
Appeal Decisions

Site visit made on 10 March 2020

by J P Tudor BA (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 24 April 2020

Appeal A - Ref: APP/X5990/W/18/3213717

The Pantechnicon, 19 Motcomb Street, London SW1X 8LB

- 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 Pantechnicon London Ltd against the decision of City of Westminster Council.
 - The application Ref: 18/05740/FULL, dated 6 July 2018, was refused by notice dated 21 August 2018.
 - The development proposed is erection of two flagpoles on the front elevation.
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Appeal B - Ref: APP/X5990/Y/18/3213719

The Pantechnicon, 19 Motcomb Street, London SW1X 8LB

- 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 Pantechnicon London Ltd against the decision of City of Westminster Council.
 - The application Ref: 18/05504/LBC, dated 29 June 2018, was refused by notice dated 21 August 2018.
 - The works proposed are installation of two flagpoles (with flag signs) to the front elevation of the building.
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Appeal C - Ref: APP/X5990/H/18/3213720

The Pantechnicon, 19 Motcomb Street, London SW1X 8LB

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Pantechnicon London Ltd against the decision of City of Westminster Council.
 - The application Ref: 18/05503/ADV, received on 29 June 2018, was refused by notice dated 21 August 2018.
 - The advertisement proposed is two identical flag signs on flagpoles projecting above the two entrances to the building.
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Decision – Appeal A

1. The appeal is dismissed.

Decision – Appeal B

2. The appeal is dismissed

Decision – Appeal C

3. The appeal is dismissed.

Procedural Matters

4. The appellant advises that originally the proposal included an internally illuminated high-level fascia sign in addition to the two flagpoles and flag signs. However, during the course of the applications amended drawings were submitted to the Council removing the fascia sign from the proposal. The appellant confirms that the fascia sign does not form part of the appeal proposal. The Council states that it does not have a record of having received the amended drawings omitting the fascia signage and that the applications were determined as originally submitted. However, it is content for the appeals to be considered solely on the basis of the proposed flags and flagpoles, as illustrated in the revised drawings, but maintains its reasons for refusal in respect of those elements in relation to all three appeals.
5. As the revised proposal simply removes the high-level fascia sign from the original scheme, with the two flagpoles and flag signs remaining, I cannot see that any party would be prejudiced by my considering the revised scheme. Therefore, I have amended the descriptions in the banner headings above, where necessary, omitting reference to the fascia sign and will consider the appeals on the basis of the amended descriptions and plans.¹
6. With regard to Appeal A and Appeal B, as the proposal and works 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 considered chapter 16 of the National Planning Policy Framework (the Framework).²
7. With regard to Appeal C, the display of advertisements is subject to a separate consent process within the planning system. The governing Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) advise that the relevant powers are to be exercised in the interests of 'amenity' and 'public safety', while taking into account the provisions of the development plan, so far as they are material, and any other relevant factors. The Council has not expressed concern regarding public safety, and I have no reason to disagree with that assessment. Therefore, I have considered the proposal on the basis of amenity, which on the facts of this case turns on its effects on the visual amenity of the area.
8. As all three appeals concern the erection of two flagpoles and flag signs, in the interests of clarity and conciseness, I will deal with relevant aspects of each appeal together in my reasoning.

Main Issues – Appeal A and Appeal B

9. The main issues are whether the proposal preserves the host Grade II listed building, the Pantechinon at 19 Motcomb Street, and any features of special architectural or historic interest that it possesses and whether the proposal preserves the character or appearance of the Belgravia Conservation Area (BCA).

¹ Drawing Nos: PAN-PA-01-001-REV A; PAN-PA-03-300; PAN-PA-05-2-200-REV 1; PAN-PA-05-2-300-REV 1 and PAN-PA-05-2-400-REV 1

² February 2019

Main Issue – Appeal C

10. The main issue is the effect of the advertisement on the visual amenity of the area, having regard to the host listed building and the location within the BCA.

