use of different materials for the front elevation and the removal of the staircase and revisions at the rear of the extension could well lead to a different conclusion being reached. The proposal that I am considering for this appeal would have a different effect on the surrounding area and residents and so I consider that the existence of the approval does not compel me to look favourably on the appeal scheme.
12. I have taken account of all other matters but find that the harm that I have identified is not outweighed by any other matters. Therefore, the appeal is dismissed.

S T Wood

INSPECTOR