
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: 29 October 2019

Appeal Ref: APP/X5990/Y/19/3221689

28 Wilton Place, London SW1X 8RL

- 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 T Matthews (Ocral Enterprise Inc) against the decision of City of Westminster Council.
 - The application Ref: 18/08467/LBC, dated 3 October 2018, was refused by notice dated 19 December 2018.
 - The works proposed are replacement of existing dumb waiter with a lift.
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Decision

1. The appeal is allowed and listed building consent is granted for replacement of existing dumb waiter with a lift at 28 Wilton Place, London SW1X 8RL in accordance with the terms of the application Ref: 18/08467/LBC dated 3 October 2018 and the plans submitted with it subject to the following condition:
 - 1) All new work and work of making good inside 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.

Preliminary Matters and Background

2. As the appeal relates to a building which forms part of a listed terrace, I have had special regard to sections 16(2) and 66(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).
3. The Framework was updated in February 2019, after the application was determined by the Council. However, the parties have been able to take account of any relevant changes during the course of the appeal.
4. I have also dealt with another appeal, ref: APP/X5990/Y/19/3220665, on this site concerning the installation of a cooling and heating system. That appeal is the subject of a separate decision.
5. There was a pre-existing dumb waiter within the building. Works have already been carried out to remove the dumb waiter, a later 20th century addition, and enlarge the size of the shaft it used to accommodate a lift. The appellant advises that these works were carried out without listed building consent between 2015 and 2017. The appellant is seeking to regularise the position

with regard to the retention of the works already carried out and to allow the installation of the lift to be completed. I have considered the proposal as if the work had not been undertaken.

Main Issue

6. The main issue is whether the works preserve the special architectural and historic interest of the Grade II listed terrace at 9-12 and 14-28 Wilton Place, of which the appeal property forms a part.

Reasons

7. The appeal property at 28 Wilton Place forms part of a Grade II listed terrace built in the early 19th century. The houses in the row are constructed of London stock brick with stuccoed ground floors. Most of the houses in the terrace are four storeys plus a basement, although a number also have mansard roofs with dormer windows, but Nos 14 and 25-28 are 5 storeys. The houses have panelled doors with semi-circular fanlights above and first floor wrought iron balconies. The appeal site also lies within the Belgravia Conservation Area (BCA).
8. No 28 is at the end of the terrace where it joins Wilton Crescent. It is slightly taller than the five storey dwellings at Nos 25-27, being more akin to the height of the houses on Wilton Crescent. It also has a prominent string course between its fourth and fifth storeys. Although the appeal building differs from the other houses in the row, as it is four bays wide rather than two, its elegant façade reflects the same classically inspired architectural language of the listed terrace.
9. Internally, the building has an unusual 'wedge-shaped' plan form as a result of its juxtaposition with the adjoining Wilton Crescent. That basic plan form and hierarchy remains legible with the larger principal rooms, on the north side of the house and smaller secondary rooms to the rear. Such rooms would generally have had more limited decoration, given their often utilitarian uses, which appears to be the case here.
10. It is clear that several parts of the house have also been subject to internal alterations during the 20th century, including the insertion of partition walls in the plainer rear rooms at second, third and fourth floors. Indeed, a 2015 listed building consent¹ permitted the replacement of existing modern partitions on those floors with new partitions. Photographs accompanying that application appear to indicate that the cornice in the rear bathroom at second floor level was not original and that no cornice remained on the fourth floor.
11. There have also been changes at lower ground floor level, including the insertion of partition walls during the 20th century, some constructed of concrete blocks. Moreover, the dumb waiter, with its associated shaft extending to all floors, also installed in the 20th central but before the building was listed, would have involved the loss of historic fabric and have affected the plan form.
12. Given the above, I consider the special interest of the appeal building to be primarily associated with its restrained, classically-influenced Georgian façade, which integrates successfully with the generally consistent architectural form of

¹ 15/00787/LBC

the other buildings along the listed terrace. Internally, although there is limited evidence of significant historic decorative features such as cornicing, skirting or architrave, and there has been internal partitioning, its remaining plan form and unusual shape also contribute to its significance.

13. It is proposed to install a lift from basement to fourth floor level. The lift would be positioned in the same location as the dumb waiter. The opening that housed the dumb waiter has already been enlarged between 2015 and 2017, without the benefit of listed building consent, which has led to this appeal.
14. The Council suggests that it is unclear when the dumb waiter was installed, and its Officer's Report says that '*the shaft has been extended to floors not previously served by the dumbwaiter.*' However, the appellant's 'Built Heritage Statement' (BHS)² includes 'Sales Particulars', said to date from 1981, which has not been specifically disputed. They refer to a 'food lift' in relation to the ground, first, second and fourth floors. Although the Council points out that the food lift is not referred to in the third floor description within those particulars, it is logical to infer that if it reached the fourth floor, the shaft must have passed through the third floor. Therefore, I am satisfied that the dumb waiter is likely to have been in place prior to the terrace being listed and that its shaft ran to the top floor.
15. In its first reason for refusal the Council states that the appellant has provided insufficient information about the works, particularly with regard to '*the pre-existing condition internally and any underlying historic fabric*', for an assessment of the effects on the building to be made. Nevertheless, it then proceeds to make such an assessment, with its second reason for refusal indicating that the works have led to a loss of historic fabric and adversely affected the historic floor plan and internal spatial character of the building.
16. The appellant's Statement of Case advises that the unauthorised works which took place between 2015 and 2017 were without the appellant's knowledge and prior to the appointment of the current contractors and design team.³ As the Council points out, that does not affect the position regarding liability for unauthorised works prior to any actual consent.⁴ However, it does provide a context in which the practicality and difficulties involved in providing precise information about the pre-existing condition of parts of the building, prior to the unauthorised works being carried out, can be considered.
17. Estimates have been made by the appellant, based on earlier drawings, of the extent to which the pre-existing shaft has been enlarged, with the greatest enlargement being about 300mm to the south. Various drawings submitted with the application attempt to illustrate the extent of the change. However, the appellant explains that the scale of the drawings associated with previous applications, on which the estimates are based, and the retrospective nature of those elements of the works means that exact quantification of the extent of the increase is problematic. In the particular circumstances, I consider that a reasonable approach has been adopted by the appellant's current design team and that sufficient information has been provided to enable an assessment to be made.

