
Appeal Decisions

Site visit made on 22 September 2020

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th November 2020

Appeal A: APP/X5990/W/20/3253463 72 Chester Square, London SW1W 9DU

- 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 Jai Waney against the decision of City of Westminster Council.
 - The application Ref 19/10022/FULL, dated 20 December 2019, was refused by notice dated 10 March 2020.
 - The development proposed is Erection of new mews building in Ebury Mews East; alterations to the rear of main house, including infill within the existing courtyard; extension to rear closet wing at second and third floor levels; extension to roof; single storey basement excavation to create plant room; and new entrance portico.
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Appeal B: APP/X5990/Y/20/3253466 72 Chester Square, London SW1W 9DU

- 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 Jai Waney against the decision of City of Westminster Council.
 - The application Ref 19/10023/LBC, dated 20 December 2019, was refused by notice dated 10 March 2020.
 - The works proposed are Erection of new mews building in Ebury Mews East; alterations to the rear of main house, including infill within the existing courtyard; extension to rear closet wing at second and third floor levels; extension to roof; single storey basement excavation to create plant room; new entrance portico and internal alterations including decorative details.
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Decision

Appeal A

1. The appeal is allowed and planning permission is granted for Erection of new mews building in Ebury Mews East; alterations to the rear of main house, including infill within the existing courtyard; extension to rear closet wing at second and third floor levels; extension to roof; single storey basement excavation to create plant room; and new entrance portico at 72 Chester Square, London SW1W 9DU in accordance with the terms of the application, Ref 19/10022/FULL, dated 20 December 2019, subject to the attached schedule of conditions.

Appeal B

2. The appeal is allowed and listed building consent is granted for Erection of new mews building in Ebury Mews East; alterations to the rear of main house,

including infill within the existing courtyard; extension to rear closet wing at second and third floor levels; extension to roof; single storey basement excavation to create plant room; new entrance portico and internal alterations including decorative details at 72 Chester Square, London SW1W 9DU in accordance with the terms of the application Ref 19/10023/LBC dated 20 December 2019 and the plans submitted with it and subject to the attached schedule of conditions.

Procedural Matters

3. Despite the description of development/works contained on the Application Form, I have amended the descriptions in the banner to omit superfluous information that does not form part of the descriptions and, for Appeal A, those matters that are not development.
4. The main parties advise that planning permission and listed building consent have been granted¹ and amended² for extensions and alterations to the listed building (the approved scheme). I am advised that the current proposal essentially mirrors the approved scheme but, in addition, includes the extension of the rear closet wing at third floor level. As it is that addition which is at issue between the main parties, and with cognisance of the extant permissions and consents, I will focus on the aspect of the proposal relating to the third-floor extension of the rear closet wing within this decision.
5. The two appeals concern the same scheme under different, complementary legislation. I have dealt with both appeals together in my reasoning. Furthermore, in determining the appeals, I have had regard to the statutory duties contained in Sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Main Issue

6. The main issue is whether the proposal preserves a Grade II listed building, known as '65-76, Chester Square', and any features of special historic interest that it possesses, and the extent to which it preserves or enhances the character or appearance of the Belgravia Conservation Area.

Reasons

Significance

7. The appeal property concerns a substantial mid-terrace townhouse, on the southeast side of Chester Square, which forms part of a Grade II listed terrace at Nos 65-76. It comprises a basement, four storeys and attic and has been in use as a single-family dwelling. According to the list description, the houses were planned in 1828 with construction beginning around 1835. The appellant's Heritage Statement (HS) suggests that the square was designed to be a grand imitation of Eaton Square and was completed in the 1840s.
8. In architectural terms, the terrace comprises of classical London townhouses with stucco frontages, primarily two windows wide, but the centre and end houses are one tripartite window wide, set forward slightly of the others and incorporate tall pilasters to the first and second floors. The front elevation includes a plethora of elegant and decorative architectural features, including

¹ Planning References: 18/06328/FULL and 18/06329/LBC.

² Planning References: 19/07842/FULL and 19/07882/LBC, for Minor Material Amendments.

channelling to the ground floor, square headed entrances and windows, cast iron balconies to first floor, cornices above the second and third floors, the latter on the parapet to roof.

