



Appeal Decision

Site visit made on 17 February 2021

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd March 2021

Appeal Ref: APP/X5990/W/20/3252583

92 - 95 Gloucester Mews West, London W2 6DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Magid against City of Westminster Council.
 - The application Ref 20/01827/FULL, is dated 11 March 2020.
 - The development proposed is Roof Extensions to four terraced mews houses.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In the banner heading above I have set out the site address based upon the redline plan submitted with the application and the description of development in the application form and appeal form. I have omitted the site address from the description of development as it is not an act of development.
3. Detailed scale plans have not been provided of three of the four proposed elevations. The floor plan shows that the side and rear elevations would be blank, and the application form states the walls would be finished in standing seam zinc cladding, so I have considered the appeal on this basis.
4. The appeal has been submitted due to the failure of the Council to give notice of its decision within the prescribed time period. The Council has subsequently advised it would have refused the application for the following reasons:

Your drawings do not include enough details of the design of the side or rear elevations, and also fails to provide adequate cross sections through the proposed roof extension for us to assess how your plans would affect the appearance of the buildings, this part of the Bayswater Conservation Area, and the setting of surrounding Grade II listed buildings. We believe that the proposal as it stands could fail to maintain or improve (preserve or enhance) the character and appearance of the building and the Bayswater Conservation Area and the setting of surrounding listed buildings...

Insufficient details have been submitted, including lack of cross sections and rear elevation showing the relationship of the proposed development with adjacent properties, in order for us to be able to assess how the proposed roof extensions would impact on neighbouring residential amenity. The City Council has received a number of objections from neighbours at the rear of the site on

grounds of impact on residential amenity; ... Consequently, it has not been demonstrated that the proposed roof extensions would not have a harmful impact on neighbouring residential properties, including in terms of loss of light to their property, unacceptable overshadowing to their property, and increased sense of enclosure...

5. I have had regard to these concerns and those of interested parties in setting out the main issues below. I have had regard to observations from my site visit to identify properties on Gloucester Terrace in setting out the main issues below.

Main Issues

6. The main issues are the effect of the proposed development upon:
 - the character and appearance of the host buildings and whether the development would either preserve or enhance the character or appearance of the Bayswater Conservation Area (the BCA);
 - the setting and significance of the group of Grade II Listed Buildings incorporating Nos 125 – 167 Gloucester Terrace and No 29 Cleveland Terrace; and,
 - the living conditions of the occupiers of Nos 135 – 141 Gloucester Terrace with particular reference to daylight, overshadowing and outlook.

Reasons

Character and Appearance and the BCA

7. Gloucester Mews West comprises two rows of mostly two storey flat roofed terraced dwellings rear of substantial listed buildings on Cleveland Square and Gloucester Terrace. The four dwellings forming the appeal site and the surrounding buildings are within the BCA. Within the BCA there is a statutory duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing its character or appearance.
8. The BCA primarily derives its significance from the uniformity, rhythm and appearance of streets and avenues of stucco and brickwork terraced dwellings. The more ornate examples integrate features such as porticos, balustrades, corbelling, bay windows, substantial chimney stacks, and mansard roofs. Such features are visible on buildings on Cleveland Square and Gloucester Terrace. The rear of the buildings have few decorative features and exhibit some alterations but retain some historic features and a sense of rhythm. The appeal site and neighbouring dwellings contribute positively to the significance of the BCA due to their uniformity and subservient height lining a historic parallel back street, reflecting the relationship of previous historic buildings to the larger terraces on Gloucester Terrace.
9. Notwithstanding extensions nearby and alterations to No 93, the appeal site facades and those nearby retain a simple design maintaining continuity and coherence through their front roof height, shape, and window openings. To the front the proposed contemporary standing seam zinc and glass would contrast with the front of the dwellings. The proposed windows would result an overall simplicity and rhythm in keeping with the host dwellings and wider terrace.