² Prepared by CgMs Limited - dated: October 2018

³ Paragraph 2.9

⁴ s.8(3) Planning (Listed Buildings and Conservation Areas) Act 1990

18. Given that available information and the effects of the pre-existing later more modern dumb waiter shaft, I find that whilst the enlargement of the lift shaft would have involved the removal of some historic fabric, including parts of floorboards and ceilings and a small area of chimney breast, the overall extent of the loss relative to the pre-existing shaft, is limited.
19. Listed buildings embody information about the past and alterations should be sympathetic to their historic fabric and layout. However, the nature and extent of the fabric being lost is also relevant in assessing actual harm to the significance of a heritage asset. Whilst the enlarged lift shaft has involved the loss of some historic fabric, which would have some evidential value, the loss relates to structural material of reasonably common grade and is, therefore, not a significant loss in the context of this appeal and having regard to the evidence before me.
20. In terms of layout, the lift is positioned in the rear part of the building, where rooms of lesser importance are generally located. It is largely separate from the principal rooms to the front and in an area of the house which has been subject to previous subdivisions. As it also utilises, albeit in slightly enlarged form, the pre-existing shaft associated with the more dumb waiter, it does not intrude significantly into those architecturally plainer rear rooms and spaces. Consequently, any material effect on the overall plan form of the building or its special character is sufficiently mitigated.
21. Therefore, as the works affect the plainer, more utilitarian rear parts of one building, which has already undergone various internal changes over time, the effect of the works on the special interest of the wider listed terrace would be negligible.
22. Alternative locations for the lift have also been explored in a 'Lift Options Study'⁵ discussed in some detail within the appellant's BHS. The options considered comprised three external locations and two internal positions, including the appeal scheme. Given the 'wedge-shaped' form of the building, the rear elevation is relatively narrow, which limits the options for external lifts.
23. The possibilities considered appear variously to involve cutting into the structure of the building or creating an enlarged exterior adjunct with a landing, which would alter the external form of the building. Another of the external alternatives would block existing windows. It is also relevant that a previous proposal for an external lift, dating back to 2011, was refused. The internal option considered would project into rear rooms and involve the loss of historic fabric, including floors and ceilings by creating a new opening.
24. The Council indicates various general locations where lifts are more likely to be considered acceptable in listed buildings, including within or adjacent to staircase compartments or within an extension. However, the relatively unusual plan form of this building presents particular constraints. Alternative locations such as within existing circulation spaces would be likely to entail significant and harmful changes, such as the modification or loss of the existing stair, which would be unacceptable.
25. Accordingly, it seems to me that there has been a reasonable exploration of alternatives and that the use, with some enlargement, of the pre-existing shaft

⁵ Prepared by BCR Chartered Architects: Drawing No 1774-SK110

associated with the dumb waiter, a later modern addition, is a logical location for the lift. A lift would also improve accessibility throughout this five-storey building and its basement.

26. On balance, therefore, having carefully considered the range of factors discussed above, I conclude that the works, including those aspects already completed, preserve the special architectural and historic interest of the listed terrace, of which the appeal building forms a part. This satisfies the requirements of the Act and paragraph 192 of the Framework.
27. There is no requirement for listed building consent determinations to be made in accordance with the development plan, as they are not subject to s.38(6) of the Planning and Compulsory Purchase Act 2004. However, development plan policies can, where relevant, be material considerations. In this case, given my conclusion, the works comply with policies S25 and S28 of the Westminster City Plan⁶ and policies DES 1 and DES 10 of the Council's Unitary Development Plan⁷ which indicate, amongst other things, that listed buildings should be conserved and upgraded sensitively to make them easily accessible whilst meeting high quality standards of design.

Other Matters

28. Although the appeal building is within the BCA, as I have not identified any harm and the works are internal, they would not have an adverse effect on the character and appearance of the conservation area.

Conditions

29. The Council has suggested conditions which I have considered, making amendments, if necessary, to ensure compliance with the tests contained in the Framework⁸ and the Planning Practice Guidance (PPG). A condition requiring new work and work of making good to match existing work is necessary to safeguard the special interest of the building, which forms part of a listed terrace. A separate condition suggested by the Council relating to the plans or drawings is not necessary as the formal wording of the decision refers to the plans submitted with it.

Conclusion

30. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

JP Tudor

INSPECTOR

⁶ November 2016

⁷ Adopted January 2007

⁸ Paragraph 55