9. Although the list description primarily focuses on the front of the property, it is for identification purposes only and does not form an exhaustive list of the features of the listed building that are of special architectural or historic interest.
10. The architectural detailing of the rear elevation is more modest with exposed stock brick and closet wings, which vary in size across the listed terrace. The closet wing of the appeal property has been altered with the introduction of a modern kitchen at ground floor.
11. A number of the other townhouses in the terrace have been altered and extended at the rear, particularly to the closet wings and towards and including mews buildings at the rear, the scale and appearance of which varies. These alterations and extensions reinforce the hierarchical emphasis on the public frontage of the terrace and reveal the evolution of the terrace over time, which in turn contributes to the special interest of the listed building.
12. Internally, vertical circulation within the appeal property is around a single staircase, part of the half-landings of which are situated within the closet wing. These form an important part of the spectacle of the staircase environment of the house, particularly in respect of the views available up and down the staircase. However, the appellant's HS advises that the third floor of the closet wing of the has been altered internally and externally, as a single vertically proportioned window now occupies the position of two smaller windows and the ceiling has been dropped and cornice altered.
13. Despite the alterations to its rear façade, including its closet wings, I find that the special interest of the listed building, insofar as it relates to these appeals, to be primarily associated with its architectural and historic interest, as a well-preserved example of a terraced range of high status 19th Century townhouses set within a planned estate of similar housing. Moreover, the listed terrace possesses a richness and uniformity of architectural detailing that is befitting of its Grade II status.
14. The listed building is also located within Belgravia Conservation Area (CA) which is a predominantly residential area of terraced houses dating from the Georgian and Victorian periods. While there is variation in the architectural form and scale of the streets and garden squares therein, there is greater uniformity and coherence to the architectural detailing and use of materials throughout the individual streets and terraces of housing. The listed terrace holds these attributes and, together with neighbouring and opposing terraces in the square, made an important contribution to the development of Belgravia in the early to mid-19th Century, and to the townscape of the CA. The more simplistic form of the rear façade, the upper floors of which are experienced within the CA above the smaller and more intimate mews buildings in Ebury Mews East, reinforces the hierarchical approach to the façades of buildings and their wider development over time in the CA.

The proposal and background

15. I have already briefly referred to the approved scheme above. However, in terms of the implications for the appeal proposal, I note that there is already consent for the demolition and replacement of much of the rear façade of the closet wing, up to second floor level. The proposal would increase the height of the approved extension to the closet wing to facilitate access from the proposed lift one storey higher. In order to facilitate access to the lift, the façade of the closet wing would be removed to the ceiling height of the third floor. Like the approved scheme for the floors beneath, the proposed extension would be built in matching materials, using existing brickwork where possible and the existing windows would be reinstalled in the extension and blacked out internally. The roof would be finished with a parapet in a similar manner to the existing closet wing.

Effect of the proposal on the significance of the listed building and the character and appearance of the Belgravia Conservation Area

16. There is already variety in the scale and appearance of the alterations and extensions to the closet wings of other townhouses in the listed terrace, which contribute to the special interest of the listed building and the character and appearance of the CA. With this in mind, and having regard to the characteristics of the alterations to the closet wing within the approved scheme, the scale, form and detailing of the proposal would result in a sensitive and modest addition to the listed building. While the proposed extension to the closet wing would rise above the penultimate storey of the existing building, its design and materials would reflect the style and details of the existing building, particularly the closet wing; and its scale would not visually dominate the existing building or its immediate surroundings.
17. The approach to the proposed extension would also be broadly consistent with that employed in the similar 21st Century closet wing extension found at No 73. Although the proposed extension would project a greater depth from the closet wing of the appeal property, when they are considered together, they would remain subservient to the appeal property. Furthermore, like the extension at No 73, the top of the existing closet wing would be visible above the proposed extension.
18. Clearly the approved scheme would result in alterations to the rear closet wing, including rebuilding of the existing external façade between the closet wing and the extension. Some additional historic masonry would be lost at third floor level by virtue of the proposal. However, the evidence before me illustrates that the internal and external fabric has previously been altered. The loss of historic fabric would therefore be minimal and the proposed extension would constitute a further incremental and subordinate change to the closet wing of the appeal property.
19. In light of all of the above, I conclude that the proposal would not be harmful to the architectural or historic interest of the listed building or the character and appearance of the CA, which would be preserved. Hence, the proposal would accord with Policies S25 and S28 of the Westminster City Plan (Revised November 2016); Policies DES1, DES5 and DES10(A) and paragraphs 10.108 to 10.146 of the City of Westminster Unitary Development Plan (adopted January 2007); and the guidance contained in the Council's Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings (adopted

December 1995). Amongst other things, these policies and guidance seek to ensure that proposals respect the listed building's character and appearance, and serve to preserve, restore or complement its features of special architectural or historic interest; are of the highest standards of architectural quality; and should respect and, where necessary, maintain the character, scale and hierarchy of existing buildings.

