



Appeal Decisions

Site visit made on 3 February 2020

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an Inspector appointed by the Secretary of State

Decision date: 24 March 2020

Appeal A Ref: APP/X5990/W/19/3239976 42-44 Grosvenor Gardens, London SW1W 0EB

- 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 Henderson Park against the decision of the Council of the City of Westminster.
 - The application Ref 19/02061/FULL, dated 19 March 2019, was refused by notice dated 14 May 2019.
 - The development proposed is the use of the second-floor terrace as a breakout space ancillary to the existing B1 office accommodation, and the installation of decking and the erection of a Perspex safety fence along the perimeter of the terrace.
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Appeal B Ref: APP/X5990/Y/19/3239975 42-44 Grosvenor Gardens, London SW1W 0EB

- 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 Henderson Park against the decision of the Council of the City of Westminster.
 - The application Ref 19/02062/LBC, dated 19 March 2019, was refused by notice dated 14 May 2019.
 - The development proposed is the use of the second-floor terrace as a breakout space ancillary to the existing B1 office accommodation, and the installation of decking and the erection of a Perspex safety fence along the perimeter of the terrace.
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Decisions

Appeal A Ref: APP/X5990/W/19/3239976

1. The appeal is allowed and planning permission is granted for the use of the second-floor terrace as a breakout space ancillary to the existing B1 office accommodation, and the installation of decking and the erection of a Perspex safety fence along the perimeter of the terrace, at 42-44 Grosvenor Gardens, London SW1W 0EB, in accordance with the terms of the application, Ref 19/02061/FULL, dated 19 March 2019, and the plans submitted with it, subject to the conditions at the end of these decisions.

Appeal B Ref: APP/X5990/Y/19/3239975

2. The appeal is allowed and listed building consent is granted for the use of the second-floor terrace as a breakout space ancillary to the existing B1 office accommodation, and the installation of decking and the erection of a Perspex safety fence along the perimeter of the terrace, at 42-44 Grosvenor Gardens, London SW1W 0EB, in accordance with the terms of the application
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Ref 19/02062/LBC, dated 19 March 2019, and the plans submitted with it, subject to the conditions at the end of these decisions.

Preliminary Matter

3. As the proposal concerns a listed building in 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).

Main Issues

4. The main issues are:
 - whether the proposal would preserve the grade II listed building 36-50 Grosvenor Gardens, listed for group value, and any of the features of special architectural or historic interest that it possesses; and,
 - whether it would preserve or enhance the character or appearance of the Grosvenor Gardens Conservation Area.

Reasons

The listed building and the CA

5. Grosvenor Gardens was laid out by Thomas Cundy III in the 1860s on the simultaneous expiry of the leases of over 200 houses, to form an enclosure of terraces set around a triangle of land, now a public garden. Though the development along this side of the street block was not completed until after 1927 with the building of Terminal House, Nos 36-50 emulate the architecture of the French Renaissance, evoking, in common with the terrace on the opposite side of the Gardens, and the Grosvenor Hotel which leads the eye from the Gardens, the architectural and spatial character of a Paris boulevard.
6. Historical photos suggest that the rear of the listed building originally contained a range of ordered terraced forms along its length, stepping down to the mews behind. However, the listed building was substantially altered at the back during rebuilding in the 1970s. This has resulted in, below the characteristic slate mansard with distinctive front and back stacks of chimneys, in an asymmetric arrangement of lower level, rear build-outs between prominent flat roofs. This is the roofscape in which part of one flat roof of the listed building is proposed to be used as a break-out space ancillary to the offices at Nos 42-44, together with the erection of a balustrade to enclose it.

