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## Appeal Decisions

Site visit made on 18 September 2019

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

**an Inspector appointed by the Secretary of State**

**Decision date: 04 November 2019**

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### **Appeal A - Ref: APP/X5990/W/19/3227805**

#### **17 Warrington Crescent, London W9 1ED**

- 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 Mrs Roshie Bouchier against the decision of City of Westminster Council.
  - The application Ref: 18/10738/FULL, received on 19 December 2018, was refused by notice dated 6 February 2019.
  - The development proposed is conversion of vacant vaults (under pavement) into bedroom suite; amended layouts for bathrooms 2, 3 and 4; all in front zone of lower ground floor.
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### **Appeal B - Ref: APP/X5990/Y/19/3227807**

#### **17 Warrington Crescent, London W9 1ED**

- 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 Mrs Roshie Bouchier against the decision of City of Westminster Council.
  - The application Ref: 18/10739/LBC, received on 19 December 2018, was refused by notice dated 6 February 2019.
  - The works proposed are conversion of vacant vaults (under pavement) into bedroom suite; amended layouts for bathrooms 2, 3 and 4; all in front zone of lower ground floor.
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### **Decision – Appeal A**

1. The appeal is dismissed.

### **Decision - Appeal B**

2. The appeal is dismissed.

### **Preliminary Matters**

3. 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).<sup>1</sup>
4. The appellant has submitted plans for an alternative scheme<sup>2</sup> with the appeal to be considered in addition to the original proposal. As the changes are

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<sup>1</sup> February 2019

<sup>2</sup> Plans 1B, 2B, 3B and 4B

relatively minor, no parties would be prejudiced by me also considering that alternative scheme.

## **Main Issues**

5. The main issues, relating to both appeals, are:

- whether the proposals would preserve the special interest of the Grade II listed terrace at 1-49 Warrington Crescent, of which the appeal property forms a part; and,
- the effect on the character and appearance of the Maida Vale Conservation Area (MVCA).

## **Reasons – both appeals**

### *Listed Building*

6. The appeal property, 17 Warrington Crescent, comprises six storeys, including its lower ground floor and mansard roof, and forms part of a Grade II listed terrace of similarly designed Victorian town houses. Like many of the grand, spacious properties along the terrace and in the wider area, No 17 has been sub-divided into flats and the proposal concerns the flat occupying the ground and lower ground floors. The proposed changes are restricted to lower ground floor level. They are to convert two basement vaults, located beneath the pavement within a large lightwell, into a bedroom suite, which involves the replacement of the vault doors and some internal alterations. There would also be some alterations in the main part of the building.
7. This fine mid-Victorian terrace is of high architectural quality. It is constructed of stock brick with a Welsh slate roof. Drawing further on the list description, the terrace is characterised by impressive stucco detailing and a classical form. It is adorned by projecting porches supported by Ionic columns, first floor balustraded balconies with casement windows in pedimented surrounds and flanked by, this time, Corinthian columns. A splendid scrollwork frieze and cornice demarcates the second floor with the attic floor and a further cornice just below the mansard roof. Although some pediments have been lost, the design is largely uniform with the terrace presenting an imposing but elegant façade to the street, with similarly designed properties on the opposite side of the wide tree-lined road.
8. Low iron railings enclosing generous lightwells serving the basement levels are a feature of the street. The appellant advises that the properties along the terrace originally had three vaults beneath the pavement. Used mainly to store coal they became obsolete for that purpose and many have since been converted for use as bedrooms, bathrooms or storage. Indeed, one of the vaults at the appeal property is already incorporated within the flat as a bedroom, but it retains its vaulted ceiling and partition wall, albeit now plastered.
9. At the time of my site visit, the entrance to one of the other two vaults was boarded up, which the appellant's appeal statement indicates is because the door has rotted. However, the northernmost vault appeared to be in its original form with exposed historic brickwork, vaulted ceiling, partitions and its coal hole to the street above still visible. Given the solid construction, there is no reason to suppose that the other vault is not in a similarly intact state,

notwithstanding the condition of the door which could be repaired or replaced. That view appears to be supported by photographs within the appellant's appeal statement.