Reasons

11. As a Grade II listed building, the Pantechnicon is inherently significant in terms of its architectural and historic interest. It was built circa 1830 and used for the sale and warehousing of carriages and the storage of furniture and other goods. A sister building, also listed, on the other side of Motcomb Street, now a Waitrose supermarket, was also originally used for storage including the warehousing of wine. The striking Greek-Revival façade of the Pantechnicon survived a fire in 1874, which destroyed much of the rest of the building, which was then rebuilt in an altered form in the same year. The appellant's Heritage Statement (HS)³ advises that the building was subsequently comprehensively re-developed behind its façade in the 1960s with a new rear elevation, notwithstanding its listing in 1958. More recently, planning permission and listed building consent were granted in 2016, since implemented, for various alterations including extensions and internal changes in association with mixed retail, restaurant and bar uses.
12. The splendid 1830s stucco façade is formed of ten giant order Greek Doric columns linking its ground and first floors, with nine bays of square headed, small-paned, sash windows between. Two large arched entrances stand at street level between the second and eighth bays, originally designed to accommodate carriages. The area above the upper windows is adorned with projective entablature and a blind attic section has the word 'Pantechnicon' imprinted on it. Flanked by properties of more domestic style, many with ground floor commercial premises, this Greek temple-like building, informed by classical design principles of symmetry and proportion, has an impressive and dramatic presence within the relatively intimate confines of Motcomb Street.
13. In addition to its architectural grandeur, the Pantechnicon is also of historic interest because of its association with the commercial production of special horse-drawn removal vans, which became widely known as 'Pantechnicons'. The business thrived, particularly just prior to the First World War. Indeed, the term was adopted more generally to describe a large van for transporting furniture, even when such vehicles became motorised.
14. Given the above, I consider the special interest of the listed building, insofar as it relates to these appeals, to be primarily derived from the high architectural quality and aesthetic value of its 1830s façade. Additionally, the commercial associations of the building are of historic and cultural interest.
15. The appeal building also lies within the BCA. The architectural quality of its façade makes a positive contribution to the character and appearance of the BCA. The building also has significant historical and architectural associations with the 19th century development of this part of Belgravia. Motcomb Street is a shopping street and the special interest of its numerous listed buildings, including two K6 telephone boxes, contributes positively to the significance and character and appearance of this busy commercial part of the BCA.

³ Prepared by Savills – October 2018

16. The proposed flagpoles would be above the two arched entrances on the Motcomb Street façade. Each would be about 3 metres long and fixed to the front elevation by a wall bracket and backplate, just below the two relevant second storey windowsills. The metal flagpoles would extend out diagonally into the street at an angle to the façade. The asymmetrical flags attached to the poles would measure 3.68 metres along their longest edge and 1.2 metres in width. Each would have the name of the building 'The Pantechnicon' written on them.
17. At present the building is not characterised by any features projecting forward of the building line, enabling its classical façade to be fully appreciated. Given the positioning and dimensions, the flags and flagpoles would form large and prominent appendages, projecting out from and disrupting the Classical form and proportions of the original façade. As shown on the submitted plans they would also effectively bisect the windows above, breaking the continuity and regular pattern of the upper storey fenestration, with the sizeable flags draping down from the top of the windows to just above the ground floor arched entrances. Notwithstanding the imposing façade of the building, the scale and projecting nature of the flags and flagpoles would form dominant and unwelcome additions to the front elevation which would detract and distract from the architectural quality and aesthetic appeal of the listed building.
18. The appellant's HS submits that historic evidence suggests that the building has displayed a flag in the past. However, the 1913 photograph referred to appears to show a centrally placed vertical flagpole on the roof of the building without any flag flying. Therefore, even if a flag was once displayed, it was at least situated high above the street, at roof level, and would have had a more limited effect on the legibility of the façade of the building. In any case, that would have been prior to listing and does not justify the addition of flags and flagpoles in a different position which cause visual harm to the special interest of the building.
19. It is also submitted in the appellant's HS that the flagpoles would serve a purpose in emphasising the principal routes into the building, while maintaining its symmetry. However, it seems to me that the sizeable arched entrances are already clearly apparent from the street and while the flagpoles would be equally spaced, they would be over-dominant, add visual clutter and detract from the classical simplicity and purity of its impressive façade, which is the principal contributor to its special interest.
20. Although the appellant refers to the presence of flags and flagpoles on listed buildings within nearby Belgrave Square, they almost entirely comprise the embassies of foreign governments or diplomatic buildings flying national flags rather than commercial buildings. Moreover, the flagpoles are generally mounted above existing projecting features such as large porticoed entrances or balconies rather than being fixed to the main elevations of the buildings.
21. Furthermore, the pattern of development in Belgrave Square, with grand listed terraces sited on wide thoroughfares around the central gardens, is better able to accommodate such accoutrements without diminishing the significance of the individual buildings. In contrast, Motcomb Street is a narrower, more intimate, commercial street devoid of any existing flags or flagpoles, where the introduction of such items attached to the main façade of the listed building would harm its special interest.

