



Appeal Decision

Site visit made on 26 June 2019

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

an Inspector appointed by the Secretary of State

Decision date: 08 October 2019

Appeal Ref: APP/X5990/Y/19/3223049

27 Rutland Gate, London SW7 1PD

- 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 Patrick O'Mara (National Spiritual Assembly of the Baha'is of the UK) against the decision of City of Westminster Council.
 - The application Ref: 18/06601/LBC, dated 3 August 2018, was refused by notice dated 27 September 2018.
 - The works proposed are erection of extensions at rear first, second and third floor levels (Montpelier Walk elevation). Installation of railings and formation of roof garden to rear second floor flat roof area. Infill of internal light well to ground and first floor levels. Associated internal alterations.
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Decision

1. The appeal is dismissed insofar as it relates to the erection of extensions at rear second and third floor levels (Montpelier Walk elevation) and installation of railings and formation of roof garden to rear second floor flat roof area.
2. The appeal is allowed insofar as it relates to the erection of an extension at rear first floor level (Montpelier Walk elevation), infill of internal light well to ground and first floor levels and associated internal alterations at 27 Rutland Gate, London SW7 1PD in accordance with the terms of application Ref: 18/06601/LBC dated 3 August 2018 and the plans submitted with it, except in relation to the erection of extensions at rear second and third floor levels and the installation of railings and formation of roof garden to rear second floor flat roof area, subject to the following conditions:
 - 1) The works authorised by this consent shall begin not later than 3 years from the date of this decision.
 - 2) All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, colours, method of construction and finished appearance. This applies unless differences are shown on the approved drawings.

Preliminary Matter

3. As the appeal relates 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, after the application was determined, the parties have been able to take account of any relevant changes during the course of the appeal.

4. The Council has confirmed that it does not object to the proposal insofar as it relates to the rear first floor extension, which consists of remodelling the existing extension and infilling its mansard roof element. Similarly, it has no objection to the internal works proposed at lower ground floor (basement) level and ground floor or the infilling of an internal lightwell. Although I have also considered the effects of those changes, I see no reason to take a different view from the Council regarding them. Therefore, my decision will focus mainly on the effects of the proposed second and third floor rear extensions.

Main Issues

5. The main issues are the effect of the proposed works on the special interest of the Grade II listed terrace at 23, 25 and 27-42 Rutland Gate, of which the appeal property at No 27 forms a part, and the effect on the character and appearance of the Knightsbridge Conservation Area (KCA).

Reasons

6. The appeal property, at 27 Rutland Gate, is a mid-terrace town house comprising a basement, ground floor, three upper storeys and an attic storey. The building forms part of a Grade II listed terrace running from 23-42 Rutland Gate and lies within the KCA.
7. Dating from the mid-19th century, the terrace presents an impressive cream-painted stucco façade to the street, with projecting Doric porches and cast iron railings enclosing basements and first floor balconies. The houses exhibit a regular pattern of fenestration with entablature and other decorative features, as described more fully in the list description. The terrace was first listed in 1987.
8. Buildings along Montpelier Walk to the rear are historically connected to those on Rutland Gate and the appeal building includes 63 Montpellier Walk. Together they form one building within the terrace. These mostly two or three storey buildings on the west side of Montpellier Walk historically formed a mews, but many have been altered and extended.
9. The rear elevation of the appeal building presents as three storeys projecting out from the back of the principal terrace along Rutland Gate. Street level to the rear is below that of the front elevation, with the rear ground floor equivalent to what is the basement to the front. The third storey to the rear (equivalent to the second storey to the front) incorporates a mansard roof element and is a later addition to the two brick-faced storeys below it.
10. Given the above, the significance of the Grade II listed terrace is mainly derived from the architectural quality and panache of its Rutland Gate façade. Whilst the list description focusses on the merit of the front elevation of the terrace, list descriptions are primarily for identification purposes and do not necessarily provide an exhaustive or complete description of the special interest of the building.