The effect of the proposal on the listed building

7. There is a difference in the architectural character of the building between the front which contains the uses within the building behind a highly ordered and formal façade, and the less resplendent back with a now informal, asymmetrical arrangement of utilitarian, boxed build-outs, in a roofscape context which includes flat roofs, skylights, fall protection railings, ventilation terminals and access ladders.
8. The area of roof concerned is adjacent to the wall of the building used as offices and already provides access for maintenance from a double door. It is directly overlooked by the four large windows in the build-out which is behind the main, rear façade. The area of the proposed use would be directly connected to the offices and limited in footprint to the width of the build-out,

from which it would extend only around 4m, with its leading edge set back around 8m from the street side of the mews roof, which has a service balustrade along its edge.

9. The appellant suggests that the space would be used by occupiers of the offices for amenity. In this back-of-house architectural context, substantially transformed in the 1970s rebuilding, I can see no harm from the use of such a small area of flat roof as space ancillary to the offices immediately beside it. The use would not conflict with the special architectural interest of the building at low level or towards its flamboyant, principal roof and higher sections. Nos 42 and 44 are already used as offices. The use of this space as ancillary to them would not harm the special historic interest of the building.
10. The enclosure of the space is proposed to be by close-buttled clear glass panels at 1100mm above a new deck finish. The height and set-back of the enclosure would be sufficient to reduce its prominence in the rear elevation of the building. Although glass panels are not part of the architectural language of the rear of the building, I see no compulsion for the design of the balustrade to use metal when the only precursor for this in the immediate context is the utilitarian fall-arrest rail which runs along the edge of the mews roofs. In my view, in this context, it would be a more sensitive approach to distinguish the materials and detailing of the proposal from the safety metalwork already visible on the rear roofs in the setting of the building. The clear glass, buttled panels would be a sensitive design in this architectural context, and in respect of the historic development of the building.
11. I conclude on this issue that the proposal would preserve the grade II listed building, and its features of special architectural and historic interest. It would not conflict with strategic policies S25 and S28 of the Westminster City Plan consolidated with all changes since November 2013 (November 2016) (WCP) which seek the conservation of heritage assets and the highest standards of architecture. Nor would it conflict with saved policies DES1, DES5, DES6 and DES10 of the City of Westminster Unitary Development Plan 2007 (UDP) which reflect those strategic aims, and which require development, including roof level alterations, not to dominate the building but to be in scale with it, and to preserve, restore or complement the features of special architectural or historic interest of a listed building.

The effect of the proposal on the CA

12. The size of the rear of the building has a significant bearing on the townscape of the CA and the character of uses within it. I acknowledge that the back-of-house nature behind the building, both in terms of appearance and character of use, would change. However, the use of the terrace by office workers in office hours would not conflict with the character of the building or the CA. The location of the proposal at second floor level and its limited footprint relative to the building, when surrounded so closely by other buildings including many as tall as the listed building, means that the degree of change in the contexts of both the listed building and the CA would be insufficient to lead to harm to that character.
13. I note that the guidance in the Council's Conservation Area Audit 2006 suggests that a roof extension here would not normally be acceptable. However, it acknowledges that this may not be so where the extension would

not harm the proportions or the architectural integrity of the building or terrace, which is the case in this proposal.

14. The proposed enclosure and the use of the roof would not disrupt any identified views. It would have very limited visibility in public, street views, most notably from a narrow gap between buildings from a single viewpoint in the footway of Ebury Street, and possibly from the corner of Lower Belgrave Street from which a part of the enclosure may be visible. Given the proximity of tall buildings around the building, views of the proposal may be possible from the higher floors of surrounding buildings. However, views and glimpses of the roofscape of neighbouring buildings is common in the centre of a city. I find no harm from the proposal to the historic or architectural significance of the CA from the proposal, and no harm to its featuring in any views, either near or far.
15. I find that the proposal would preserve both the character and the appearance of the CA. It would not conflict with WCP policies S25 and S28, nor with saved UDP policies DES1, DES5, DES6, as well as DES9, which require development to maintain the character of existing buildings and historic streets, and to preserve or enhance the character or appearance of conservation areas.

