
Appeal Decisions

Site visit made on 25 June 2019

by JP Tudor BA (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 11 September 2019

Appeal A Ref: APP/X5990/W/19/3223542

22 Weymouth Street, London W1G 7BN

- 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 Aaron Smith (Arkadian Overseas Limited) against the decision of City of Westminster Council.
 - The application Ref: 18/09929/FULL, dated 19 November 2018, was refused by notice dated 12 February 2019.
 - The development proposed is installation of four lightwells, associated pavement grilles and evergreen hedgerow at front elevation; reinstatement of a lantern light over the principal stair, including internal alterations.
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Appeal B Ref: APP/X5990/Y/19/3223543

22 Weymouth Street, London W1G 7BN

- 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 Mr Aaron Smith (Arkadian Overseas Limited) against the decision of City of Westminster Council.
 - The application Ref: 18/09930/LBC, dated 19 November 2018, was refused by notice dated 12 February 2019.
 - The works proposed are installation of four lightwells, associated pavement grilles and evergreen hedgerow at front elevation; reinstatement of a lantern light over the principal stair, including internal alterations.
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Appeal A Decision

1. The appeal is dismissed insofar as it relates to the installation of four lightwells and associated pavement grilles at front elevation.
2. The appeal is allowed insofar as it relates to planting structures to accommodate an evergreen hedge at front elevation, reinstatement of a lantern light over the principal stair and internal alterations and planning permission is granted for planting structures to accommodate an evergreen hedge at front elevation, reinstatement of a lantern light over the principal stair and internal alterations at 22 Weymouth Street, London W1G 7BN in accordance with the terms of the application, Ref: 18/09929/FULL, dated 19 November 2018, so far as relevant to those parts of the development hereby permitted and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos. 454 S01 Rev B; 454 S02

Rev B; 454 S03 Rev B; 454 S04 Rev B; 454 S05 Rev B; 454 S06 Rev B; 454 S07 Rev B; 454-01 Rev C; 454-02 Rev D; 454-03 Rev C; 454-04 Rev C; 454-05 Rev C; 454-06 Rev C; 454-07 Rev D – except in respect of the four lightwells and associated pavement grilles shown on Drawing Nos. 454-01 Rev C and 454-02 Rev D.

- 3) The development hereby permitted shall not commence until details of the design of the new lantern rooflight and glass flooring to be reinstated on the terrace, the restored library and new internal doors including detailed drawings with proposed materials and finishes have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.

Appeal B Decision

3. The appeal is dismissed insofar as it relates to the installation of four lightwells and associated pavement grilles at front elevation.
4. The appeal is allowed insofar as it relates to planting structures to accommodate an evergreen hedge at front elevation, reinstatement of a lantern light over the principal stair and internal alterations and listed building consent is granted for planting structures to accommodate an evergreen hedge at front elevation, reinstatement of a lantern light over the principal stair and internal alterations at 22 Weymouth Street, London W1G 7BN in accordance with the terms of the application Ref: 18/09930/LBC, dated 19 November 2018 and the plans submitted with it including those subsequently amended, except in relation to the four lightwells and metal grilles, subject to the following conditions:
 - 4) The works hereby permitted shall begin not later than 3 years from the date of this decision.
 - 5) All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this consent.
 - 6) The works hereby permitted shall not commence until details of the design of the new lantern rooflight and glass flooring to be reinstated on the terrace, the restored library and new internal doors including detailed drawings with proposed materials and finishes have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.

Preliminary Matters

5. I have taken the descriptions of the proposed development and works, respectively, in the banner headings above from the Council's decision notices and the appeal forms, as they more succinctly describe the proposal. The description includes reference to an evergreen hedge at the front elevation. Whilst the planting itself may not require planning permission or listed building consent, the planter with stone face cladding shown on the submitted plans is a structure which is before me for consideration.¹ Therefore, I have dealt with the appeals on that basis. I have slightly altered the descriptions so that it is

¹ Drawing No 454-06 Rev C – Proposed Elevations

clear that the reference to the evergreen hedge in the formal decisions is intended to encompass the associated planter with stone face cladding, as shown on the submitted plans.

