

---

# Appeal Decision

Site visit made on 14 December 2020

**by Ian Harrison BA Hons DipTP MRTPI**

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

**Decision date: 05 January 2021**

---

**Appeal Ref: APP/X5990/W/20/3253855**  
**103-105 Crawford Street, London W1H 2HS**

- 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 Danish Hanif (Fort Properties Limited) against the decision of City of Westminster Council.
  - The application Ref 19/06163/FULL, dated 6 August 2019, was refused by notice dated 19 December 2019.
  - The development proposed is Erection of a rear extension at first floor level, relocation of the existing office accommodation (Class B1); and use of the existing office area as 2 residential units (Class C3). Relocation of existing plant items to the side of the new rear extension with associated screening and acoustic requirements.
- 

## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are the effect of the development on:
  - The character and appearance of the existing building and the Portman Estate Conservation Area.
  - The living conditions of the occupiers of neighbouring properties with particular regard to noise.
  - The living conditions of the future occupiers of the proposed flats with particular regard to light.

## Reasons

### *Character and Appearance*

3. Crawford Street is a bustling street featuring a mixture of commercial uses at ground floor with three or four storeys of offices and residential uses above, including a Grade II listed building at the junction with Upper Montague Street which runs perpendicularly to Crawford Street. Upper Montague Street features buildings of similar height that mostly appear to be in residential use, including the Grade II listed buildings of 15 to 19 Upper Montague Street that are adjacent to the appeal site. The listing descriptions of those buildings indicate that their heritage significance is derived from their history and the architectural detailing of the frontage of those buildings. Accessed from Upper Montague Street and to the rear of the built form fronting Crawford Street is the courtyard of Beverston Mews which features a residential building that abuts the site, with accommodation over three floors including within a mansard roof.

4. The abovementioned streets sit within the Portman Estate Conservation Area which covers an extensive area, much of which is arranged within a formal, grid-like pattern and features architecture from a consistent palette. The evidence before me indicates that the Conservation Area derives its significance from these features which reflect the planned development of the area. I have paid special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area.
5. The proposal relates to the existing offices at the first floor of 103-105 Crawford Street which features detailing to the front that is consistent with the group of properties that it sits within. To the rear of the main part of the building is a four storey stairwell projection that is surrounded by a single storey projection which fills the rear part of the site. The flat roof of that projection appears to be used as outdoor space associated with the use of the building. As a result of it being surrounded by taller built form, the single storey projection is only readily visible from the rear facing windows and the outdoor spaces at the rear of the properties of Crawford Street and Upper Montague Street. From where it is seen, it is similar to several other single storey features that are located in similar positions between taller buildings.
6. The absence of built form above the rear projection creates a space between the primary buildings fronting Crawford Street and the built form of Beverston Mews, which has been retained for the length of that building. Although there are no public vantage points of this space, the gap that has been retained at first floor level enables the buildings to be distinguished as separate entities. The proposed extension would sit above the ground floor projection and would fill the majority of the space between the abovementioned buildings. Although the extension would be inset from both side boundaries by a small amount, the infilling of the space between the buildings at first floor level would be at odds with the existing pattern of built form at and around the site. This would erode the sense of space between buildings. Accordingly, the proposal would detract from the appearance of the building and harmfully reduce the space at the rear of the building.
7. Whilst the extension would not be visible from the public domain and the abovementioned gap makes a minimal contribution to the character and appearance of the Conservation Area as a whole, the extension would be visible from surrounding properties and therefore, for the reasons set out above, the harm caused would be seen from some vantage points. Therefore, whilst the harm to the Conservation Area would be limited, it constitutes harm that I consider to be less than substantial. I afford great weight to that harm.
8. In this regard, both main parties have referred to the Council's Development and Demolition in Conservation Areas Supplementary Planning Guidance (1996)(The SPG) which the evidence before me indicates seeks to restrict rear extensions that fill the plot and extend for the full width of the building. The inset of the extension from the side boundaries means that the proposed extension would not be prevented by those restrictions and the proposal would also accord with those parts of Policies DE5 of The UDP and DES7I of The SPG which directs extensions to the rear of existing buildings. However, the proposal according with the abovementioned policy and guidance in those respects does not lead me to reach a different conclusion in respect of the effect of the development.
9. As set out above, the site is adjacent to a terrace containing Grade II listed buildings and I have had special regard to the desirability of preserving the setting of those buildings. As a result of the positioning and scale of the extension, it would only partially restrict views of the adjacent listed buildings from a few vantage points and have no impact on the features of the building from which

