
Appeal Decision

Site visit made on 15 June 2020

by P W Clark MA(Oxon) MA(TRP) MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 7th July 2020

Appeal Ref: APP/X5990/W/20/3247006
106 York Street, London W1H 4QN

- 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 Abdullah Binmoammar against the decision of City of Westminster Council.
 - The application Ref 19/07860/FULL, dated 10 October 2019, was refused by notice dated 9 December 2019.
 - The development proposed is the erection of a single storey roof extension to accommodate a self-contained, one bedroom flat.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Although the appeal site is a listed building, no listed building consent application has been made and so, even if the appeal had been allowed, implementation would not have been permissible without a further consent.
3. Although described as a roof extension, the proposal also includes the provision of a covered bike rack at basement level.

Main Issues

4. Following the submission of a daylight and sunlight report, the Council accepts that one of its original reasons for refusal, relating to the effects of the proposal on the daylight and sunlight received at neighbouring dwellings, cannot be sustained. I agree. The remaining issue is the effect of the proposal on designated heritage assets –
 - The appeal site itself, a Grade II listed building
 - Neighbouring Grade II listed buildings, 100-104 (even) York Street and 2-5 (consecutive) Harcourt Street
 - The Portman Estate Conservation Area

Reasons

106 York Street

5. Number 106 York Street is also number 1 Harcourt Street. The York Street address is used by the commercial premises on the ground floor; the Harcourt

Street address is used by the flats in the basement and first and second floors. It is part of a single listed terrace comprising numbers 104 and 106 York Street (the list entry refers to 105 in error) and 1 Harcourt Street. All elements of the terrace are unaltered at roof level at present but the proposal is only to alter 106 York St and 1 Harcourt Street and does not include any alterations to number 104 York Street and so the unity of the listed building would be prejudiced by the proposal.

6. Although the entry in the statutory list asserts that it is included for group value only, the significance of the appeal premises is that it is a relatively unaltered example of what would have been classed as a "third rate" building according to the 1774 London Building Act. There are indications such as a change in the tone of brickwork about half way up the first floor windows of the York Street frontage, the use of soldier courses on that frontage rather than gauged brick flat arches and the omission of a blind window at second floor level on the Harcourt Street frontage, that parts of the façade may have been repaired or reconstructed in replica at some time in the past but the present appearance is authentic.
7. Of particular interest is that the aerial photograph supplied with the appellant's Design and Access statement and the drawing of the existing roof plan shows an ingenious adaptation of the traditional London butterfly or valley roof plan to the demands of turning an obtusely angled street corner. The two halves of a traditional valley roof have been split along the valley gutter and turned at right angles to each other. The space in between the right angles has been filled with an irregularly-shaped hipped roof.
8. This roof, which is therefore of intrinsic technical interest, would be lost as a result of the appeal proposal. It would be replaced by what is described as a mansard roof but which in fact would be a flat roofed structure with a vertical brick rear wall and a steeply sloping monopitched slated front onto York and Harcourt Streets. The eaves of the dormers would not sit on this roof slope but would stand proud on their own vertical apron and so the windows would appear more prominent than traditional dormers. In the long view from both York and Harcourt Streets the profile of this structure would be seen on the skyline, demonstrating its lack of authenticity, and would thus be harmful to the character and appearance of this listed building.
9. Four dormer windows are proposed, two on each elevation. In contrast to a traditional, authentic, approach which would have a reduced number of windows, placed over the piers between the windows of the façade beneath, these would be placed in line with the windows below. Also, in contrast to a traditional, authentic, approach which would use windows of a reduced dimension, these proposed would be of the same dimensions as the sash windows on the first and second floors. Both these solecisms, in combination with the more prominent structure of the dormers proposed, noted above, would result in a top-heavy appearance which would be harmful to the modest proportions of this listed building.
10. I conclude that the prejudice to the unity of the listed building, the loss of a technically interesting roof structure and its replacement by a roof extension of inauthentic profile, and the top-heavy appearance of the extension proposed would not preserve the character or appearance of this building of special architectural and historic interest. Although the harm caused would be less

than substantial, in that it would not eliminate the building's interest, it would be considerable.

