
Appeal Decisions

Site visit made on 19 November 2019

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

an Inspector appointed by the Secretary of State

Decision date: 03 December 2019

Appeal A - Ref: APP/X5990/W/19/3235873 **80 Chester Square, London SW1W 9DU**

- 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 Vivek Mathias against the decision of City of Westminster Council.
 - The application Ref: 19/03654/FULL, dated 13 May 2019, was refused by notice dated 10 July 2019.
 - The development proposed is replacement of lift shaft and glass enclosure within enclosed lightwell, erection of a single storey rear extension at first floor level of the mews and glazed enclosure to connect with the principal building first floor level, new terrace at second floor level, basement extension beneath the existing garage and associated works.
-

Appeal B - Ref: APP/X5990/Y/19/3235872 **80 Chester Square, London SW1W 9DU**

- 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 Vivek Mathias against the decision of City of Westminster Council.
 - The application Ref: 19/03655/LBC, dated 13 May 2019, was refused by notice dated 10 July 2019.
 - The works proposed are replacement of lift shaft and glass enclosure within enclosed lightwell, erection of a single storey rear extension at first floor level of the mews and glazed enclosure to connect with the principal building first floor level, new terrace at second floor level, basement extension beneath the existing garage and associated external and internal alterations.
-

Decision – Appeal A

1. The appeal is dismissed.

Decision – Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. The description of development and works in the banner headings above are taken from the Council's decision notices and the appeal forms, as they more fully and accurately describe the proposal than that contained in the application form.
4. 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).¹

5. The parties advise that planning permission and listed building consent were granted on 25 June 2019 for a replacement of lift shaft and glass enclosure with enclosed lightwell, erection of a single storey rear extension at first floor level of the mews, basement extension beneath the existing garage and associated works (the approved scheme).² I am advised that the current proposal essentially mirrors that approved scheme but, in addition, includes a new glazed connection to the principal building at first floor level and a new roof terrace at second floor level. As it is those additions which are at issue between the parties and given the extant consents, I will focus on those aspects within this decision.

Main Issues

6. The main issues are:

- Appeal A and B – the effect of the proposal on the special interest of the Grade II listed terrace at 77-80 Chester Square, of which the appeal property forms a part, and on the character and appearance of the Belgravia Conservation Area (BCA); and,
- Appeal A – the effect of the proposed development on the living conditions of neighbouring occupiers at 79 Chester Square, with particular regard to privacy.

Reasons

Listed building

7. The appeal property at 80 Chester Square is a substantial end of terrace townhouse on the north-east side of the square. It comprises a basement, four storeys and an attic mansard. To the rear is a three-storey extended mews which adjoins and connects to the main building. The site is used as a single family dwelling. This prominent corner house forms part of a short Grade II listed terrace from 77-80 Chester Square. According to the list description, the houses were planned in 1828 with construction beginning in about 1835. The appellant's Heritage Statement (HS)³ advises that the square was designed to be a grand imitation of Eaton Square and was completed in the 1840s.
8. No 80 is characterised by elegant stuccoed elevations and is of similar composition and materials to the other grand dwellings which form Chester Square, with cast iron first floor balconies, pilasters and cornices at second and third floor levels. Internally, while much of the basic plan form remains, the parties agree that following previous alterations there is little in the way of original features or detailing.
9. Given the above, I consider that the special interest of the building lies primarily in the high quality architecture and features of its external elevations, in common with the other terraced dwellings which form the square. The rear of the terrace backing onto Chester Square Mews is more varied in form but,

¹ February 2019

² 19/02954/FULL and 19/02955/LBC

³ Prepared by: Heritage Collective, dated: May 2019

although connected to the principal building, the main rear elevation and mews element of the appeal dwelling remain distinct and these historic elements also make a contribution, albeit more modest, to the significance of the listed building.