20. The main parties have referred to the emerging City Plan 2019-2040 for Westminster, which has been submitted for Examination and further Hearings were held in October 2020. Given my conclusion outlined above, the emerging policies to which I have been referred would not have a significant bearing on my consideration of the merits of these appeals.

Other Matters

21. Several residents of mew houses in Ebury Mews East, situated opposite the rear of the appeal property, have raised a range of concerns including effects on daylight and sunlight, privacy, traffic and parking, noise and disturbance during the course of construction, and the possibility of damage caused by construction work. These concerns primarily relate to the already approved scheme but reference has been made to any effects being exacerbated by the proposal.
22. Given the scale and nature of the proposed change to the approved scheme and its proximity to the houses in Ebury Mews East, the intrusion to the occupiers caused by its construction would be unlikely to be to any greater extent than that which would be experienced with the approved scheme. I note that these matters are considered acceptable by the Council and there is no substantive evidence before me which would lead me to take a different view.
23. Although the parties suggest that the necessary details of several conditions imposed on the approved scheme have subsequently been agreed, this appeal would equate to a new standalone permission. The requirements of those conditions would therefore need to be met again through conditions imposed in connection with the appeal. These are set out in the following section and in the schedule at the end of this decision.

Conditions

24. The approved scheme included conditions referring to the agreement of various matters. These are pertinent to both appeals so I have applied the tests for planning conditions, made amendments thereto and imposed these where relevant and necessary.
25. In addition to the standard time limits for both appeals, in the interests of clarity I have specified the approved plans in Appeal A. This is unnecessary for Appeal B, as the decision incorporates the plans.
26. In the interests of preserving the special interest of the listed building, conditions for the specifications and samples of materials are necessary on both appeals. However, I have amended and merged conditions in relation to external facing materials to avoid duplication, to provide clarity and ensure consistency between the relevant development/works in the appeals. Those aspects of materials that relate to internal fabric only require approval or clarification as part of Appeal B.

27. For Appeal A, conditions relating to the restriction of the use of the roof, for escape purposes only; the control of noise potentially emitted from plant and equipment in connection with the development; construction working hours; and the demolition and construction works required at the site, are necessary in order to protect the living conditions of neighbouring occupiers and other occupiers in the surrounding area. The details of the latter are required prior to the commencement of any development as initial demolition and ground works could also impact upon living conditions.
28. I have not included the planning condition from the approved scheme in relation to exceptions to noisy work outside of the construction working times, as agreement of such matters is dealt with by agreement through prior consent under Section 61 of the Control of Pollution Act 1974.

Conclusion

29. For the reasons given above, I conclude that both of the appeals should be allowed.

Paul Thompson

INSPECTOR

Schedule of Conditions

Appeal A: APP/X5990/W/20/3253463

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Architectural Details Rev B, EL_01D, EL_02D, EL_03D, EL_04D, EL_01PG, EL_02PG, EL_03PG, EL_04PG, GA_01D, GA_02DA, GA_03DA, GA_04D, GA_05D, GA_06D, GA_01PG, GA_02PG, GA_03PG, GA_04PG, GA_05PG, GA_06PG, GA_07PG, SC_01D, Location Plan, SC_02DA, SC_05D, SC_01PG, SC_02PG, SC_03PG, SC_04PG and SP02-P.
- 3) Prior to the commencement of any demolition or construction on site, details that the development hereby permitted will be bound by the City Council's Code of Construction Practice, shall be submitted to and approved in writing by the City Council as local planning authority. The details shall comprise a completed Appendix A of the Code of Construction Practice, signed by the applicant, which has first been approved by the Council's Environmental Inspectorate. Commencement of any demolition or construction shall not take place until the local planning authority has issued its written approval of such an application, as this constitutes an agreement to comply with the Code of Construction Practice and requirements contained therein.
- 4) Unless indicated otherwise on the approved plans or in other conditions in this permission, all new work to the outside of the building must match existing historic work in terms of the materials and method of construction, and finished appearance.