6. As the appeals relate to a listed building within a conservation area, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). I have also taken account of the guidance within section 16 of the National Planning Policy Framework (the Framework). Although the Framework was updated in February 2019, just after the applications were determined, the parties have been able to take account of any relevant changes during the course of the appeals.
7. The Council refused the applications in relation to the effects of the four proposed lightwells and associated metal grilles. It advises that it does not object to the reinstated rooflight or to the other internal alterations as it considers that the restoration of the library provides adequate compensation for any adverse effect associated with installing a kitchen in the dining room. Although, I have also turned my mind to those matters, I see no clear reason or basis to take a different view from the Council regarding those aspects. Therefore, my decision will focus mainly on the effects of the proposed lightwells with metal grilles and the associated evergreen hedge and stone-faced planter.

Main Issue

8. The main issue, relating to both appeals, is the effect of the proposal on the special interest of the Grade II listed building at 22 Weymouth Street and on the character and appearance of the Harley Street Conservation Area (HSCA).

Reasons – both appeals

9. The appeal building, 22 Weymouth Street, is a two-storey, double fronted dwelling, faced in red and plum hand-made bricks, with a distinctive recessed balcony at first floor level and Georgian-style timber sash windows, along with a pantile roof. Built in 1934, the house was designed by Sir Giles Gilbert Scott, in conjunction with his brother Adrian Gilbert Scott. The building was first listed in 2009 at Grade II. Drawing on its list description, its significance derives from its standing as one of a very small and distinguished portfolio of private houses by Sir Giles Gilbert Scott, a major figure in 20th century architecture, also responsible for an array of public buildings including Liverpool's Anglican Cathedral and Battersea Power Station, as well as the seminal K2 and K6 red telephone boxes. The list description also advises that the building '*demonstrates par excellence the architect's personal manner of combining modernist form with traditional detail, and is virtually intact externally.*'
10. Situated between Marylebone Road, to the north, and Oxford Street, to the south, the HSCA is largely characterised by tight-knit terraced townhouses set out on a regular grid pattern of intersecting streets. Development began in the early 18th century and, after a period of social decline in the mid-19th century, the area was revived in the late 19th and early 20th century, when there was a significant amount of rebuilding by some of the foremost architects of that time. Whilst there are a variety of uses in the area, including the famous

Harley Street medical facilities, the HSCA retains a predominantly residential character.²

11. There are also numerous listed buildings within the HSCA which contribute to its significance, including the best of those from that later period of re-development. The listed appeal building at No 22, was commissioned by Bovis Ltd and its chairman, Vincent Gluckstein, who occupied it himself for a time. It is adjacent to residential terraces which line the north and south sides of Weymouth Street and comprise a mix of Georgian, Victorian and Edwardian buildings, with several Grade II* or Grade II listed. At two storeys, the appeal building at No 22 is lower than the substantial Chinese Embassy which stands next to it, on the corner with Portland Place, and most of the other buildings along the street which range from two to five storeys. However, its double frontage stretching six bays and notable modernist form and design clearly distinguishes it from surrounding development. Therefore, the listed building makes a positive and distinctive contribution to the character and appearance of the HSCA.
12. The most public face of the building is its impressive façade. As noted in the list description, the original building is virtually intact externally. The appellant's Heritage Statement (HS)³ also acknowledges that: *'The front elevation remains much as originally conceived and constructed, which enhances the evidential value of the building.'*⁴ Elsewhere, it states that: *'The front elevation has a distinctive Neo-Grec character and remains largely unaltered, it is a perfectly proportioned, well balanced composition which makes a positive contribution to the townscape.'*
13. The central entrance bay within that well-proportioned façade is set slightly forward, with a recessed porch, flanked by windows and stone steps set between stone planters. Below the windows within two further bays on each side of the entrance section, is a smooth flat area of concrete edged by a stone border and slightly raised above the adjoining public pavement. Creating four openings for lightwells, covered by metal grilles, within those frontage strips, would be a significant and noticeable change, notwithstanding the proposed hedge, and alter the relationship of the building with the street and, to some extent, the perception of the façade. Given the acknowledged importance of the virtually intact façade and the key contribution that it makes to the significance of the listed building, the creation of the openings for lightwells with metal grilles within the frontage would be to the detriment of the special architectural and historic interest of the building.
14. Referring to the Harley Street Conservation Area Audit (2008) (CAA)⁵, the appellant submits that the HSCA is strongly characterised by basement lightwells. However, the relevant reference in the CAA states that: *'The majority of Georgian and Victorian buildings in the central part of the conservation area were designed with front railings enclosing open basement lightwells and marking the distinction between the main and service areas of a house.'* In contrast, the appeal building is, although exhibiting a restrained classical aesthetic, from a later era and is singular in its modern appearance and design compared with the nearby Georgian and Victorian buildings along

