
Appeal Decisions

Site visit made on 7 January 2020

by **S J Papworth DipArch(Glos) RIBA**

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

Decision date: 23 January 2020

Appeal A: APP/X5990/W/19/3237744 **93 Warrington Crescent, London W9 1EH**

- 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 Golden Brick Pubs Limited against the decision of City of Westminster Council.
 - The application Ref 19/02726/FULL, dated 9 April 2019, was refused by the Council by notice dated 13 August 2019.
 - The development proposed is rooftop extension to create a mansard accommodating 5 additional hotel rooms.
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Appeal B: APP/X5990/Y/19/3237747 **93 Warrington Crescent, London W9 1EH**

- 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 Golden Brick Pubs Limited against the decision of City of Westminster Council.
 - The application Ref 19/02727/LBC, dated 9 April 2019, was refused by the Council by notice dated 13 August 2019.
 - The works proposed are rooftop extension to create a mansard accommodating 5 additional hotel rooms.
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Decision Appeal A

1. I allow the appeal and grant planning permission for rooftop extension to create a mansard accommodating 5 additional hotel rooms at 93 Warrington Crescent, London W9 1EH in accordance with the terms of the application, Ref 19/02726/FULL, dated 9 April 2019, subject to conditions 1) to 8) on the attached schedule.

Decision Appeal B

2. I allow the appeal and grant listed building consent for rooftop extension to create a mansard accommodating 5 additional hotel rooms at 93 Warrington Crescent, London W9 1EH in accordance with the terms of the application, Ref 19/02727/LBC, dated 9 April 2019 and the drawings submitted with it or as amended, namely 7244/-09B, 10B, 11B, 12B, 13B, 14B, 15B and 16B, and subject to conditions 1) to 5) on the attached schedule.

Main Issue

3. In both Appeal A and Appeal B, the main issue is the effect of the proposal on the architectural or historic significance of the listed building and the character

and appearance of the Maida Vale Conservation Area, including the effect on protected trees.

Reasons

4. Policy S25 of the City Plan states that heritage assets will be preserved and Policy S28 seeks exemplary standards of sustainable and inclusive urban design and architecture. Biodiversity and green infrastructure will be protected under Policy S38. Unitary Development Plan saved Policy DES 1 sets out the principles of urban design, while Policy DES 6 is specific to roof level alterations and extensions, setting out the circumstances where such proposal may be refused or allowed. Policies DES 9 and DES 10 concern conservation areas and listed buildings, and Policies ENV 16 and ENV 17 detail requirements for trees, nature conservation and diversity.
5. The Council has published Supplementary Planning Guidance '*Repairs and Alterations to Listed Buildings*' and at paragraph 6.1 on roofs states that the form, structure and materials of historic roofs are almost always of interest, and the presumption will be in favour of their retention. The concealed roof of a traditional terraced house can be just as significant as a steeply pitched roof which is visible from the street. Many original roofs on terraced houses in Westminster have been replaced by later mansard roofs. Where original roofs survive, including the 'm'-shaped or double pitched roof, these should normally be preserved. Later roofs may also be of special interest.
6. Another publication, '*Roofs, a Guide to Alterations and Extensions on Domestic Buildings*' has been referred to and the Introduction makes clear that much of the advice is applicable to commercial buildings, especially those of 'classical' design. The section on mansard roofs states the aim of assisting in the design of mansard roofs which will be appropriate extensions on a large number of buildings in the City, where the principle of a roof extension is considered acceptable with reference to Development Plan policies. General rules are set out which include that chimney stacks should be raised to a minimum 1000mm above the new roof level.
7. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the same Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
8. Paragraph 193 of the 2019 National Planning Policy Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to its conservation.
9. The building occupies a corner site at an acute angle between Warrington Crescent and Randolph Avenue and is at the roundabout junction of these and other roads. While one side abuts the adjoining end-of-terrace number 91, there are 2 decorative elevations which address the road junction and longer views, and a third rear elevation exposed in the gap alongside 79a Randolph Avenue. A group of trees protected by an Order occupy a triangular seating area of the red-line site to the north of the building. Two traditional red phone boxes are also in place on this area with another to the Warrington Crescent footway.

