



Appeal Decisions

Site visit made on 12 January 2021

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 01 February 2021

Appeal A: APP/X5990/W/20/3258411

Basement and Ground Floor, 77 Dean Street, London W1D 3SH

- 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 Martin Reiss of Ralwood Securities Ltd against the decision of City of Westminster Council.
 - The application Ref 20/01189/FULL, dated 17 February 2020, was refused by notice dated 6 August 2020.
 - The development proposed is for a new restaurant fit out, to include new plant to the rear roof to replace existing and a new traditional painted timber shopfront with signage to the front elevation, a new staircase to access the basement level, new doors and partitions, and a full new mechanical and electrical installation throughout.
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Appeal B: APP/X5990/Y/20/3258410

Basement and Ground Floor, 77 Dean Street, London W1D 3SH

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) against a refusal to grant listed building consent.
 - The appeal is made by Mr Martin Reiss of Ralwood Securities Ltd against the decision of City of Westminster Council.
 - The application Ref 20/01190/LBC, dated 17 February 2020, was refused by notice dated 6 August 2020.
 - The works proposed are described as a new restaurant fit out, to include new plant to the rear roof to replace existing and a new traditional painted timber shopfront with signage to the front elevation, a new staircase to access the basement level, new doors and partitions, and a full new mechanical and electrical installation throughout.
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Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for a new restaurant fit out, to include new plant to the rear roof to replace existing and a new traditional painted timber shopfront with signage to the front elevation, a new staircase to access the basement level, new doors and partitions, and a full new mechanical and electrical installation throughout, at Basement and Ground Floor, 77 Dean Street, London W1D 3SH, in accordance with the terms of the application, Ref. 20/01189/FULL, dated 17 February 2020, subject to the conditions set out in the attached schedule.

Appeal B

2. The appeal is allowed and listed building consent is granted for new restaurant fit out, to include new plant to the rear roof to replace existing and a new traditional painted timber shopfront with signage to the front elevation, a new

staircase to access the basement level, new doors and partitions, and a full new mechanical and electrical installation throughout, at Basement and Ground Floor, 77 Dean Street, London W1D 3SH, in accordance with the terms of the application Ref. 20/01190/LBC, dated 17 February 2020, subject to the conditions set out in the attached schedule.

Procedural Matters

3. As set out above, there are 2 appeals on this site. Each relates to the same scheme but they address separate applications for planning permission in the case of Appeal A, and listed building consent in the case of Appeal B. I have considered each on its individual merits, however, to avoid duplication I have dealt with the Appeals together, except where otherwise indicated.
4. Since its refusal of the above applications, the Council has separately granted planning permission and listed building consent for all of the works they cover, other than those related to the installation of a new shopfront. The latter was and indeed remains the sole area of objection. I have taken this into account in my reasons below.

Main Issue

5. The main issue is the effect of the scheme on designated heritage assets, including whether it would preserve a Grade II listed building, its setting, or any of the features of special architectural or historic interest that it possesses; and whether it would preserve or enhance the character or appearance of Soho Conservation Area (the Conservation Area).

Reasons

6. The appeal property occupies the basement and ground floor of 77 Dean Street, which is the listed building in this case. Insofar as it is relevant to the Appeals, the special interest and significance of the listed building resides in its early eighteenth century date, and original design as a domestic dwelling. In this regard it retains a formal symmetrical frontage above ground floor level, containing openings of diminishing size across 3 floors, with those on the first floor provided with stucco surrounds and pediments.
7. The listed building is located within the Conservation Area. Again, insofar as it is relevant to the Appeals, the significance of the Conservation Area resides in the late seventeenth-early eighteenth century street layout, and the historic buildings and spaces this contains. Within this context the listed building makes a positive contribution.
8. The presence of a shopfront on the ground floor of the listed building is clearly not an original feature of the building design. Though the shopfront is mentioned in the list description, this does in itself denote interest, given that in this case the description primarily serves to visually identify the building. The existing shopfront is indeed less than 40 years old, and appreciably so. Its design too is modern, notwithstanding the variable application of traditional styling within it. Replacement of the shopfront would not therefore lead to any direct loss of historic fabric, integrity, interest or significance to either the listed building or the Conservation Area.
9. The matter in dispute can therefore be most clearly understood as being the extent to which the design of the proposed shopfront would be more or less

visually compatible with the historic frontage above, and with the streetscene at large.