10. Given the above, the special interest of the building and the listed terrace, of which it forms part, is principally associated with the high-quality architecture of its grand, imposing façade. The terrace is also testament to the planned development of this part of Maida Vale during the mid-19<sup>th</sup> century with impressive brick and stuccoed terraces, in this case, backing onto communal gardens. Although subsidiary features, the historic vaults, still in their original format at the appeal property, contribute to the character of the host building and the special interest of the terrace.
11. Significantly, the Council advises in its appeal statement that it: *'has no objection in principle to the residential occupation of pavement vaults, subject to detail and the preservation of legible historic plan form and fabric. A large number of Listed Building and Planning Consents have been given for the conversion of similar vaults up and down Warrington Crescent and for alterations at lower ground floor. However detailed assessment of each of the consents would show that in each consented instance the essential historic character is retained, limited loss of plan form is proposed and proposed detailed design is historically suitable and reflective of the host building and Maida Vale Conservation Area.'* I see no reason to disagree with that general approach.
12. However, amongst other things, the Council objects to the replacement of the two existing vault doors with glazed timber-framed doors with fan lights above for ventilation. Its view is that they would be *'alien to the character and appearance of the host building and wider Conservation Area.'* It holds, referring to photographs supplied by the appellant of other vault conversions along the terrace, that *'small, traditionally detailed sliding sash windows in place of doors'* would be more acceptable in design terms.
13. While I note the Council's assessment, I am not convinced that replacing historic door openings with windows, even *'traditionally detailed sliding sash windows'*, would be more sympathetic to the character of the host building than replacing a door with a door. The appellant also points to changes approved by the Council at No 37A which included: *'Existing window removed and replaced with new painted timber door with acid etched single glazed units.'*<sup>3</sup>
14. Given the Council's own assessment that the vault doors contribute to the special interest of the listed building, with which I agree, it seems to me that it would be acceptable for them to be replaced with the glazed timber-framed doors proposed, which respect the historic openings within the original elevation. The fanlight element of the door is neither here nor there.
15. Although I agree with the appellant regarding the acceptability of the replacement doors, the proposal would also involve the removal of the original internal partition walls between the vaults in their entirety. While the submitted plans are limited in detail in some respects, they appear to indicate that the vaulted ceilings would also be lost, a point made by the Council and not refuted by the appellant. The already converted vault which currently

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<sup>3</sup> 15/04994/FUL

accommodates 'bedroom 4' would be subdivided by a new wall to create a kitchenette. A further section of wall would also be inserted in the northern vault to form a bathroom. As a result of those changes, the legibility of the original form of the vaults would be undermined. Within the main building the scheme would include a widened opening in the front elevation, removal of a section of original wall and the installation of an internal wall in a new location. Cumulatively, the extent and nature of the proposed changes would be unsympathetic and harmful to the historic form and fabric of the building.

16. The Council refers to various other examples of approved conversions of front pavement vaults along the road which it considers acceptable. In particular, it refers to a scheme at 6 Warrington Crescent<sup>4</sup> where framed openings between the vaults and the retention of features such as vaulted ceilings were considered to minimise the effect on the special interest of the listed building. The design of the appeal proposal, which removes vault walls in their entirety and does not appear to retain the vaulting, fails to exhibit sufficient sensitivity to the original, authentic, unmodified form of the vacant vaults.
17. Numerous examples of vaults converted into habitable accommodation along the terrace are cited by the appellant, many of which I saw from the street on my site visit. However, the Council does not dispute the principle of conversion but the particulars of the proposed design.
18. In support of the appeal proposal, the appellant refers to a consented conversion scheme at 3 Warrington Crescent<sup>5</sup>, maintaining that it involved more significant change. However, as the Council indicates, it appears from the relevant plans that where an internal vault wall was removed nibs were left and the widening of another opening was minimal. Therefore, the historic form of the vaults remained legible and loss of fabric was limited.
19. Approved proposals at Nos 1<sup>6</sup> and 37a Warrington Crescent<sup>7</sup> are also cited by the appellant. No 1 is an end-of-terrace building with a different layout and the proposal involved the conversion of a vault to a bedroom with no significant change to the vaulting or plan form. It appears from the plans that the extent of demolition in the vaults at 37a was very limited. Aspects of approved changes at No 34<sup>8</sup> are also referred to by the parties but that involved alterations to already converted vaults. Therefore, there are material differences between those schemes and the appeal proposal before me. In any event, all proposals must be judged on their individual merits and characteristics, which is the approach I have taken in determining these appeals.
20. As mentioned earlier, a possible alternative scheme has been submitted with the appeal for consideration. It proposes replacing the solid vault doors with new sash windows instead of glazed doors, which appears to be in response to the Council's preference. However, as explained above, I consider the replacement of the vault doors with new doors to be acceptable.
21. Aside from that the alternative scheme involves, in the appellant's words, '*some minor adjustments to the internal layout*'. While the amount of internal

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<sup>4</sup> 16/09436/FULL

<sup>5</sup> 12/10557/FULL

<sup>6</sup> 18/03483/FULL

<sup>7</sup> 15/04994/FULL and 15/03077/LBC

<sup>8</sup> 16/08078/FULL

vault walling to be removed is reduced, one wall would still be demolished completely, and the vaulting would be lost. Therefore, the proposal does not significantly change the scheme or address the harm already identified.