10. The Council have drawn attention to this being one of 4 end features to roads meeting at the roundabout, the other three at the Warrington Crescent/Sutherland Avenue junction, the Sutherland Avenue/Lauderdale Road junction and the Lauderdale Road/Randolph Avenue junction are similarly rendered but have low roofs over conventional overhanging eaves with bracket supports. The appeal building is markedly different in its architectural treatment and roofline, and other than performing the termination of the respective roads and terraces, bears limited similarities in its character and appearance, its use and how it appears as part of the townscape.
11. The architectural significance of the building is in the exuberance of the mouldings, particularly around the main entrance onto Warrington Crescent where there are also highly decorative columns and panels, and the near symmetry of both that and the shorter Randolph Avenue elevation. Both façades are capped with a pediment bearing the name of the hotel as part of a parapet arrangement, the low roof behind being hardly seen. To the junction with the terrace to the south-west there is a low part which allows a view of a conventional eaves to the main roof with brackets, while to the south-east there is a short return face of parapet before the conventional eaves and brackets begin. This last face has substantially less architectural significance as designed and has been subject to various harmful additions such as vents, trunking and stairs.
12. The historic and social significance is to be found in this being a surviving example of a public house and hotel, still in that use and retaining many of the original features of that use both outside and in. Its appearance signals that non-residential use and it stands as a distinctive feature of the road junction, contributing positively to the character and appearance of the conservation area.
13. Having mind to the nature of the proposal, the addition of further storey of guest accommodation, it is appropriate to consider in more detail the contribution that the present roof arrangements make to significance. The shallow fully hipped roof was designed not to be seen and although the repairs and alterations guidance refers to concealed roofs having significance, and that is no-doubt true of such as the 'm'-shaped ones referred to, the appeal roof is a utilitarian way of covering the area and of limited architectural or historic interest. The use of a conventional eaves in place of the parapet where an architectural presence was not required is of interest, and the brackets are features of moderate significance, being restricted to the less decorative façades. As the Council state, there is historic fabric in the roof structure, covering and ceilings, and the loss does need to be put in the balance.
14. With regard to the sky-line provided by the pediments and parapets, that is a feature of some significance, but is more a product of the architectural treatment of the 2 main façades and if built with a mansard, as were so many parapet-roofed properties of similar age and use, that would not appear out of place on the building or jarring in the street-scene. As stated in the guide to alterations and extensions, a mansard addition will be appropriate on a large number of buildings, according to the situation, and Policy DES 6 contains specific criteria as follows;
15. *(A) Permission may be refused for roof level alterations and extensions to existing buildings.....in the following circumstances:*

- 1) where any additional floors, installations or enclosures would adversely affect either the architectural character or unity of a building or group of buildings.* The architectural character of the building below and including parapet level is so strong and singular in the area that it would not be adversely affected, and the use of a mansard would go largely un-noticed as if an original feature. So far as there is a group, including the 3 other corner villas, the appeal building already stands alone in its detailing and use and the addition would not alter that unity.
 - 2) where buildings are completed compositions or include mansard or other existing forms of roof extension.* There is no visible roof addition already in place and the facades do not give the impression of a completed composition that relies on a skyline of parapet and pediment alone.
 - 3) where the existing building's form or profile makes a contribution to the local skyline or was originally designed to be seen in silhouette.* There is no evidence that it was designed to be seen in silhouette, and the detailing of the mouldings below is so dominant as to allow the addition, in a dark colour and set back from the parapet and pediments, to be accepted.
 - 4) where the extension would be visually intrusive or unsightly when seen in longer public or private views from ground or upper levels.* Due to its set back, colour and limited additional overall height compared with the present roof, the addition would not be visually intrusive, and the addition of lighter dormers would not alter that perception.
 - 5) where unusual or historically significant or distinctive roof forms, coverings, constructions or features would be lost by such extensions.* The existing roof structure appears to be original fabric, and the covering and ceilings could well be largely original, albeit the former stated to be in need of repair in places. However, there is no evidence that either the fabric or the form is unusual, historically significant or distinctive. The brackets to the eaves section would remain, and although their function would be lost, their retention as a historic feature is acceptable.
16. *(B) Permission may be granted for new roof structures or additional storeys on existing buildings in the following circumstances:*
- 1) where the proposed development or form of alteration is in sympathy with the existing building's architectural character, storey heights and general elevational proportions.* The proposed use of a mansard on this building would be sympathetic to the elevational proportions, would suit the architectural character and the storey height appears reasonable for commercial premises, having mind to the existing floor levels.
 - 2) where the form and detailing of the extension either repeats or reflects the form, detailing or use of materials found in the existing building.* The dormers would follow the layout of windows below without adding unwarranted and fussy detailing, and there is no case for the overall form being more than a simple mansard, allowing the exuberance of the original mouldings to remain the dominant feature.
 - 3) where the proposed design accords with (or establishes an acceptable precedent for) similar extensions within the same group of buildings.* Whilst visible pitched roofs and dormers are common, the use of mansards is less so

and the nearest example at number 79a does not give a visual cue to its use on the appeal building, that neighbouring building being poorly detailed and proportioned.