² Harley Street Conservation Area (General Information Leaflet 9) – October 1999

³ Prepared by Savills, dated November 2018

⁴ Paragraph 5.1.6

⁵ Paragraph 4.139

- the street. Moreover, the proposal is for lightwells with metal grilles rather than open lightwells, some of which have external steps leading down to the basements.
15. The appellant has provided a copy of an historic basement floor plan dating from 1933, which indicates two windows and a door at that level, and from that infers that lightwells would have been required to serve them. The Council has also supplied copies of correspondence and drawings relating to the design of the building from the Howard de Walden Estate archive. They appear to indicate that Vincent Gluckstein, the Chairman of Bovis Ltd who commissioned and built the house, wished the areas to the front to be filled in, notwithstanding openings shown at basement level on a previous plan. Several other changes were also proposed in that correspondence.
 16. Subsequently, Giles Gilbert Scott produced further drawings, dated 28 February 1934 (the year the house was built), which supersede that earlier drawing. They do not indicate openings to the front of the basement and the ground floor and elevation plans show the frontage as a shallow paved area set to the rear of a low plinth.
 17. Whilst it appears that an earlier version of the design may have included lightwells, although they are implied rather than shown on any historic plan or drawing presented in evidence, it is not unusual for the design of a building to evolve from the original conception, as part of the essential collaborative process between architect and client. Indeed, there may be several iterations before a design is finalised and reaches the building stage. In this case, the fact remains that the later architect's drawings indicate that the house was designed and subsequently built without lightwells. It was also listed at Grade II in 2009 on the basis of its contemporaneous state.
 18. It is asserted, in paragraph 7.8 of the appellant's statement of case, that the building was listed because of its historical association with Giles Gilbert Scott and that it '*derives its entire significance from its association with said architect.*' Yet, the appellant's own HS identifies that its significance also rests, in part at least, in the aesthetic contribution made by its visual appearance and architectural style. I consider those attributes are not entirely dependent on its association with a notable architect, as they are physically apparent from the building, irrespective of its lineage. However, it is agreed that its historical value as a work by a distinguished 20th century architect considerably enhances its cachet and significance.
 19. Within the same paragraph the appellant considers that: '*Had Gluckstein not been the first occupant, then it can comfortably be presumed that the building would have been finished in line with Gilbert-Scott's [sic] original plans (lightwells included).*' However, that is conjecture, as there is no indication in the evidence presented that Giles Gilbert Scott objected to the loss of the supposed lightwells. Indeed, it is possible that he may have agreed with his client's view or simply changed his mind about the design. Moreover, another client, other than Vincent Gluckstein, could have taken the same view. All that is in the realms of speculation. The essential fact remains that the house appears to have been built in accordance with the architect's later 1934 plans.
 20. The appellant also submits, in support of the contention that the installation of lightwells would be a manifestation of the architect's original intentions, that nearby houses at 39 Weymouth Street and 39-40 Devonshire Street, also

commissioned by Bovis Ltd and completed in 1935 and 1930, respectively, have lightwells. However, as I saw on my site visit, the ground floor of the house at No 39 is markedly above street level with a flight of steps up to its entrance, while its semi-basement has external steps leading down to it. Similarly, 39-40 Devonshire Street also has a raised ground floor level, with six steps leading up to the entrance. Consequently, although of the same period, there are limited similarities in the design of those buildings and that of the appeal building. Moreover, whilst they were commissioned by Bovis Ltd, neither of them was designed by Giles Gilbert Scott.