22. Although the appellant refers to the limited visibility of the changes, listed buildings are protected for their inherent architectural and historic interest irrespective of whether or not public views of the relevant parts can be gained.
23. Overall therefore, I conclude that both the original proposal and the alternative scheme would fail to preserve the special interest of the listed terrace, of which the appeal property forms a part. It follows that they would fail to satisfy the requirements of the Act and paragraph 192 of the Framework. Of the various policies referred to by the Council, the most significant conflict would be with policies S25 and S28 of the Westminster City Plan (WCP)<sup>9</sup> and policies DES1, and DES5 of the Council's Unitary Development Plan (UDP).<sup>10</sup> Amongst other things, they seek to ensure that development conserves and respects Westminster's heritage assets and that it incorporates exemplary standards of sustainable and inclusive urban design.

#### *Maida Vale Conservation Area*

24. The appeal property also lies within the MVCA. The architectural quality and grandeur of the Grade II listed Warrington Crescent, which is described in more detail above, clearly makes an important positive contribution to the significance of the conservation area.
25. However, although I have identified harm to the special interest of the listed terrace, I do not consider that the proposed schemes would be detrimental to the character and appearance of the MVCA. That is because the proposed alterations are mainly internal and at lower ground floor level and relate to part of one building within a terrace. The externally visible changes are largely confined to replacing the two vault doors with timber-framed glazed doors or, in the alternative, sash windows. In addition, the elevation of the vaults is beneath pavement level and faces towards the main house. Therefore, notwithstanding the spacious lightwells, public views and even private views would be relatively limited.
26. Moreover, I have not found that the external elements of either of the proposed schemes would, in any case, be harmful, given the variety of conversions along the terrace, subject to a condition controlling the detailed design of the doors or windows. It is also proposed to re-pave the courtyard area in the lightwell with York Stone, which would improve its appearance. That would be of some benefit, even though public views are limited. The other proposed alterations are within the main house and would not be seen from the public realm.
27. Unlike listed buildings, the significance of a conservation area is dependent upon how it is more widely experienced. In such circumstances, it is established that proposals should be judged according to their effect on a conservation area as a whole and should, therefore, at least have a moderate degree of prominence in public and/or private views to cause material harm.

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<sup>9</sup> November 2016

<sup>10</sup> Adopted January 2007

28. Given the above, I conclude that the proposals would not be detrimental to the character or appearance of the MVCA and thus would preserve it. Therefore, there would be no conflict with relevant development plan policies or the Framework in that respect.

### **Planning Balance and Conclusion**

29. Paragraph 193 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm. Echoing that approach, Framework paragraph 194 advises that any harm, or loss of, the significance of a designated heritage asset, including from its alteration, should require clear and convincing justification.
30. Although there would be no harm to the MVCA, there would be adverse effects on the special interest of the listed terrace. However, the harm relates to relatively limited changes at lower ground floor level to parts of one building within the terrace. The alterations are mainly internal and predominantly affect a subsidiary part of the building. The changes in the main building are confined to a lower ground floor, which is generally considered to be of lesser importance than the principal ground and first floors. Moreover, the building, along with many others in the terrace, has already been divided into flats, involving changes to its original form. Overall therefore, I consider that the harm to the significance of the designated heritage asset would, in the language of the Framework, be 'less than substantial'. I note that the Council took a similar view.
31. 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.
32. I appreciate that the appellant states that more liveable space is required within the flat as adult children of the family have returned to London after university. However, the proposals would add only about 11.5m<sup>2</sup> to the living space and the number of bedrooms would not change. Nonetheless, the additional space and internal reconfiguration would improve living conditions to a modest extent.
33. However, the Planning Practice Guidance says that public benefits '*should be of a nature or scale to be of benefit to the public at large and not just be a private benefit.*'<sup>11</sup> Therefore, while I am not unsympathetic to the motivation for the changes and it is acknowledged that they would better use currently unused space, the proposals are essentially for the private benefit of the occupants.
34. The existing residential use of the flat is not dependent on the scheme and would continue irrespective of it. Therefore, the viable use of the building and the listed terrace would be unaffected.
35. There would be some public benefit in improving the appearance of the courtyard through re-paving, although public views are restricted. The appellant also says that converting the vaults and improving the bin storage area would help to address vermin problems in the locality. However, those

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<sup>11</sup> Paragraph: 020 Reference ID: 18a-020-20190723

benefits would be relatively limited and insufficient to outweigh the less than substantial harm to the listed terrace, which must be given great weight. Furthermore, such benefits, and the better use and maintenance of the now obsolete vaults, along with the private benefits referred to above, could potentially be achieved by an alternative scheme, which did not cause harm to the listed terrace.

36. For the reasons given above, and having regard to all other matters raised, I conclude that both Appeal A and Appeal B should be dismissed.

*JP Tudor*

INSPECTOR