4) where the design of extension avoids any infringement of the amenity or reasonable visual privacy enjoyed by the occupants of adjacent or nearby buildings. The appeal proposal would not cause harm to amenity or privacy.

17. The Council have been critical of the proposal to raise the chimney stacks, but that is a recommendation in the Guide to alterations and extensions. The addition of the mansard and the raising of the chimney stacks would give the building a greater, but wholly benign, presence on the road junction and the resulting greater height over that of the neighbouring terrace of number 91 onwards would emphasise the different use and the importance of the location. The lowered linking part to number 91 would remain to provide a visual and architectural break.
18. To conclude on this part of the main issue, the proposal would not cause harm to the architectural and historic significance of the listed building or to the character and appearance of the conservation area, and would accord with Policies S25, S28, DES 1, DES 9 and DES 10, and the requirements specific to such proposals in Policy DES 6 and local guidance. There would be some loss of fabric which will be weighed in the balance later in this Decision, but the architectural treatment and the effect on the historic and social significance of the building would be acceptable and in line with the requirements of the 1990 Act and the Framework.
19. Turning to the effect on trees, these are protected in their own right and are a prominent and positive feature of the conservation area and the setting of the listed building. The Council's Reason for Refusal alleges a lack of information while the appellant has provided information in line with BS5837: 2012 '*Trees in Relation to Design, Demolition and Construction – Recommendations*', and considers this sufficient at the present stage.
20. The proposal is for the upward addition to the building with no increase in its ground level footprint. Care would be required during the construction phase to avoid compression within the root protection zone through storage of materials and plant or possibly the siting of a crane, but there appears adequate space outside that area, and the protection of trees during construction could be dealt with by condition.
21. The Council state that as the trees on the site are protected by a Tree Preservation Order, permission should be obtained before carrying out any work on them, and the contact details for the Tree Officer are given in their Appeal Statement.
22. Longer term, there is concern that the proximity of the trees to the enlarged building could lead to pressure for harmful works. It was clear at the time of the site inspection that some limbs hang over the existing building, but with the mansard being set back from that façade line it is less clear that the situation would be materially worse. The use of the proposed additional floor would be the same as that of the existing second-floor, that is hotel guest accommodation, and the likelihood of there being additional concerns over proximity with a transient occupancy appears low. There may be the risk of debris blocking rainwater gutters or downpipes, to the detriment of the

- building, but that risk exists already with a less ready view of the event, whereas the proposed dormers would allow easy observation and access.
23. The appellant draws attention to the pollarding of street trees in the vicinity where they are on the frontage of buildings such as along Randolph Street and Sutherland Avenue, and such work is a feature of street trees in London generally. The trees on the appeal site are on private land and have been allowed to grow with less regular intervention, the appellant is clear that while there may be merit in them being treated similarly to others in the conservation area, heavier pruning or pollarding is not a necessity brought on by either the initial construction works or the longer term existence and use of the proposed roof addition.
24. In conclusion on this aspect of the Council's objections, the trees can be protected and would not be damaged so as to harm their long-term health and wellbeing so that the requirements of Policies S38, ENV 16 and ENV 17 would be met and they would continue to be a positive feature of the conservation area.
25. Notwithstanding the generally positive findings in this Decision, harm has been identified to the historic significance of the building through the loss of fabric. On the evidence, the level of harm would not only be 'less than substantial', a differentiation required between paragraphs 195 and 196 of the Framework, but relatively low down that long range. Paragraph 196 applies and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
26. The appellant states that increasing the number of bedrooms from five to ten would increase the efficiency of the hotel part of the building thus helping to secure viability for the works and future upkeep of the building. Whilst listed buildings are to be kept in good repair by private owners, viability of commercial premises is an important element in the ability to do that. Maintaining the building in the use for which it was designed, and for which it appears otherwise architecturally still well-suited, as well as retaining its presence on the street-scene and as a viable public house allowing the interior to be appreciated, is a consideration of substantial weight. The limited harm would be significantly outweighed by the benefits.
27. The proposed addition would satisfy the requirements of the Development Plan, Supplementary Planning Guidance and national policy on designated heritage assets, preserving the listed building and its setting, along with the character and appearance of the Maida Vale Conservation Area, in accordance with the statutory tests in the Planning (Listed Buildings and Conservation Areas) Act.

