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## Appeal Decisions

Site visit made on 11 February 2020

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

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

**Decision date: 27 April 2020**

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### **Appeal A: APP/X5990/W/19/3240248**

#### **Flat E, 20 - 21 Lancaster Gate, London W2 3LH**

- 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 J Habba against the decision of City of Westminster Council.
  - The application Ref 19/02350/FULL, dated 29 March 2019, was refused by notice dated 21 May 2019.
  - The development proposed is replacement of existing enclosed links and covering of existing lightwell with new rooflight.
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### **Appeal B: APP/X5990/Y/19/3240249**

#### **Flat E, 20 - 21 Lancaster Gate, London W2 3LH**

- 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 J Habba against the decision of City of Westminster Council.
  - The application Ref 19/02351/LBC, dated 29 March 2019, was refused by notice dated 21 May 2019.
  - The works proposed are replacement of existing enclosed links and covering of existing lightwell with new rooflight.
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## **Decisions**

1. I dismiss both appeals.

## **Reasons**

2. The building is listed Grade II and is within the Bayswater Conservation Area. The main issue in both appeals is the effect of the proposal on the significance of designated heritage assets. Policies S25 and S28 of Westminster's City Plan state that heritage assets will be preserved, and that development must incorporate exemplary standards of sustainable and inclusive urban design and architecture. Unitary Development Plan Policy DES 1 sets out the principles of urban design and conservation, while Policy DES 5 is specific to alterations and extensions, and Policy DES 6 concerns roof level alterations and extensions. Policies DES 9 and DES 10(A) set out requirements for conservation areas, and for applications for planning permission involving the extension or alteration of a listed building, and paras 10.108 to 10.146 are the supporting text to these latter 2 policies.
3. 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.

4. Paragraph 124 of the 2019 National Planning Policy Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
5. The Council surmise that the mews building to the rear was originally attached to the main building only at lower ground floor level and certainly the close proximity of the two parts indicates that there would have been only a narrow gap if any. The situation now is that the lower ground floor is connected while the ground floor has two connecting corridors with steps down from the main building to the mews building, the central part of the mews building at the position of the kitchen window remaining separated by a lightwell.
6. This arrangement allows some of the original rear wall and window of the main building together the eaves of the mews roof to be understood as originally built. That mitigates to an extent the harm that has been caused by the construction of the linking corridors with their roofs intersecting the roof slope to the rear.
7. The appeal proposal would take away the linking corridors and their incongruous slate-clad side wall and harmful flat roof design, and replace them both as well as the lightwell, by a new flat double-glazed glass roof, spanning from a box gutter at a new higher eaves level for the mews building and another box gutter abutting the rear wall of the main building. The glazed roof would be indented around the kitchen window with a new lower gutter above the present lay-lights to the bedroom below. It appears that these would be boxed over, but that room has access to light and air by windows into the front basement area.
8. There is an extant permission and consent for a similar scheme to remove the linking corridors and replace them with flat glazing, but in that scheme the central part at the window position would have been a slope in glass continuing the slope of the mews roof to below the cill level of the kitchen window, albeit still requiring the cutting back of the mews roof above the present eaves (Refs 17/02320/FULL and 17/02321/LBC dated 14 August 2017).
9. Both schemes would be an elegant way of providing additional living room space, and the removal of both linking corridor structures with the blocking of the one from the kitchen completely would be beneficial to the understanding of there being two parts to the buildings at this level. However, closer covering of the extent of the kitchen window proposed in the appeal scheme would cause harm that was not previously caused by the linking of the two parts at this level and would not be caused by the approved 2017 scheme.
10. There appears a misunderstanding in the Council's Appeal Statement as to the extent of metal gutter proposed, with reference to '*the installation of the metal gutter surrounding the rooflight almost directly adjacent to the window*'. Both the approved scheme and the appeal scheme require a box gutter either side of the window to take flow off the flat glazing there, and a vertical part flashed to the masonry, but the centre section in both schemes would have only a gutter

below the kitchen window cill, the approved scheme's sloping glass dripping straight into it, whereas the appeal scheme would incorporate a section of vertical glazing with a right-angled drip as Detail 2 on drawing 010.

11. The approved scheme echoes the original roof slope, albeit removing some of it, whereas the appeal scheme not only removes the lower part of the slope, but replaces it with a flat area. That difference and the amount of the window covered differentiates an acceptable scheme from the present harmful scheme.
12. The Council considers that harm would be caused to the Bayswater Conservation Area, although there do not appear to be any street level views of the proposed works. There would be various private views from upper floors to the rear which would encompass the area of change, although more limited weight attaches to the effect from those places, particularly since some harmful, opaque, roof works would be replaced with transparent materials.
13. Nevertheless, the level of harm to the significance of the designated heritage assets, and the listed building in particular, would be 'less than substantial', a differentiation required between paragraphs 195 and 196 of the Framework. In this case the latter applies, and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
14. As set out above, there would be public benefits from the scheme in the better presentation of the previous separation of mews and main building, as the preservation of listed buildings is such a benefit regardless of a public view. But, in the balance the further harm that would be caused by the works would not be outweighed.
15. The conclusion is that the proposal would fail the tests in Sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would not accord with the aims of Policies S25, S28 and DES 10(A) and the Framework on designated heritage assets, and would not be of the standard of design sought in Policies DES 1, DES 5 and DES 6 together with Paragraph 124 of the Framework. For the reasons given above it is concluded that both appeals should be dismissed.

*S J Papworth*

INSPECTOR