Other Matters

16. The windows in the lightwells at each end of this roof appear to have obscure glazing, or they are sufficiently oblique and distant from the proposed enclosure that the occupiers of rooms behind them would not lose privacy from being overlooked by staff using the roof. There are skylights in the roof of the mews houses which are already overlooked to some degree from the higher level windows at the back of the listed building. Given the separation distance of the enclosure from the skylights and the dimensions of their upstands and internal linings, there would be no significant increase in overlooking to surrounding occupiers and no material loss of residential amenity.
17. Moreover, the roof would not be open to the general public but would remain under the control of the building occupier. Further, an hours of use planning condition to protect the surrounding occupiers from the risk of noise disturbance outside normal office working hours would also reduce the potential for overlooking, as would the varying weather conditions across the seasons. In these circumstances, there would be no harm to the living conditions of surrounding occupiers as required by WCP policy S29 and UDP policy ENV13.
18. I have had regard to the setting of the surrounding listed buildings. Because of the confined extent of the proposal, its distance from them, as well as the structures and oblique angles between them, their settings would be preserved in accordance with the expectations of the Act, and the requirements of the development plan, described above.
19. I have given very careful consideration to the position of this proposal, and its height, use, footprint and set-back from the edge of the buildings around it, which limit its visibility. It would not set a precedent for the development of the other flat roofs at the back of the building as each case should be decided on its own particular merits and against its own physical circumstances, which in this proposal, are unique.

Conditions and Conclusion

20. In addition to the statutory time condition, a plans condition which secures the extent of the proposal is necessary for clarity and precision to protect the living conditions of surrounding occupiers. It would not be reasonable or enforceable to limit the use of the terrace to the occupiers of the second floor offices, but it is necessary to limit the use from the wider public, so I have adjusted the Council's suggested condition to restrict the use of the terrace to the occupiers of the offices at Nos 42-44. Similarly, there would be a risk of noise from the terrace disturbing the occupiers of the mews houses were this to occur outside normal office hours, so I have restricted its hours of use.
21. I have already discussed how the appearance of the proposed enclosure would be acceptable. However, the means of securing the glass panels may have a bearing on the appearance and integrity of the building, as may the deck. Given the nature of this new work in relation to the historic fabric, a matching materials condition is unnecessary, but a design details condition is justified. Given the limited breadth of the works and how the use of the terrace depends on their installation, this need not be a pre-commencement condition.
22. I have found that the proposal would preserve the special architectural and historic interest of the grade II listed building, and that the character and appearance of the CA would be preserved. For the reasons given above, and having considered all matters raised, I conclude that the appeals should be allowed.

Patrick Whelan

INSPECTOR

Planning Permission Conditions (Appeal Ref: APP/X5990/W/19/3239976)

- 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:
Location Plan 1: 1250
ERT(GGL)GA-02A ROOF TERRACE SECOND FLOOR
ENE/SW(GGL)EL-04A SECOND FLOOR EXISTING LAYOUT
ESE(GGL)EL-05A SECOND FLOOR EXISTING LAYOUT
ENW(GGL)EL-06A SECOND FLOOR EXISTING LAYOUT
PRT(GGL)GA-02G SECOND FLOOR ROOF TERRACE
PEL(GGL)OL-07G SECOND FLOOR TERRACE PROPOSED LAYOUT
- 3) The use of the terrace hereby permitted shall only take place between 0830-1830 Mondays-Fridays.
- 4) The use of the terrace shall be restricted to the occupiers of the offices of 42-44 Grosvenor Gardens, their visitors and guests.
- 5) Construction works shall take place only between 0800 and 1800 on Mondays to Fridays, 0800 and 1300 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.

END OF THE SCHEDULE OF PLANNING PERMISSION CONDITIONS

Listed Building Consent Conditions (Appeal Ref: APP/X5990/Y/19/3239975)

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
- 2) The proposed terrace area shall not be used other than for maintenance and emergency access until full details of the terrace decking and the terrace enclosure have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

END OF THE SCHEDULE OF LISTED BUILDING CONSENT CONDITIONS