22. There are some modest projecting first floor balconies on many of the buildings along Motcomb Street. Ground floor shops and restaurants also display traditional hanging signs, and some have awnings, including the Waitrose supermarket opposite the appeal building. However, those external embellishments are, for the most part, relatively restrained and discreet. The introduction of two large flags and flagpoles into this understated context on a valued listed building would appear incongruous, with the flags particularly prominent in views along this commercial street. Therefore, the proposal would harm the character and appearance of this part of the conservation area and the BCA considered as a whole.
23. While the appellant's HS suggests that the appeal building has '*a relatively restrained presence on the street when viewed obliquely*', elsewhere in the HS the striking nature of its façade is acknowledged. Its temple-like aesthetic with multiple Doric columns already noticeably differentiates it from other buildings along the street, while the name of the building, 'Pantechnicon', the historic trading name which the appellant intends to continue to use, is already emblazoned, albeit at high level, and is a feature of the original imposing, attention-grabbing façade.
24. It is accepted that it is legitimate and necessary for commercial premises to have signage, but other commercial premises along the street and in the wider area demonstrate that it is possible to advertise their businesses with less obtrusive forms of signage and promotion, which still manage to perform their function.
25. Although the appellant says that alternative forms of advertisement, such as hanging signs, have been carefully considered and that the relative size of the Pantechnicon justifies larger signage, the explanation of the alternatives considered and why they would be inappropriate or ineffective is limited and unconvincing. Moreover, I note that the Council accepts the need for signage of the site but objects to the type, form and size of that proposed. I take a similar view. In any event, debates about the practicality or otherwise of possible alternatives would not justify the harm caused by the nature of the appeal proposal.
26. The appellant submits that appeal decisions concerning the installation of flagpoles and flags on Grade II listed buildings within conservation areas at Piccadilly Arcade⁴ and 18 Albemarle Street⁵, respectively, form 'precedents' for the appeal proposal before me.
27. At Piccadilly Arcade the proposal was for a single flagpole and flag mounted on first floor balconies at the entrances at either end of the shopping arcade, on Piccadilly and Jermyn Street. Therefore, there was only one flagpole on each of the two separate frontages on different streets, attached to an existing balcony, whereas the appeal before me relates to two flags and flagpoles affixed to the main front elevation of one building, which would have a greater cumulative visual impact.
28. Moreover, in paragraph 6 of the Piccadilly Arcade appeal decisions, the Inspector finds that the special interest of the building derives from the classical nature of the two frontages and '*in particular, at lower level, the*

⁴ APP/X5990/E/13/2206592 and APP/X5990/H/13/2206576

⁵ APP/X5990/Z/15/3141026

individual shopfronts, featuring bowed windows and incorporating mezzanines, set below the height of the first floor balconies. ' The Inspector goes on to explain that, as the flagpoles would project forward in front of the balconies, *'there would only be minimal loss of views of balconies and none of the ground floor aspects'*, which he had previously identified as of particular importance to the significance of the listed building. The proposal also involved the removal of various existing roundel signs which was considered of some benefit.