21. Furthermore, lightwells do not feature at Chester House in Clarendon Place⁶, which Gilbert Scott designed for his own occupation in the 1920s. From the photographs supplied⁷, it appears to have marked similarities with 22 Weymouth Street, including in respect of its two-storey brick, restrained design, pantile roof, first floor balcony and set back behind a shallow frontage, albeit with, according to the Council, railings added later to match those at the first floor level of that house.
22. Given the above, I am not persuaded by the appellant's thesis that the proposed lightwells would restore the architect's original vision. Moreover, it cannot be promoted as 'restoration', as the house has never exhibited that physical form.
23. It is submitted by the appellant that the lightwells would be discreetly located behind the proposed low-level box hedging and concealed from public view. However, given that the frontage to the building is immediately adjacent to the public footway and the road, the lightwells and their grilles would be apparent, particularly to pedestrians walking by the house. In any event, listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views can be gained.
24. The appellant also refers to an approval for a front lightwell, with steps and railings at a Grade II listed building at 36 Southwick Street but that does not appear to be in the immediate vicinity of the appeal site. Moreover, I have limited details of that proposal or the circumstances that led to it being accepted and so cannot be sure that it represents a direct parallel to the appeal proposal. In any event, I have determined this appeal on its own merits.
25. I appreciate that there have been various pre-application discussions with the Council, and that the size of the lightwells has apparently been reduced from an earlier proposal⁸ and a scheme refused consent in 2012.⁹ However, I have considered the proposal before me and the fact that the lightwells have been reduced in size from previous schemes that were considered unacceptable has limited relevance.
26. Overall therefore, I conclude that the proposed installation of four lightwells and associated pavement grilles would fail to preserve the special architectural and historic interest of the listed building. Given the contribution that the listed building makes to the HSCA, it follows that the proposed lightwells and grilles would neither preserve nor enhance the character and appearance of the

⁶ London W2

⁷ Appendix 4 of the Council's Appeal Statement – photographs dated 1926 and 1943

⁸ P17/01324

⁹ 11/11989/FUL & 11/11990/LBC

HSCA, considered as a whole. I give this harm to designated heritage assets considerable importance and weight in the planning balance of these appeals.

27. Consequently, those elements of the proposal would not satisfy the requirements of the Act or paragraph 192 of the Framework. The proposed lightwells and grilles would also conflict with policies S25 and S28 of the Westminster City Plan (November 2016) (WCP)¹⁰, which indicate that heritage assets will be conserved, and that designs should respect Westminster's heritage and local distinctiveness. The Council also refers to an array of policies and supporting text from its Unitary Development Plan, which dates from 2007. Whilst there may be some conflict, those policies do not significantly add to the broad protection offered by the relevant WCP policies and the Framework.
28. Paragraph 194 of the Framework says that any harm to, or loss of, the significance of a designated heritage asset, including from its alteration, should require clear and convincing justification. In keeping with that approach, Framework paragraph 193 says that when considering the impact of a proposal on the significance of designated heritage assets, 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 its significance.
29. The four lightwells and grilles are relatively limited in size and would be set within the flat area fronting the house, with public views more likely in the near distance. In relation to the HSCA, the harm would be to one listed building in a part of the HSCA. Given those factors and the extent of the change, I consider that the harm, in the language of the Framework, would be 'less than substantial'.
30. In such circumstances, paragraph 196 of the Framework indicates that the harm should be weighed against the public benefits of the proposal, which can include securing the optimum viable use of listed buildings. In this case, the appellant accepts that viability and potential occupation of the building, which is currently empty, is not dependent upon whether lightwells are provided.
31. The appellant maintains that the lightwells and grilles do not cause harm, but I have found otherwise for the reasons already given. In the alternative, the appellant says that any less than substantial harm is far outweighed by '*the heritage benefits arising from the acknowledged improvements to the building.*' As indicated above, the Council does not object to the reinstated rooflight or other internal alterations.
32. The principal (ground floor) retains a significant proportion of its original plan and fittings, as indicated in the list description. It is proposed that the library on that floor, where elements of the joinery are said to have been removed, would be restored which would be of benefit. A kitchen would be installed in the dining room, a rear ground floor room, but all original cornices and skirtings would be retained. A fireplace would also be removed from that room, but the evidence indicates that it was installed at some time after 1997. As it is not part of the historic fabric or form which contributes to the significance of the building's interior, I do not consider that its removal would cause harm. Although there would be some loss of plan form in the change

