



Appeal Decisions

Site visit made on 15 October 2019

by Simon Hand MA

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

Decision date: 28 October 2019

Appeal A: APP/X5990/C/18/3215288

The buildings and associated land at 110-112 Vauxhall Bridge Road, London, SW1V 2RQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mendoza Group Ltd against an enforcement notice issued by City of Westminster Council.
 - The enforcement notice, reference 'A', was issued on 5 October 2018.
 - The breach of planning control as alleged in the notice is without the requisite planning permission and within the last 4 years the erection of rear extensions at second and third floor/roof level, shown outlined by red lines in Photograph A.
 - The requirements of the notice are i) remove the unauthorised rear extensions at second floor level and third floor/roof level, shown outlined by red lines in Photograph A, and restore the Property to its previous unaltered condition as shown in the Existing Plans (Existing First Floor Plan - Drawing No. 0420/PL/011; Existing Second Floor Plan - Drawing No. 0420/PL012; Existing Roof Plan - Drawing No. 0420/PL/013; Existing South East Elevation Drawing No. 0420/PL/020; Existing South West Elevation - Drawing No. 0420/PL/021; Existing North West Elevation - Drawing No. 0420/PL/022; Existing North East Elevation - Drawing No. 0420/PL/023) and shown in Photograph B; OR
ii) Undertake alterations Property, to ensure that the works match the detailed design and materials approved as part of the planning permission dated 5th April 2016 (Westminster City Council reference: 15/09678/FULL: Proposed Second Floor Plan - Drawing NO. 0420/PL/112A; Proposed Third Floor Plan - Drawing No. 0420/PL/113A; Proposed Roof Plan - Drawing No. 0420/PL/115B; Proposed South East Elevation - Drawing No. 0420/PL/200A; Proposed South West Elevation - Drawing No. 0420/PL/201A; Proposed North West Elevation - Drawing No. 0420/PL/202C; Proposed North East Elevation - Drawing No. 0420/PL/203C) 'and all conditions attached to that planning permission;
AND
iii) Repair any damage caused by the erection, removal and/or alteration of the rear extensions at second and third floor/roof level and remove all resultant debris from the Property.
 - The period for compliance with the requirements is 9 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/X5990/C/18/3215853

The buildings and associated land at 110-112 Vauxhall Bridge Road, London, SW1V 2RQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mendoza Group Ltd against an enforcement notice issued by City of Westminster Council.

- The enforcement notice, reference 'B', was issued on 5 October 2018.
 - The breach of planning control as alleged in the notice is without the requisite planning permission and within the last 4 years the erection of a parapet wall and the installation of a duct, adjacent to the boundary with No. 114 Vauxhall Bridge Road, shown outlined by green lines in Photograph A.
 - The requirements of the notice are i) Remove the unauthorised parapet wall installed above roof level at the boundary with 114 Vauxhall Bridge Road, shown outlined by green lines in Photograph A; ii) Remove the unauthorised duct installed at third floor level and above roof level, adjacent to the boundary with 114 Vauxhall Bridge Road, shown outlined by green lines in Photograph A; and iii) Repair any damage caused by the erection or removal of the parapet wall and duct, adjacent to the boundary with 114 Vauxhall Bridge Road, and remove all resultant debris from the Property.
 - The period for compliance with the requirements is 9 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (c) and (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Appeal C: APP/X5990/W/18/3207983

The buildings and associated land at 110-112 Vauxhall Bridge Road, London, SW1V 2RQ

- 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 Hussein Aziz against the decision of City of Westminster Council.
 - The application Ref 17/06307/FULL, dated 3 August 2017, was refused by notice dated 5 April 2018.
 - The development proposed is erection of rear extension at second and third floor levels and associated external alterations.
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Decisions

Appeal A - 3215288

1. It is directed that the enforcement notice be varied by deleting requirement (i) and the word "OR". Subject to this variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B - 3215853

2. The appeal is dismissed and the enforcement notice is upheld.

Appeal C - 3207983

3. The appeal is allowed and planning permission is granted for erection of rear extension at second and third floor levels and associated external alterations at 110-112 Vauxhall Bridge Road, London, SW1V 2RQ in accordance with the terms of the application, Reference 17/06307/FULL, dated 3 August 2017, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
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- 2) All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings approved or are required by conditions to this permission.
- 3) You must apply to the Local Planning Authority for approval for the following parts of the development:
 - a) New windows and doors (drawn elevations and sections at 1:5).You must not start any work on these parts of the development until the Local Planning Authority have approved what you have sent them.
You must then carry out the work according to these approved details.
- 4) Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
 - between 08.00 and 18.00 Monday to Friday;
 - between 08.00 and 13.00 on Saturday; and
 - not at all on Sundays, bank holidays and public holidays.You must carry out piling, excavation and demolition work only:
 - between 08.00 and 18.00 Monday to Friday; and
 - not at all on Saturdays, Sundays, bank holidays and public holidays.Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety).
- 5) You must not use the roof of the extension for sitting out or for any other purpose. You can however use the roof to escape in an emergency.