- 5) Prior to their use in the development hereby permitted, details of the proposed facing materials shall be submitted to and approved in writing by the local planning authority. The details shall include, unless indicated otherwise below, a written and photographic schedule together with annotated versions of the approved elevations / plans (as applicable) which demonstrate / locate the use of each of the following proposed materials:
- sample panels of the proposed facing brickwork, which must be prepared on-site for inspection and must match the existing original brickwork in terms of the brick bond, colour, texture and pointing;
 - new and/or altered windows, doors and rooflights (including roof glazing) (including 1:5 scaled elevation and section drawings); and
 - typical external profiles of new extensions, including dormers (including 1:20 scaled elevation and section drawings).

The development / works must be carried out only in accordance with the approved details.

- 6) All new outside rainwater and soil pipes must be made out of metal and painted black.
- 7) The roof of the extensions hereby permitted must not be used for sitting out or for any other purpose, except in incidences where escape from the building is required in an emergency.
- 8) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
- 9) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
- 10) Following installation of the plant and equipment referred to in the above conditions, approval of the details of a fixed maximum noise level may be sought in writing from the City Council. The details shall include a further noise report confirming previous details and subsequent measurement data

of the installed plant, including a proposed fixed noise level. The submitted noise report must include:

- a schedule of all plant and equipment that formed part of this application;
- locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- manufacturer specifications of sound emissions in octave or third octave detail;
- the location of most affected noise sensitive receptor location and the most affected window of it;
- distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- the lowest existing L A90, 15 mins measurement recorded under the above;
- measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition; and
- the proposed maximum noise level to be emitted by the plant and equipment.

The plant and equipment must thereafter operate in accordance with the approved proposed fixed noise level.

- 11) No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.
- 12) Except for piling, excavation and demolition work, you must only carry out any building work which can be heard at the boundary of the site between 0800hrs and 1800hrs Monday to Friday; 0800hrs and 1300hrs on Saturdays; and not at all on Sundays, Bank and Public Holidays. You must only carry out piling, excavation and demolition work between 0800hrs and 1800hrs Monday to Friday; and not at all on Saturdays, Sundays, Bank and Public Holidays.

Appeal B: APP/X5990/Y/20/3253466

- 1) The works authorised by this consent shall begin not later than three years from the date of this consent.

- 2) Unless indicated otherwise on the approved plans or in other conditions in this consent, all new work to the outside of the building must match existing historic work in terms of the materials and method of construction, and finished appearance.
- 3) Prior to their use in the works hereby consented, details of the proposed facing materials shall be submitted to and approved in writing by the local planning authority. The details shall include, unless indicated otherwise below, a written and photographic schedule together with annotated versions of the approved elevations / plans (as applicable) which demonstrate / locate the use of each of the following proposed materials:
- sample panels of the proposed facing brickwork, which must be prepared on-site for inspection and must match the existing original brickwork in terms of the brick bond, colour, texture and pointing;
 - new and/or altered windows, doors and rooflights (including roof glazing) (including 1:5 scaled elevation and section drawings);
 - new and/or altered staircases, balustrades and railings (including 1:20 scaled plan, elevation and section drawings); and
 - typical external profiles of new extensions, including dormers (including 1:20 scaled elevation and section drawings).

The works must be carried out only in accordance with the approved details.

- 4) Prior to the commencement of any of the approved works in relation to the half-landings within the building, approval of detailed drawings illustrating the following must first be submitted to and approved in writing by the local planning authority:
- the levels between the first floor half-landing and the outdoor terrace including the measures to address any change(s) in levels; and
 - the alterations to the half-landing areas required to insert the new lift and associated alterations / new fixtures.

The works must be carried out only in accordance with the approved details.

- 5) All new outside rainwater and soil pipes must be made out of metal and painted black.
- 6) You must scribe all new partitions around the existing ornamental plaster mouldings.
- 7) The existing ornamental features including chimney pieces, plasterwork, architraves, panelling, doors and staircase balustrades must not be disturbed. They must be left in their present position unless changes are shown on the approved drawings or are required by conditions to this consent. The features must therefore be protected during the course of works on site.

END OF SCHEDULE