29. In the appeal before me, the nature of the façade and proposal is different. The front elevation is a complete composition, with the columns linking lower and upper storeys and no existing projections or balconies. Therefore, the nuanced analysis within the Piccadilly Arcade decisions about the extent of the effect on the listed building, where the lack of impact on important ground floor shopfronts was significant, cannot be applied to the appeal before me because of the contrasting nature of the façades.
30. With regard to the effects on the conservation area, Piccadilly Arcade is about a mile away from the appeal site and in a different conservation area (Mayfair). In paragraph 8 of the Piccadilly Arcade appeal decisions, the Inspector notes: *'In this case, the flags would appear within streets that contain a number of flag displays'* which include *'a flag on the opposite side of Piccadilly that identifies the entrance to Burlington Arcade.'* Therefore, as I saw on my site visit, the immediate context of that appeal proposal is significantly different from the appeal before me. That is because there do not appear to be any flagpoles and flags along Motcomb Street, notwithstanding the presence of national flags on mainly diplomatic and consular buildings in the contrasting environs of Belgrave Square. While sympathetic change is acceptable, in this case, the introduction of large flagpoles and flags would appear out of keeping in the context of Motcomb Street.
31. In the appeal decision relating to 18 Albemarle Street, only a single flagpole and flag was involved rather than the two proposed in the appeal before me. Again, that site is about a mile from the Pantechnicon and in a different conservation area (Mayfair). With regard to the effect on the listed building, a 5-storey terraced house with a ground floor shopfront, as I saw on my site visit, the relevant flagpole and flag are sited towards the right-hand edge of the façade and well above the balustrade of a balcony. Therefore, as noted in paragraph 5 of the appeal decision, they do not *'interrupt the rhythm of the window openings... or diminish either the visual appearance or setting of the listed building'*. However, in the appeal before me the flagpoles and flags would be placed centrally above the two large arched entrances to a building of a wholly different architectural style and would bisect windows above, disrupting the pattern of fenestration.
32. Furthermore, in relation to the effects on the conservation area, the Inspector refers⁶ to the presence of a number of flagpoles and flags in the street, albeit mainly at the northern end. As they formed part of the established character and appearance of that street scene, the Inspector considered that one additional flagpole and flag did not appear out of keeping. However, as previously stated, there are no flags or flagpoles at all in Motcomb Street, the site of the Pantechnicon. Consequently, its established character and appearance differs from Albemarle Street.

⁶ Paragraph 6 of the 18 Albemarle Street appeal decision

33. Therefore, while there are some general similarities between the appeals referred to by the appellant and the appeal before me, insofar as they all relate to proposals for flagpoles and flags on listed buildings in conservation areas, the nature of the proposals, their particular effects and the relevant contexts differ materially. Consequently, those allowed appeal decisions have limited direct relevance to the appeal before me.
34. The appellant also refers to a flagpole, flag and awnings on the Royal Institution building further along Albemarle Street. However, while the colonnaded classical design of that building is similar to the Pantechnicon, it has a single flagpole and flag sited on its roof. In contrast, the appeal proposal would involve two flagpoles and flags to be sited in prominent positions on the façade, which would also impinge on fenestration above. The ground floor awnings at the Royal Institution descend over entrances when open and are retractable. I do not see that they are readily comparable in form or effect to the two permanent flagpoles and flags proposed for the appeal building. In addition, the appellant suggests that planning records do not show a permission for the awnings. In any event, in terms of the conservation area, as established above, Albemarle Street is already characterised by the presence of flags and flagpoles on other buildings. Therefore, I give the above example limited weight in my deliberations.
35. Another document (Precedents Study for Flagpoles)⁷, submitted by the appellant, illustrates flags on a variety of buildings of differing styles across Westminster and Camden. While it includes an undated cover photograph showing Union Jack flags hung on catenary wires across Motcomb Street, at some point in the past, no supplementary information is provided. It appears likely that they may have been a temporary display associated with a particular public event. In any case, they have little direct relevance to the appeal proposal for permanent flagpoles and flags attached to the façade of the listed Pantechnicon.
36. The other photographs of flags within that Precedents Study for Flagpoles, as acknowledged by the appellant, relate largely to non-commercial uses on consular buildings in Belgrave Square and Wilton Crescent, while others are on public buildings or large department stores. Although it is not disputed that there are flags on listed buildings and in conservation areas across Westminster and London, it is necessary to assess each proposal on its individual merits within its specific context. That is the approach I have taken in determining the appeal proposal and the relevant analysis is detailed above.
37. It is also germane that policy DES 8 of the Council's Unitary Development Plan (UDP)⁸ indicates, at (A) 2) k), that consent will not normally be granted for permanent or multiple flagpoles, flag or banner advertisements. Although the UDP acknowledges within its supporting 'policy application' text, at paragraph 10.100, that: *'Flags are a traditional and colourful feature of the London scene, and the flags flown on public buildings and foreign diplomatic premises symbolise the role of Central London as the capital of the nation...'*, it observes that: *'In recent years, however, commercial establishments have increasingly used flags on angled poles as a form of display and as an advertisement'*.

