

Appeal Decision

Site visit made on 19 August 2020

by Patrick Hanna MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2020

Appeal Ref: APP/X5990/W/19/3243299

Flat 6, 74 Portland Place, London W1B 1NR

- 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 Michael Goletka against the decision of City of Westminster Council.
 - The application Ref 19/05699/FULL, dated 14 June 2019, was refused by notice dated 11 October 2019.
 - The development proposed is alterations to provide new lantern enclosure and balustrades associated with the use of roof as a terrace (Flat 6).
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Decision

1. The appeal is allowed and planning permission is granted for alterations to provide new lantern enclosure and balustrades associated with the use of roof as a terrace at Flat 6, 74 Portland Place, London W1B 1NR in accordance with the terms of the application, Ref 19/05699/FULL, dated 14 June 2019, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Michael Goletka against the Council. This application is the subject of a separate Decision.

Main Issue

3. The Council's appeal statement is clear that the use of the flat roof as a terrace is not contested. On that basis, the main issue is the effect of the proposed lantern enclosure and balustrade on the character and appearance of the host property and the Harley Street Conservation Area (HSCA).

Reasons

4. The appeal building is a seven-storey terraced unlisted building of merit, within a mixed-use area in the HSCA. The appraisal within the non-statutory general information leaflet for the HSCA describes its significance arising, amongst other things, from the architectural character of terraced houses of different periods and social status, with building heights rarely exceeding 6 storeys. The effect of the proposal would be to erect a glass lantern enclosure and obscured glass balustrade amongst the existing chimneys, lift housing, lanterns and services on the flat roof.
5. The proposed lantern enclosure is located in a central position on the roof and described as one metre higher than the existing lantern. Chimneys are sited to the immediate east, north-west and south-west, and lift housing to the north-

east of the proposed enclosure. These structures are all, from my observations and notwithstanding the submitted drawings, of overall height that are not substantially different to the proposed lantern. North of the appeal site, the adjacent building contains roof structures that are considerably taller again.

6. The appeal building is one of the tallest buildings in the area, with a deep roof plan such that the existing chimneys, railings and other paraphernalia cannot be seen from local public views, with limited exceptions from the less sensitive intimate mews to the rear. It follows that the proposed enclosure would not be either. Longer views, whilst not specified by the Council, are likely to see the proposed lantern enclosure interrupted by, alongside or against the existing structures and paraphernalia, or other buildings or gables, such that any visual impact would be subsumed into those existing built forms. Similarly, the proposed balustrade is of the same height as the existing railing, and is mostly sited further from the roof edge, again amongst the existing roof structures.
7. It was evident from my site visit that the proposal would be at least partially visible from some private views. The appellant's detailed assessment of views demonstrates that the greatest exposure to views of the proposal would be from No 55 Portland Place. Here, the full width of the balustrade would be visible, however, the substantial set back of the obscured glazing would not interfere with the building's frontage. The upper section of the lantern enclosure would be seen above the balustrade but against a backcloth consisting of chimneys and lift housing of comparable height, beside the higher roof structures to the north, and from a considerable distance over the width of Portland Place. From Nos 66, 71 and 82 Portland Place, and Hallam Court, views of the proposal are even less evident and, furthermore, would be representative of other generalised private views.
8. Given these findings on visibility, the proposal's contemporary design would not impact on the completed composition presented by the building. Nonetheless, use of appropriate and non-reflective materials is necessary to ensure the proposal is visually recessive. The illumination of the proposed lantern at night would not, for the visibility reasons given above, be likely to have a materially greater impact than that caused by the existing roof lanterns. As the use of the roof is not contested, the siting and layout of chattels such as furniture and planters are not matters for consideration in this appeal, and no roof floor build-up is shown on the plans. Overall, I find that no harm is caused by the proposal to the significance of the unlisted building of merit or the HSCA.
9. Whilst the Council refer to the HSCA audit (2008) and supplementary planning guidance (1994), these documents have not been provided to me. Nonetheless, the extracts submitted do not build upon development plan policies in any way that would change my above finding of lack of harm to the significance of the designated assets. The appeal decisions at Fitzroy Place, Dean Street and Enford Street¹ can be readily distinguished from the current appeal proposal, as they related to proposals either visible from public views or with dominant and incongruous roof forms. The Council's response to the costs application included extracts from a further appeal decision, dated February 2020. However, this was submitted after the Council's appeal submissions, and the appellant has not had proper opportunity to comment on it. In any case,

¹ Appeal decisions APP/X5990/W/17/3188517, APP/X5990/W/17/3191938 & APP/X5990/W/17/3169832

unlike the current proposal, that decision purportedly relates to a change of use and a listed building.

10. I therefore conclude that the proposed development would not have a significant adverse effect on the character and appearance of the host property and the HSCA. The proposal would comply with policies S25 and S28 of the Westminster City Plan (2016), saved policies DES1, DES6 and DES9 of the City of Westminster Unitary Development Plan (2007), as well as the National Planning Policy Framework, which together require historic buildings to be upgraded sensitively and preserve or enhance the character or appearance of conservation areas.

Conditions and conclusion

11. A condition detailing the approved plans is required for certainty, and my above reasoning explains the necessity of a condition requiring further details of materials. There is no evidence to suggest that a development of this scale would harm the living conditions of neighbouring occupiers, therefore the suggested condition limiting hours of construction is not reasonable or necessary. Any other works comprising development would require a separate application for planning permission and, as such, the suggested conditions relating to this are also not necessary.
12. For the reasons given, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Patrick Hanna

INSPECTOR

Schedule of conditions

- 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: 293_S_02 Rev A (site plan); 293_GA_06 Rev A (proposed sixth floor plan); 293_GA_RF Rev A (proposed roof plan); 293_GE_01 Rev B (proposed west elevation); 293_GE_02 Rev B (proposed south elevation); 293_GE_03 Rev B (proposed east elevation); and 293_GE_04 Rev B (proposed north elevation).
- 3) Notwithstanding condition 2 above, no development shall take place until specification details of all glazing, railings, and external surfaces have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.