those buildings derive their heritage significance. Moreover, the extent to which the extension would restrict views of the listed buildings would be comparable to the effect of the built form at Beverston Mews. Consequently, whilst there would be a small reduction of the visibility of the listed buildings, this would not harm their setting or the contribution that they make to the Conservation Area as a whole.

10. The National Planning Policy Framework (The Framework) requires that, where less than substantial harm is identified, it is weighed against the public benefits of the proposal. In this regard the appellant has identified that the proposal would represent a boost to housing supply which is supported by The Framework and the London Plan (2016)(The LP). It has been identified that the Draft Westminster City Plan also supports the increase of housing delivery and, whilst I am not aware of the status of that plan, I acknowledge that this indicates that the emphasis on the delivery of housing is to remain and increase. However, the evidence before me does not demonstrate that this benefit could not be achieved without causing the limited harm that has been identified, particularly as the extension would be used as office space.
11. The appellant also identifies that the proposal would improve the quality of the office space at the site. However, I have insufficient details of the quality of the existing or proposed accommodation to be able to afford this more than a little weight and I have no basis to conclude that this would represent a substantial public benefit. Consequently, I do not find that either of these aspects of the proposal represent public benefits that would outweigh the harm caused to the heritage asset.
12. Therefore, as the development would have an unacceptable effect on the character and appearance of the existing building and the Portman Estate Conservation Area, it would be contrary to Policies S25 and S28 of the Westminster City Plan (2016)(The WCP) which require that heritage assets are conserved and that development incorporates exemplary standards of architecture. The proposal would also be contrary to Policies DES1 and DES5 of the City of Westminster Unitary Development Plan (2007)(The UDP) which require that development is of the highest standard in terms of architectural quality, is in scale with the existing building and its surroundings and does not involve the loss of significant gaps between buildings or the occupation of an excessive part of the garden ground or other enclosure. Furthermore, the development would not accord with The Framework which requires the conservation and enhancement of the historic environment unless any less than substantial harm is outweighed by the public benefits of the development.

*Living Conditions of Neighbouring Occupiers.*

13. The proposal would involve the relocation of the plant that is currently sited to the rear of the abovementioned stairwell projection to a position in close proximity to the boundary that is shared with 102 Crawford Street. That neighbouring building has windows in the rear elevation that appear to serve residential properties and the appellant has not contested the Council's contention that this is the case. The appellant's initial submissions did not assess the effect of plant in the proposed location on the abovementioned neighbouring property. However, an amended Environmental Noise Impact Report (The ENIR) has accompanied the appeal which identifies that the plant would be a source of noise that would be required to be mitigated through its enclosure and the provision of wall lining.
14. Whilst the description of the development indicated that the proposal would involve the provision of 'screening and acoustic requirements', the submissions

accompanying the original application and the appeal included minimal details of that suggested mitigation. Whilst a plan accompanied the appellant's final comments showing a potential method of enclosing the plant, the proposed structure would be in close proximity to the shared boundary with 102 Crawford Road and of a height that would exceed the shared boundary wall, albeit by a small amount. That additional structure has not been the subject of public consultation or assessment by the Council. Any person assessing the plans submitted with the application would have been unaware that the enclosure would be as extensive as shown by the amended plan. As such, having regard to the *Wheatcroft* principles, it would not be reasonable to consider that plan as an amended plan.