Background to the Appeals

4. No 110-112 was a public house that stands on the corner of Vauxhall Bridge Road and Stanford St. A kebab shop also occupies one corner of the building facing onto Vauxhall Bridge Road. Behind the site lies Vincent Square and houses that front onto the square back onto the public house. It lies in the Vincent Square conservation area and is a non-designated heritage asset.
5. Planning permission was granted to convert the pub into flats and this has been completed and the flats occupied. The pub was an 'L' shape, with a ground floor infill within the courtyard formed within the 'L' shape at the rear of the building. The planning permission allowed the return wing that faces onto Stanford St to be widened and a first floor extension added onto the existing ground floor infill. Rooms would also be created within a new mansard roof added to the top floor which would bring the roof height up to just below that of the neighbouring building. In fact the developer added a further second floor rear extension on top of the consented first floor extension but set back so that a terrace has been created on the first floor roof with railings around and a door to allow access. The new mansard has been extended over the new second floor roof thus created. In addition the new mansard that would have been adjacent to the neighbouring building was replaced by a further floor creating a box-like extension at roof level.

6. The kebab shop has a rear extractor flue that was originally granted planning permission to run up the back of the building and vent over the roof. The metal flue was to be concealed within a brick outer skin, rather like an external chimney breast. Photographs show this was in place before the flat conversion works took place. There would seem to be no provision for this flue on the drawings that were granted planning permission, and the result is that the brickwork concealment now ends at the top of the second floor (the original roof level) and the metal flue continues up and over the unlawful third floor extension. A new parapet wall has been built between the flat roof of the unlawful box-like third floor extension and the neighbouring building that is higher than the ridge of the neighbouring roof.
7. The Council have issued two notices, the first requiring the unlawful second floor extension and mansard to be removed and the building returned to its previous condition or to the condition allowed by the grant of planning permission and is the subject of Appeal A. the second requiring the parapet to be removed where it is above roof level and the flue to be removed above the top of the second floor is the subject of appeal B. The appellants have also made a separate application for works that partially regularise the current situation by incorporating the new stepped back third floor extension and its mansard above the consented second floor. The plans show the door replaced by a window and the railings removed, the use of the roof of the first floor extension as a terrace would thus cease. There is no change proposed to the consented mansard adjacent to the neighbouring building. These proposals are the subject of Appeal C.
8. All three appeals are interlinked and all impact on the character and appearance of the conservation area and on the host building and I shall deal with them together below. First I shall deal with the ground (c) on appeal B.

The appeal on Ground (c) – Appeal B

9. This ground is that the matters alleged, in this case the parapet wall and metal flue have planning permission. This is manifestly not the case, as seems to be acknowledged by the appellant who has written to suggest the parapet wall should be reduced to the consented height. The flue has planning permission to run up the flank wall of the neighbouring property, encased in a brick outer skin. This is no longer possible because of the new box-like third floor extension and would not be possible even with the consented mansard roof in place. Both these matters alleged have clearly taken place and do not benefit from any planning permission. The appeal on ground (c) fails.

The Appeals on Ground (a) and the s78 Appeal

The Policy Background

10. The site lies in a conservation area and I am obliged to consider whether the works would preserve or enhance the conservation area. Paragraph 193 requires great weight to be given to the conservation of heritage assets and any loss of significance should require clear and convincing justification.
11. Policy S25 of the City of Westminster Plan (2016) supports the protection of heritage assets, while saved policy DES1 requires high standards of design. DES5 in particular deals with extensions which should generally be to the rear of the existing building, not visually dominate the building and scale character

and materials are consistent with the host and its surroundings (A1, 2, 3 and 4 & 5); while section B1 suggests that extensions rising above the penultimate storey of the existing building will be refused.