10. The proposed design has drawn upon evidence for a short-lived shopfront that was installed at the property during the 1920s. The designs do not identically match. However, there is no particular reason why this should be considered essential, or necessarily desirable, given that the 1920s design featured a large single window. Use of the design to inform that proposed nonetheless lends a degree of historic relevance and credibility to the appeal scheme.
11. The proposed shopfront would otherwise feature much the same key traditional elements as the existing. There would however be subtle changes in detail and composition, with the main difference residing in the glazing arrangement.
12. In this regard particular attention has been drawn to the current subdivision of the shop window into 4 evenly sized 'arched' top elements. This does not directly relate to any historic feature of the frontage, and insofar as the design is continued over the doorways at either end of the shop front, it does not complement the otherwise rectilinear detailing of the transom lights above them. It does however provide a degree of vertical emphasis, which is also a feature of the window openings in the upper floors.
13. The glazed area of the proposed shopfront would be larger, the width of its 4 panels broader, and each would carry a horizontal transom detail. The proposed glazing would thus provide less vertical emphasis than the existing. There would however be far greater cohesion between the central section of the shopfront and the fascia and cornice above than there is at present. This would in turn see the significant horizontal emphasis provided by the current detailing of the fascia and cornice reduced. That being so, balance would be achieved.
14. Moreover, the proposed design would bring an improvement in the detailing and consistency of the stall riser relative to the pilasters, and a modest improvement in perceived overall symmetry. Indeed, despite the fact that the 4 glazed panels would not be of regular width, and that one would be openable, the omission of an inset door would remove a current source of significant imbalance. The incongruous arches above the doorways to either end of the shopfront would also be removed, and a traditional retractable shop blind would be added. Though individually subtle, this and the above changes would collectively improve the overall cohesion and quality of the design. It would thus provide a better visual and architectural accompaniment to the floors above than the existing shopfront.
15. The broader streetscene within the Conservation Area contains shopfronts of varied design, including one nearby which has arched top windows similar to those in the existing shopfront. Many such shopfronts however again appear to be of modern origin despite the similarly variable application of traditional detailing. Though the detailing of the existing shopfront is held to make both a positive and distinctive contribution in this context, it nonetheless lacks any historic value. Moreover, given that the proposed shopfront would represent an improvement in design terms, no harm would be caused by its loss. Indeed, the contribution made by the listed building to both the character and appearance and the significance of the Conservation Area would be modestly enhanced.

16. As set out above, the Council has already granted planning permission and listed building consent for all the other works outlined within the appeal scheme. Given the existing presence of plant and machinery to the rear, and the heavily modified state of the interior, I am satisfied that the scheme would as a whole succeed in preserving the listed building and the character and modestly enhancing the appearance of the Conservation Area.
17. For the reasons outlined above I conclude that the scheme would have an acceptable effect on designated heritage assets, preserving the listed building, and modestly enhancing the character and appearance of the Conservation Area. With regard to Appeal A, and insofar as it is relevant to Appeal B, the scheme would thus comply with Policies S25 and S28 of the Westminster City Plan 2016 (the CP) which set out the objectives of conserving Westminster's heritage assets and achieving exemplary standards of design; saved Policy DES1 of the Unitary Development Plan (UDP), which seeks to secure both objectives; and saved Policies DES5 and DES10 of the UDP which together seek to secure sympathetic alterations.