⁷ 'Precedents Study for Flagpoles – Rev 1', prepared by Farrells – dated: 2 August 2018

⁸ Adopted January 2007

38. It then notes, at paragraph 10.101, that flags and banners can have an adverse impact on the appearance of buildings and the streetscape by obscuring the façade of buildings and contributing to visual clutter. It considers that *'such displays will generally be unacceptable in principle'* but goes on to say that: *'Exceptions may be made in the case of large hotels, department stores, embassies and cultural institutions including theatres and cinemas'*. While supporting text is not 'policy', it is legitimate to use it as an aid to the interpretation and application of policy DES 8 (A) 2) k). The appeal property does not fall into any of the suggested exceptions referred to in the supporting text. In this case, and given the harm identified, it follows that I do not consider that the advertisement flags relate to the character, scale and architectural features of the host building or are sensitively located within the street scene, factors referred to in UDP policy DES 8 (A) 1).
39. Overall, the proposed flagpoles and flags would fail to preserve the special interest of the host Grade II listed building and fail to preserve or enhance the character or appearance of the BCA. Consequently, the proposal would also be harmful to the visual amenity of the area.

Conclusion - Appeal A and Appeal B

40. Given the above, there would be conflict with section 16 of the Framework, which advises at paragraph 193 that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to its conservation. That is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Moreover, at paragraph 194, the Framework says that any harm or loss of significance should require clear and convincing justification.
41. Although I have identified harm, to which great weight must be attached, the proposal is limited to two flagpoles and flags on the front of the sizeable façade of one listed building and other listed buildings in the wider conservation area display flags, albeit in different immediate contexts. Therefore, I consider that the level of harm to the listed building and the BCA would, in the language of the Framework, be 'less than substantial'. In such circumstances, paragraph 196 of the Framework indicates that the 'less than substantial harm' to the significance of designated heritage assets should be weighed against the public benefits of the proposal, including securing the optimum viable use of listed buildings.
42. While the appellant says that the flags and flagpoles are essential to advertise the businesses and for the successful operation of the consented mixed retail, restaurant and bar use, there is no compelling evidence before me that other less intrusive forms of signage or advertisement could not serve that purpose. In any case, I am not persuaded that the viable use of the listed building is dependent on this particular proposal. No other public benefits have been specifically proffered and I do not see that there would be any of sufficient value to outweigh the less than substantial harm, which must still be afforded great weight in the balance.
43. Therefore, I conclude that the proposed flagpoles and flags would fail to preserve the special interest of the Grade II listed host building and would not preserve or enhance the character or appearance of the BCA. This would fail to satisfy the requirements of the Act and paragraph 192 of the Framework. It

would also be contrary to policies S25 and S28 of the Westminster City Plan⁹ which seek, amongst other things, to conserve Westminster's heritage assets, including its listed buildings and conservation areas and ensure that development incorporates exemplary standards of sustainable and inclusive urban design.

44. In addition, of the various UDP policies referred to by the Council the most relevant with which the proposal would conflict are policies DES 1, DES8, DES 9 and DES 10(A) which, amongst other things, seek to ensure that development is of high quality design and protects the special interest of listed buildings and the character or appearance of conservation areas.

Conclusion – Appeal C

45. In relation to Appeal C, which is governed by the Regulations, the listed status of the appeal building and its location within the BCA are material factors. Overall, for the reasons already detailed above, I consider that the proposal would have a harmful effect on the visual amenity of the area. Therefore, it would be contrary to the Regulations and to the development plan policies already referred to above, which are material considerations, as they seek to preserve the character and appearance of conservation areas and to protect listed buildings, while taking account of the impact of advertisements on the amenity of an area.

Overall Conclusion – Appeals A, B and C

46. For the reasons set out above and having regard to all other matters raised, I conclude that the appeals should be dismissed.

JP Tudor

INSPECTOR

⁹ Consolidated with all changes since November 2013 (November 2016)