11. Moreover, the Council's KCA General Information Leaflet¹ refers to the characteristic mews properties, much smaller than their grander neighbours, as amongst the key features of the KCA. I agree that the smaller mews-style rear elements along Montpelier Walk contribute to the special interest of the listed terrace and more broadly to the character, appearance and significance of the KCA.
12. The proposal would add two further projecting floors to the rear aspect of the building. Whilst set back from a roof terrace and inset from one side, the structure would still rise to just below the existing top storey of the rear of the main terrace. The design of the proposed fenestration, with a second-floor landscape window and three arched windows above, would appear incongruous juxtaposed to the retained existing portrait windows to the side. The height and form of the additions would cover and dominate much of the upper part of the existing main rear elevation of the building, to its detriment.
13. In terms of the effect on the KCA, the second and third floor extensions would rise well above the two or three storey height of most of the other rear projections of buildings along Montpelier Walk. Therefore, it would appear visually discordant compared with the lower heights of most of the other rear built forms. That incongruity would be apparent in medium range public views and from adjacent properties on the opposite side of Montpelier Walk and other buildings in the area.
14. The appellant refers to an adjacent existing rear addition at 23-25 Rutland Gate and maintains that the proposed extensions, at second and third floor level, would be set back from it and only approximately 1 metre higher. According to the Council, the alterations at Nos 23-25, approved in 2000 and 2008/9, were set within the existing adjoining closet wing extensions.
15. Moreover, the main buildings at Nos 23-25 are higher than No 27 and are situated at the end of the terrace, standing next to taller more modern flats. They are as a result generally more capable of absorbing the height of that extension, with two storeys of the main rear elevation remaining visible above. Therefore, there are differences between the context of that extension and the appeal proposal before me.
16. There is also a high rear extension at No 29 but the Council describe that as an 'historic situation'. Consequently, whilst I agree with the appellant that some of the rear development along the terrace appears fairly ad hoc in nature, most rear extensions are lower than that proposed. Furthermore, although some of those other extensions, such as that at No 29, have a harmful effect on the listed terrace and the KCA, they do not justify causing further harm. In any event, I have considered the appeal proposal on its own merits.
17. Overall therefore, I conclude that the proposed second and third floor rear extensions would fail to preserve the special interest of the listed terrace, which includes the appeal building. In harming the listed terrace and the mews-style elements to the rear, it would also adversely affect the character and appearance of this part of the KCA, which contributes to the significance of the KCA as a whole.

¹ No 22: July 1999

18. It follows that those parts of the proposal would fail to satisfy the requirements of the Act and paragraph 192 of the Framework. Those elements would also conflict with policies S25 and S28 of the Westminster City Plan (November 2016) (WCP)², which indicate that heritage assets will be conserved, and that design should respect Westminster's heritage and local distinctiveness.
19. There would also be conflict with policies DES 1, DES 5 and DES 10(A) of the Council's Unitary Development Plan (UDP),³ insofar as they seek to ensure high quality urban design, which takes account of the style and detail of existing buildings and the character and appearance of listed buildings. The relevant WCP and UDP policies appear to be broadly consistent with the Framework.
20. 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 accordance with that approach, 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.
21. Given that the main contribution to the special interest of the listed terrace lies in the architectural splendour of its principal façade, it is relevant that the proposal would not affect the front elevation of the building. Therefore, as the harm is to the rear of one property in the terrace, where development is already of more varied quality, I consider that, in the language of the Framework, the harm caused would be 'less than substantial'. I take a similar view with regard to the adverse effect on the KCA, considered as a whole.
22. 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.
23. The building is currently used as the head office of the Baha'i religious community in the UK, with an ancillary apartment on the upper two floors. The appellant advises that the proposed alterations are designed to improve the layout of the building and to provide high quality accommodation. Whilst I appreciate those motivations, the benefits would be essentially private rather than public. I do not consider, and it has not been submitted, that the changes are necessary for the continued viable use of the building. Therefore, there are no substantiated or substantive public benefits to outweigh the harm to the listed terrace and the KCA.
24. Based on the evidence before me, I have found no reason to take a different view from the Council regarding the effects of the rear first floor extension, the infill of the internal lightwell and the associated internal alterations, which are not considered harmful. Therefore, as those elements appear to be severable, both physically and functionally from the other parts of the proposed scheme, I intend to issue a split decision. That means allowing the appeal insofar as it relates to the former changes but dismissing it insofar as it relates to the second and third floor rear extensions and the installation of railings and the formation of a roof garden to the rear second floor flat roof area.

² Consolidated with all changes since 2013

³ Adopted January 2007

25. The roof garden and associated railings would not appear to be severable from the second and third floor extensions, as there would be no door to access the roof without the proposed second floor extension. Therefore, it is academic whether the roof terrace element is considered harmful or not and there would be no purpose in me considering that aspect further.

Conditions

26. The Council has suggested conditions which I have considered, making amendments, if necessary, to ensure compliance with the tests contained in the Framework⁴ and the Planning Practice Guidance (PPG). In addition to the usual commencement condition, I have included a condition requiring the works to match existing adjacent work in terms of choice of materials, colours, method of construction and finished appearance to preserve the special interest of the listed terrace and the character and appearance of the KCA. That condition expands on a condition suggested by the Council which only dealt with paintwork, which I considered to be too limited.
27. Other conditions suggested by the Council are not relevant because of the split nature of my decision. A condition suggested by the Council to restrict the hours of construction work and resulting noise would be more appropriately attached to a planning permission, which the relevant works are likely to require. Therefore, I have omitted it.

Conclusion

28. For the reasons given above, and taking account of all other matters raised, I conclude that the appeal should be allowed in part and dismissed in part.

JP Tudor

INSPECTOR

⁴ Paragraph 55