10. Historically, the terrace serves as important evidence of the planned 19th century development of this part of Belgravia. The HS also advises that the notable film actor Steve McQueen resided at No 80 for two years while filming in London in the 1970s.
11. The proposed new breakfast room, extending out from the rear of the mews building, would be linked to the rear of the principal building, at its higher first floor level, via a glazed connection. The appellant's HS acknowledges the importance of the visual separation between the rear of the mews and the main dwelling house but submits that the use of glazing would enable that separation to continue to be read. However, the proposal still comprises a physical structure, enclosing a glazed staircase and balustrade, linking the main house to the mews building at first floor level. Therefore, in my view, notwithstanding the glazed design, the proposal would still close the gap and separation between the mews and the main building at that level, which is an acknowledged feature of the historic form of the building, which contributes to its significance.
12. Furthermore, the first and second floor levels of the main house are higher than their equivalents in the mews building. Therefore, although modern design can be acceptable, in this case the glazed extension enclosing the lightwell and introducing a stairs and balustrade would, as it terminates just below the second floor of the main house, be a visually prominent and incongruous addition to the main building.
13. Although not apparent in public views the glazed link and stair, would be noticeable from the upper floor windows of adjacent buildings, particularly from the adjoining property at No 79. In any event, listed buildings are safeguarded for their inherent architectural and historic interest, irrespective of the extent of public views.
14. The appellant has also latterly suggested the possibility of a trellis on top of the low wall of the proposed second floor terrace, to mitigate potential overlooking, an aspect that I will consider in more detail later in this decision. However, in order to be effective in that regard, the trellis would need to be relatively solid with, at most, narrow gaps between the wooden slats, which would make it a comparatively prominent feature at an elevated level. Therefore, while trellis may be present at some properties in the area, in combination with the other proposed additions, gradually ascending in height and adjoining the historic rear elevation of the main building, the overall effect on the special interest of the building and the terrace would be detrimental.
15. While a first floor single-storey glass extension to the mews was accepted under the approved scheme, it appears from the section plan⁴, supplied by the Council, that the approved proposal retains a gap at first floor level between the extension and the main building. Although that scheme incorporated an element of trellis, it was at a lower height to that now suggested and was not associated with a second floor terrace. Moreover, it is acknowledged by the

⁴ Council Appeal Statement: Appendix 4 – 'Approved Section BB'

parties that the disputed elements of the appeal scheme materially differ from the approved scheme. In any event, all proposals must be judged on their individual merits, which is the basis on which I have dealt with this appeal.

16. On balance, therefore, the above factors lead me to conclude that, the proposed glazed connection to the principal building at first floor level would have an adverse effect on the special interest of the listed terrace, of which the appeal property forms a part. There would still be harm, even if it was considered that the suggested additional trellis was not necessary. It follows that the proposal would fail to satisfy the requirement of the Act and paragraph 192 of the Framework. It would also fail to comply with policies s25 and s28 of the Westminster City Plan (WCP)⁵, which seek to ensure that development conserves and respects heritage assets, including listed buildings, and meets exemplary standards of sustainable and inclusive urban design.
17. In addition, the proposal would conflict with policies DES 1, DES 5 and DES 10 (A) of the Council's Unitary Development Plan (UDP)⁶ which, amongst other things, seek to ensure that development is of high quality design, retains significant gaps between existing buildings and that it protects the special interest of listed buildings.

Belgravia Conservation Area

18. The listed terrace is located within the BCA. The 'Conservation Area Audit: Belgravia'⁷ indicates that the distinctive character of the conservation area derives from the combination of opulent stucco terraces, spacious streets and verdant garden squares. The consistent use of materials and repetition of classical architectural detailing contributes to a largely uniform and coherent townscape. Chester Square, which includes the listed terrace at Nos 77-80, reflects many of those characteristics which contribute to the significance of the BCA.
19. While the mews properties set behind the main squares have a more intimate feel and are subservient to the impressive facades of the stuccoed terraces, they also contribute to the significance of the BCA. However, although there would be some private views of the external changes at issue, the rear location and the surrounding built form would mean that those alterations would not be visible in public views. Unlike listed buildings, the significance of a conservation area is partly dependent on how it is more widely perceived. In this case, as the external changes relate to the rear part of one building within the listed terrace with limited views, I conclude that the proposal would not have a detrimental effect on the character or appearance of the BCA, considered as a whole.

Living Conditions

20. Unlike the previously approved scheme, the appeal proposal would introduce a new terrace at second floor level on top of the proposed breakfast room, which would itself be constructed on top of the existing first floor terrace.
21. The proposed boundary wall, separating the new terrace from the adjacent property at No 79, would be only 1.16 metres high. Although it would be

⁵ November 2016

⁶ Adopted January 2007

⁷ Consultation Draft: dated: 23 October 2013

supplemented by planters which should prevent people from standing immediately adjacent to the boundary, there would still be potential overlooking towards a rear extension and the mews element of No 79. There would also be views towards some of the windows in the main rear elevation of that dwelling. Given the density of development to the rear and the proximity and elevated, open nature of the proposed terrace, the changes would lead to overlooking or the perception of being overlooked. That would adversely affect the privacy of occupiers of No 79.