¹⁰ Consolidated with all changes since 2013

from a dining room to a kitchen/family room, the spatial aspects of the ground floor plan would not alter.

33. The Council considers the proposed hedge planting to be '*neither here-nor-there*'. Hedges or planting are shown to the front of the house in photographs from 'The Architect and Building News' (30 November 1934), in the year the house was built. The accompanying article comments on the '*effective provision for greenery along the street front*'. That aspect is also reflected in the layout of Gilbert Scott's own house at Clarendon Place, referred to earlier, which is described, in its list description, as '*set back behind shallow "area" garden*'. Therefore, whilst a local amenity group, the Marylebone Association, has expressed concern about the proposed hedging, it appears to have been an historic feature, with similar treatment present in another of the architect's buildings.
34. A stone cill with privet or something similar instead of iron railings in the front is also referred to in a letter, dated 21 December 1933, from Vincent Gluckstein, who commissioned the house.¹¹ Therefore, given that background and the presence of a somewhat disparate collection of planters currently at the site, a continuous planter with stone-faced cladding would help to differentiate the frontage from the public pavement, without harming the special interest of the listed building. Rather, it would be sympathetic to aspects of its original form.
35. Whilst there are moderate heritage benefits in the restoration of the library, the timber framed skylight (as show on historic plans) and claimed for the reinstatement of a Nursery, they have to be balanced against less sympathetic changes to plan form, such as the installation of a kitchen in the dining room and an *en suite* in one of the first floor bedrooms. Overall therefore, I do not consider those modest net-gains sufficient to outweigh the 'less than substantial harm', which attracts great weight, that would result from the insertion of lightwells and grilles adjacent to the principal façade.
36. On the basis of the evidence before me and my own observations, I have found no reason to take a different view from the Council regarding the internal alterations and the reinstatement of the lantern light. I have also found that no harm would result from the proposed evergreen hedgerow and associated stone-faced planter. Therefore, given that the other elements of the proposal appear to be severable, both physically and functionally from the installation of the front lightwells and grilles, I intend to issue a split decision, allowing the appeals insofar as they relate to the former changes but dismissing them in relation to the proposed front lightwells and metal grilles.

Conditions

37. The Council has suggested conditions which I have considered, making amendments, if necessary, to ensure compliance with the tests contained in the Framework¹² and the Planning Practice Guidance (PPG) and to reflect the split nature of this decision. In addition to the usual commencement conditions, it is necessary for there to be a condition, in relation to Appeal A, requiring the development to be carried out in accordance with the approved plans, for certainty. In relation to Appeal B, it is appropriate for there to be a

¹¹ Howard de Walden Estate archive

¹² Paragraph 55

condition requiring the works to match existing adjacent work in terms of materials, method of construction and finished appearance to preserve the special interest of the listed building and the HSCA. For both appeals, conditions requiring detailed drawings to be submitted for approval are necessary to preserve the listed building and the HSCA.

Conclusion – both appeals

38. For the reasons given above, I conclude that the appeals should be allowed in part and dismissed in part.

JP Tudor

INSPECTOR