15. Paragraph 54 of The Framework encourages consideration to be given to the use of conditions to make developments acceptable that would otherwise be unacceptable. If I proceed on the basis that the abovementioned amended plan has been submitted on an indicative basis, it demonstrates that the necessary mitigation would be likely to represent a substantial addition to the proposal and be likely to come in close proximity to the neighbouring building. The occupiers of that building would reasonably expect to have had an opportunity to comment on such an addition to the proposals and I do not find that the opportunity to comment should be relinquished on the basis that the purpose of the structure would be to mitigate a potential effect on those residents. In this regard, the reference to potential mitigation within the description of development would not be sufficient for an interested party to be aware that a development in addition to that shown on the submitted plans would form part of the proposal. Therefore, enabling such an addition through the imposition of a condition would be prejudicial to the involvement of interested parties.
16. I am not able to be certain that any other condition could be imposed to address this matter that would meet the relevant tests of a condition.
17. Consequently, as I am not satisfied that it would be possible to secure adequate mitigation to make the development acceptable, the proposal would have an unacceptable effect on the living conditions of the occupiers of neighbouring properties with particular regard to noise. The development would, therefore, be contrary to Policies S29 and S32 of The WCP which seek to reduce noise pollution and state that proposals will be resisted that would result in an unacceptable material loss of residential amenity. The proposal would also be contrary to Policies ENV6 and ENV 7 of The UDP which require the provision of design features and operational measures to minimise and contain noise from developments and meet specified mitigation standards in order to protect noise sensitive properties.
18. Both main parties have identified that the proposed extension would not cause harm to the living conditions of the occupiers of any flats in terms of the effect on outlook, light, privacy and security. However, the development being acceptable in those respects should be expected and, as such, this factor does not lead me to a different conclusion in relation to either the effect on the living conditions of the occupiers of 102 Crawford Street.

#### *Living Conditions of Future Occupiers*

19. As originally submitted, one of the proposed kitchens would have been served by no windows and, consequently, no natural light. A minor alteration to the internal layout is shown to be possible to address this matter without having any implications for the exterior of the building and I find that this would ensure that adequate living conditions are provided to serve future occupiers. Both main parties also agree that this is sufficient to address the concern that was raised by the Council. Consequently, if the proposal were acceptable in all other respects, a

condition could be imposed to address this matter. Therefore, in relation to the living condition of the future occupiers the proposal would accord with Policies S29 of The WCP and ENV13 of the UDP which, together, require the provision of acceptable internal living condition for future occupiers. The proposal would also accord with the similar aims of Policy 3.5 of the London Plan (2016) and the Mayor of London's Housing Supplementary Guidance (2016)

### **Other Matters**

20. It has been brought to my attention that planning permission<sup>1</sup> for an alternative development has been granted at the site. However, I have minimal details of that development before me and the evidence available suggests that the proposals are different. Consequently, that permission does not alter my assessment of the effect of this development.

### **Planning Balance and Conclusion**

21. Whilst the appellant has identified that some permissions granted by the council have not been fully implemented, I have not been provided with compelling evidence that the Council is not able to demonstrate an adequate housing land supply. Even if I were to proceed on the basis that the approach set out at paragraph 11d) of The Framework were applicable, that the shortfall of housing is substantial and that the proposed office space would be of high quality as has also been suggested, the harm caused by the proposal in respect of the effect on the character and appearance of the site and the Portman Estate Conservation Area and the living conditions of the occupiers of 105 Crawford Street would clearly and demonstrably outweigh the arising benefits of the proposal. Consequently, the proposal would not accord with The Framework when taken as a whole.
22. Therefore, as the proposal would be contrary to the development plan and other considerations, including the Framework, do not indicate that an alternative conclusion should be reached, I dismiss the appeal.

*Ian Harrison*

INSPECTOR

---

<sup>1</sup> 19/07744/FULL