Conditions

28. Conditions seeking to protect the trees are essential, and they are in any event to be protected by Order. However, having mind to the limited area that they occupy, allowing for roots and canopy, it would not be reasonable to insist on a pre-commencement condition; paragraph 55 of the Framework states that conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification, and section 100ZA of the Town and Country Planning Act 1990 requires a process to ensure that they are not used unreasonably. Certain works could be carried out and the

planning permission and listed building consent commenced without risk of harm to the trees.

29. The Council have resisted the proposed use of lead for the sloping surfaces of the mansard, and whilst use of lead sheet and rolls would be acceptable for the parapet gutter-zone, the roof top and the dormer cheeks and roofs, slate would be the correct material for the visible slopes, with lead only for soakers, flashings and ridge rolls. That suggestion has not been commented on by the appellant despite being in the Council's Appeal Statement, and the Decision to allow the appeal is based on that use. Further conditions controlling the materials to be used in windows and the faces of the enlarged chimney stacks are necessary and reasonable. A condition naming the 'as proposed' drawings is required in the planning permission only for the avoidance of doubt, it being sufficient to name the drawing in the formal listed building consent.

Conclusions

30. There would be some minor loss of fabric but that limited harm would be outweighed by public benefits so that the proposals accord with local and national policy, guidance and statute on the preservation of designated heritage assets. For the reasons given above it is concluded that both appeals should be allowed.

S J Papworth

INSPECTOR

Schedule of Conditions – Appeal A – Planning Permission

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 7244/-09B, 10B, 11B, 12B, 13B, 14B, 15B and 16B.
- 3) No development, storage of materials or movement and use of plant shall take place within the root protection zone or within the canopy of the protected trees, or likely to affect the trees, until a Method Statement on the protection of the trees has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Method Statement.
- 4) No development, storage of materials or movement and use of plant shall take place within the root protection zone or within the canopy of the protected trees, or likely to affect the trees, until full details of auditable system of arboricultural site supervision and record keeping prepared by an arboricultural consultant who is registered with the Arboricultural Association, or who has the level of qualifications and experience needed to be registered has been submitted to and approved in writing by the Local Planning Authority. The details of such supervision must include:

- i) Identification of individual responsibilities and key personnel.
- ii) Induction and personnel awareness of arboricultural matters.
- iii) Supervision schedule, indicating frequency and methods of site visiting and record keeping.
- iv) Procedures for dealing with variations and incidents.

The approved supervision schedule shall be adhered to for the duration of the development work.

A written site supervision report shall be produced after each site monitoring visit, demonstrating that the supervision has been carried out and that the tree protection is being provided in accordance with the approved scheme.

If any damage to trees, root protection areas or other breaches of tree protection measures occur then details of the incident and any mitigation/amelioration must be included.

Copies of each written site supervision record shall be sent to the Local Planning Authority within five days of the site visit.

- 5) Notwithstanding the description in the application submission, the pitched roof slopes of the mansard extension shall be faced in natural slates to match the colour and size of the existing roof slates to the existing roof structure.
- 6) The dormers shall be faced in lead to sides, cheeks and roofs.
- 7) The new windows within the dormers shall be formed in glazing and white painted timber framing.
- 8) The new sections of chimney stacks shall be faced in stucco which shall be painted and permanently maintained to match the colour of the existing stucco facing to the existing building.

Schedule of Conditions – Appeal B – Listed Building Consent

- 1) The works hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Notwithstanding the description in the application submission, the pitched roof slopes of the mansard extension shall be faced in natural slates to match the colour and size of the existing roof slates to the existing roof structure.
- 3) The dormers shall be faced in lead to sides, cheeks and roofs.
- 4) The new windows within the dormers shall be formed in glazing and white painted timber framing.
- 5) The new sections of chimney stacks shall be faced in stucco which shall be painted and permanently maintained to match the colour of the existing stucco facing to the existing building.