11. The proposal would therefore be contrary to Westminster City Plan policy S25 which seeks the conservation of historic assets. It would also be contrary to Westminster Unitary Development Plan January 2007 policies DES1 requiring the character, scale and pattern of the historic city to be retained and DES6 which would refuse permission if unusual, distinctive or historically significant roof forms would be lost.

Setting of listed buildings

12. Numbers 100/102 York Street and 2-5(consecutive) Harcourt Street are also listed buildings. They too are relatively unaltered examples of what would have been classed as "third rate" buildings according to the 1774 London Building Act. Together with 104/106 York Street of which the appeal premises are a part, they form a significant continuous row of such relatively unaltered buildings, pivoting around the appeal site on the corner between the two streets. The Portman Estate Conservation Area Audit regards the group as a comparatively rare intact survival of these modest buildings.
13. The proposal would disrupt the continuity and hence would not preserve but would harm the significance of this continuous row of similar buildings. The harm caused would be less than substantial in that the individual interest of each listed building would remain, but it would be contrary to Westminster City Plan policy S25 which seeks the conservation of historic assets. It would also be contrary to Westminster Unitary Development Plan January 2007 policies DES1 requiring the character, scale and pattern of the historic city to be retained and DES6 which requires permission to be refused if it would affect the architectural unity and character of a group.
14. I note the appellant's contention that a large proportion of nearby properties have successfully applied for planning permission for roof extensions. Most notably, that includes the terrace of listed buildings opposite the site where former butterfly or valley roofs have been replaced by an additional storey with a pitched front roof slope and a flat roof at the rear. There is no information to explain the circumstances by which that development came about but I observe that the terrace in question has been treated as a whole and so at least the unity of a continuous row of similar buildings has been preserved.

Portman Estate Conservation Area

15. As its name suggests, this large conservation area is characterised by the late eighteenth century development of the Portman family's estate. A hierarchy of squares and long, straight streets in an orthogonal layout is mirrored by a hierarchy of frontage buildings corresponding to the classes of the London Building Act 1774. The Georgian terrace remains the dominant element in many of the principal streets. I concur with the analysis in the Council's Portman Estate Conservation Area Audit that the prevailing character is derived from the harmonious rhythm generated by coherent blocks of historic terraced buildings.
16. The group of buildings of which the appeal site forms the centre is, in its own modest way, exemplary of this defining characteristic of the Conservation Area. It follows that the compromise to the unity of the group, which I have identified

in an earlier paragraph, would harm the character of the conservation area which it is desirable to preserve or enhance.

17. The group of which the appeal building forms a part is a minor terrace in a relatively obscure part of an extensive conservation area, so the harm to the Conservation Area as a whole would be very much less than substantial but it would still contravene policy S25 of the Westminster City Plan November 2016 which requires heritage assets to be conserved. It would also be contrary to Westminster Unitary Development Plan January 2007 policies DES1 requiring the character, scale and pattern of the historic city to be retained and DES6 which requires permission to be refused if it would affect the architectural unity and character of a group.

Conclusion

18. National Planning Policy is that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. In this case, there are three separate harms to be taken into account, all of which are less than substantial; harm to the character and appearance of the appeal site itself; harm to the setting of the group of which it forms a part, and harm to the character of the conservation area in which it is located.
19. There is no suggestion that there is a threat to the continued viable use of the listed building if this appeal were not allowed. The only recognisable public benefit is the creation of one additional residential unit. Government policy is to boost the supply of housing but, in this case, that benefit does not outweigh the harm to the significance of heritage assets which would ensue and so there is insufficient reason to take a decision otherwise than in accordance with the development plan.

P. W. Clark

Inspector