22. Although the appellant points out that there have been no objections from occupiers of No 79, that could be for any number of reasons. In any event, under the development plan and national policy, it remains necessary to consider effects on the living conditions of current or future occupiers of neighbouring properties.
23. Within his appeal statement, as already alluded to, the appellant expresses a willingness to accept a condition requiring the provision of trellis or similar above the proposed low boundary wall, to raise the overall height to 1.86 metres, which would be supplemented with landscaping. The negative effect on the listed building of that suggestion has been considered above. With regard to privacy, whilst it would limit overlooking of the rear of No 79, there would still be views from the terrace back towards the windows in the main rear elevation of that property. Therefore, even if considered acceptable in relation to the effect on the listed building, the mitigation would not be sufficient.
24. The appellant submits that there are already views into the adjoining property from the existing terrace on the fourth floor of the principal building at the appeal site. However, those views from fourth floor height are more distant and, as with views from the storeys below, do not include views back towards windows within the main rear elevation of No 79. An existing view back towards the main terrace from the bathroom in the mews is also referred to, but given its bathroom use it is not likely that people would be looking out of that small window toward the adjoining dwelling. It is also further away from adjacent windows than the new terrace would be. Therefore, I do not consider that those existing views are the equivalent to those that could be obtained from the proximity of the new terrace.
25. Proposals approved by the Council at 67 and 73 Chester Square in 2013 and 2014, respectively, are cited by the appellant as material.⁸ While the appellant refers to the scheme at No 67 as similar, the relevant Officer's Report indicates that the proposal involved the demolition and rebuilding of the mews property and the two storey link between the mews and the main building. It also says that the existing terrace will be re-provided on the roof of the new link building and will '*occupy a similar location and footprint as the existing*'. Moreover, that several properties along the terrace have similar terraces including the adjacent properties. Therefore, while I do not have full details of that scheme, it appears that there are some material differences between it and the appeal scheme, which relates to another terrace where the pre-existing situation appears to differ.
26. The Officer's Report relating to the approved scheme at No 73, again part of another terrace in the square, appears to indicate that the terrace in that case

⁸ Refs: 13/02239/FULL and 13/12438/FULL

is above the roof extension to the mews. The report also says that the *'extension would be distanced from the rear elevation of the main buildings.'* Therefore, although I do not have full details or relevant plans and I note the assessment of the effects of views towards the lightwells of adjacent buildings, it appears that the location of the terrace in relation to the rear elevations of the main building terrace differs from the appeal proposal.

27. Therefore, while there are some similarities between those approved schemes and the appeal proposal there are also material differences. Consequently, I give them limited weight. In any event, I have considered the appeal proposal before me on its own site-specific merits.
28. Given the above, I conclude that the proposed second floor terrace would harm the living conditions of occupiers of No 79 Chester Square, with particular regard to privacy. I do not consider that the adverse effect could be sufficiently mitigated by the condition suggested by the appellant or other possible conditions. Consequently, the proposal would conflict with policy S29 of the WCP and policy ENV 13 of the UDP, which seek to safeguard residential amenity and ensure that development does not result in significant overlooking.

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 to, or loss of, the significance of a designated heritage asset, including from its alteration, should require clear and convincing justification.
30. I have found no adverse effect on the character or appearance of the BCA. While I have found harm to the special interest of the listed terrace, given the already approved scheme and that the harm relates to a glazed link to the rear of the appeal building, I consider that the overall level of that harm would, in the language of the Framework, be 'less than substantial'.
31. Although such harm attracts great weight and importance, paragraph 196 of the Framework indicates that the 'less than substantial harm' should be weighed against the public benefits of the proposal, which can include the optimum viable use of listed buildings. The continued viable use of the building as a dwelling is not dependent on the proposal. While there may arguably be some heritage benefits associated with other alterations within the overall scheme, such as the opening up of some blind windows, they are not sufficient to outweigh the less than substantial harm caused. In any case, it is understood that those changes would also be achieved under the previously approved scheme. Any other benefits, such as the improvement in internal living space are essentially private benefits to the appellant rather than to the public.
32. Furthermore, in relation to Appeal A, there would be harm to the living conditions of adjoining occupiers, with regard to privacy, which would conflict with relevant development plan policies.

33. Other elements of the proposal are not in dispute and are considered acceptable by the Council. I see no reason to take a different view on those aspects. However, I understand that they also form part of the previously approved scheme. Therefore, there would be no apparent purpose in me exercising my discretion to issue a split decision to allow those parts of the proposal and no such request has been made by the appellant.
34. 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