Conditions

18. In relation to both Appeals A and B I have attached conditions setting out the time periods for commencement, and in relation to Appeal A, the approved plans. This is for sake of certainty. I have not imposed a plans condition in relation to Appeal B, as no power to do so exists within the Act.
19. I have also imposed a number of conditions in relation to Appeal A which relate to noise pollution. These are Conditions 3 and 4, which restrict the timing of certain construction activities; Condition 5 which requires the installation and subsequent maintenance of noise mitigation measures; Condition 6 which restricts hours within which plant and machinery can be operated; and Condition 7 which sets out limits for noises of certain type. With regard to the latter, I have redrafted the suggested text for sake of clarity and brevity. In so doing I have omitted reference to the option of applying to set an alternative fixed maximum noise level, as it is unclear how the application process would function in the context of discharging the condition, or why it is necessary given that there is no requirement for such an application to be made. Conditions 3-7 are necessary in order to safeguard the living conditions of occupants of adjacent residential properties from both daytime and night-time noise.
20. I have imposed Condition 8 in relation to vibration, which, though the source is not specified in the suggested text, may arise both from construction works and the operation of plant and machinery. Insofar as other conditions restrict both the timing of works and night-time operation of plant and machinery, reference to night-time limits within the condition is unnecessary. The condition, as redrafted, is again required in order to safeguard the living conditions of occupants of adjacent residential properties.
21. I have not imposed a condition requiring the removal of redundant plant, machinery and associated fixtures and fittings, as their removal will be required in order to install the new plant and machinery.
22. With regard to Appeal B, I have imposed one additional condition in relation to making good any damage caused to the historic building fabric. The condition is necessary in order to help preserve the fabric of the listed building. There is no

need for the condition to be duplicated in relation to Appeal A, and no scope or justification to impose the vague requirement for all new work and improvements to match existing original work.

Conclusion

23. For the reasons set out above I conclude that Appeals A and B should be allowed.

Benjamin Webb

INSPECTOR

Schedule of Conditions

Appeal A

- 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: 2000 Rev. K; 2001 Rev. L; 2002 Rev. A; 2010 Rev. A; 2011 Rev. A; 2100 Rev. E; 2101 Rev. A; 2200 Rev. F; 2201 Rev. A; 2400 Rev. A; 2401 Rev. A; 5000 Rev. A; 5001 Rev. F; 5002 Rev. A; 5100 Rev. B; 5101 Rev. A; 5200; 5201 Rev. A.
- 3) Other than piling, excavation and demolition, any building work carried out in relation to the development hereby permitted which generates noise that can be heard at the boundary of the site, must be carried out only between the hours of: 08.00 - 18.00 Monday to Friday; 08.00 - 13.00 Saturday; and not at all on Sundays, bank holidays and public holidays.
- 4) Piling, excavation and demolition work carried out in relation to the development hereby permitted must only be carried out between the hours of 08.00 - 18.00 Monday to Friday; and not at all on Saturdays, Sundays, bank holidays and public holidays.
- 5) The acoustic mitigation measures detailed in the submitted acoustic report must be installed prior to the first operation of the plant and machinery hereby permitted. The acoustic mitigation measures shall thereafter maintained for as long as the plant and machinery itself remains in situ.
- 6) The plant and machinery hereby permitted shall not be operated except between the hours of 07:00 - 23:00 daily.
- 7) Measured or predicted at 1.0m from any window of any residential and other noise sensitive property, the noise emitted by the plant and machinery hereby permitted shall not exceed a level 10dBA below the existing lowest LA90(15min) background noise level at any time, and where the source is tonal or intermittent, it shall not exceed a level 15dBA below.
- 8) No vibration arising from the construction works, or use of the plant and machinery hereby permitted shall be transmitted through the building

structure and fabric to any part of a residential and other noise sensitive property where this would cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time as defined by BS 6472 (2008).

Appeal B

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this decision.
- 2) Insofar as the works hereby authorised entail alterations of the historic fabric of the building, any damage caused shall be made good using matching materials, methods of construction and finished appearance.