The impact of the works completed and proposed

12. The works that are visible to the front and side façades of the building are in conformity with the planning permission and have been carried out to a high standard. The new façades and mansard fit well into the street scene of Vauxhall Bridge Road and Stanford Street. The only issue is with the rear of the building. It is difficult to get a clear view of this from the street due to the proximity of the houses to the rear that front onto Vincent Square and various other buildings along Stanford St. However, I was able to view the extensions from the back of one of the houses that front Vincent Square and it is clear there would be close up views of the back of the new flats from many of these houses.
13. Next to the appeal site on Vauxhall Bridge Rd is a relatively modern block of flats which has an undistinguished rear with the top floor flats set back under sloping roofs from the floor below and breaks in the line of the top floor providing some articulation. Vincent Square is of a much higher order of historic quality, but the rear extensions are not readily visible from the square and are therefore mostly seen in private views from the rear of the houses fronting Vincent Square and from the rear of the taller modern building to the north which fronts Bloomburg Street.
14. The first floor extension is set back from the ground floor and the new second floor extension is further set back, creating a sense of articulation that sits well with the neighbouring flats. The mansard on top of the second floor extension finishes off the building as one would expect and seems entirely consonant with its surroundings. The one jarring note is the fact the mansard does not extend across the full length of the building but is replaced by the box-like structure referred to above. The s78 appeal does not propose the retention of this feature which would, therefore be replaced by the consented mansard, finishing off the roofscape and fitting in with the existing mansard roof.
15. The bringing forward of the second floor with the mansard above in this manner does not seem in itself to impact on the amenities of the neighbours but visually fits in well with the rear of the host and neighbouring buildings when seen altogether. The Council are concerned that the new mansard would be deeper, creating an over-scaled mass with a larger flat roof element than that that allowed. I agree the flat roof element would cover more area and in plan form, when seen from above, would create a stepped edge that would not be typical of a corner building. However, this would have no visual impact on the conservation area and would be seen only from the taller buildings in Bloomburg Street. Even these views would be oblique and they would not seem tall enough to me to make the plan form visible. I also note the second floor extension would be contrary to DES1 B1. However infilling a corner building in this manner with a stepped back extension and with an extended mansard does not harm the visual quality of the rear of the building. In my view a lower, flat-roofed rear extension would look more out of place. DES1 B1 only suggests such extensions 'may' be refused and in my view the underlying principle of B1 is not infringed.

16. It was however obvious that the use of the new terrace would not be so benign. Users would clearly have direct views into the backs of the houses fronting Vincent Square and down into the small back courtyards of several of those houses as well. The retention of the terrace would thus be harmful to residential amenity.
17. The parapet wall clearly rises above the roof of the neighbour and this too looks out of place and I note the appellant is happy to reduce its height to that allowed in the consented plans. The newly uncovered metal flue is particularly visually discordant and should be removed as it harms the character and appearance of the host building and the conservation area. How it will sit with the proposed mansard is unclear but that is a matter for the appellant to remedy as there would seem to be no valid planning permission for the flue in its current form.

Other Matters

18. The various works to the appeal building have caused considerable disquiet to many local residents, however, as the Council have noted, the impacts on amenity are limited to the use of the terrace. No new windows have been created and bringing those in the second floor extension a few metres closer to the rear boundary of the property has a negligible impact on matters such as overlooking, overshadowing or overdominance. Much of the disquiet also stems from further works which have been carried out to create a terrace on top of the mansard roof and by the alleged use of the building for short term lets. Neither of these matters is before me and so I make no comment on them. However it is clear the s78 application is for residential flats and does not include any terrace on top of the mansard roof.

Conclusions

19. The second floor extension with the mansard above does not harm the character and appearance of the host building or the conservation area and there is no loss of significance to any heritage asset. The works as proposed in the s78 appeal with the removal of the roof terrace and reinstatement of the mansard in place of the box-like third floor element are compliant with the Council's policies and the NPPF. The third floor box-like element, the extended parapet, the terrace on the first floor roof and the extractor flue are all harmful to the character and appearance of the conservation area, contrary to the Council's policies and should be removed.
20. There is no question that the appellant does not want to reduce the building to its original size and it would seem the red line drawn on photograph A is not accurate in any event as it includes elements of the building that have been lawfully completed. I shall therefore delete the first option from the requirements of the notice in Appeal A but leave the second option and uphold the notice. I shall not allow the ground (a) appeal as this would authorise all the works in the allegation. I shall uphold the notice in Appeal B, which requires the parapet wall to be reduced to below roof level and the metal flue removed from the third floor and roof level. I shall then grant planning permission on the s78 appeal, and this will override those elements of the requirements of the notice in Appeal A that have been granted planning permission.

21. Conditions have been suggested to ensure materials match those on the host building, that the design of new windows are agreed, no new external doors are proposed, that the terrace should not be used for any purpose other than escape in the case of an emergency and to control working hours. There are all sensible and necessary.

The appeal on Ground (f) – Appeal B

22. As I am upholding the notice in appeal B I need to briefly deal with the ground (f) appeal. There are no lesser steps that could be required to remove the harm other than those outlined in the notice and none have been suggested. The plans for the s78 appeal show the parapet wall to be no higher than the ridge of the neighbouring building which is also what the notice requires. Therefore the appeal on ground (f) fails.

Simon Hand

Inspector