10. The extensions would be of a similar design to those permitted opposite at Nos 1 – 4 by appeal Ref APP/X5990/W/18/3217919. However, the proposed appeal site extensions are markedly closer to the front of the roof. As a consequence, given their height, form and appearance the extensions would be a bulky and somewhat dominant addition, that would not be respectful of the front roofline, volume or ensure subservience with the host buildings, forming a harmful addition.
11. The appellant is of the view that a legal agreement to secure the development of all four dwellings would be inappropriate. However, without a mechanism to ensure all four properties are developed together, there would not be certainty the proposal would ensure a coherency and unity inherent of the terrace. It could result in gaps between extensions that would also be harmful to the character and appearance of the terrace. The full details of the scheme at Westbourne terrace is not before me, so a reasoned and justified comparison is not possible. As that development was for mansard extensions set within a different visual context, they are not directly comparable to this proposal, which I have considered on its own merits.
12. The windowless rear elevations would be viewed as a sizeable blank mass from neighbouring windows. Although No 93 has a blank rear elevation, from what I could see at my visit the other dwellings forming the appeal site and the wider terrace incorporate windowed elevations. The rear elevations of the scheme subject of appeal Ref 3217919 are not before me. However, based upon the evidence before me the main rear elevations of Nos 1 – 4 are significantly different in terms of their depth, shape, and alignment. As a consequence, those extensions are viewed in a significantly different context. This blank design would be out of keeping with and detrimental to the architectural character and appearance of the host dwellings, those nearby that the development would be viewed closely in the context of, and the BCA.
13. Notwithstanding the variation in roofs in this part of the mews, the backdrop of more substantial buildings and the visibility from the wider BCA, this development would be bulky, dominant, and harmful to the host buildings and incongruent with the positive elements that contribute to the significance of the BCA in this location. Therefore, it would be harmful to the character and appearance of the BCA, thereby not preserving or enhancing the BCA.
14. For the reasons set out above the development would be harmful to the character and appearance of the host buildings and would fail to preserve or enhance the character or appearance of the BCA, resulting in harm to its significance. It would conflict with Policies S25 and S28 of the Westminster City Plan (2016) (the WCP) and Policies DES1, DES6 and DES9 of the City of Westminster Unitary Development Plan (2007) (the UDP). Amongst other things these require development exhibits the highest standards of design, is not visually intrusive, is in keeping with the character of existing buildings and the immediate surroundings, reflects the form and detailing of existing buildings, does not affect the unity of a group of buildings, and respects and preserves heritage assets.
15. The development might be compliant with some of the criteria in Policy DES6, however, this does not mitigate or outweigh the policy conflicts and the harm from the development I have set out above.

Listed Buildings

16. The development lies in close proximity to the rear of several of a group of Grade II Listed Buildings at Nos 125 – 167 Gloucester Terrace and No 29 Cleveland Terrace. Special regard should be given to the desirability of preserving the setting of Listed Buildings under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Paragraph 193 of the National Planning Policy Framework (2019) (the Framework) requires when considering the impact upon the significance of a heritage asset great weight should be given to the asset's conservation. Paragraph 190 explains that harm to the significance of a designated heritage asset can also derive from development within its setting.
17. The significance of the group primarily derives from their value as a terrace of similar buildings exhibiting decorative architectural features such as sash windows, porches, dentil cornices, cast iron balconies and balustraded parapets. To the rear their significance is more limited, deriving from the rhythm of their large brickwork elevations, historic chimney stacks, dividing parapet walls and the regular vertical alignment of window openings. To the rear their setting contributes to their significance by reason of the regularity and subservient scale and uniformity of the mews buildings along the historic cobbled backstreet allowing views to and of their subservient relationship with the listed buildings.
18. By significantly increasing the height of the appeal site dwellings with a contrasting upper floor so close to the front roof, this development would obstruct visibility of the subservient relationship and remaining historic features of the heritage assets, competing with and drawing attention away from the listed buildings when viewed from the street scene around the appeal site. As a consequence, the development would result in a small adverse effect upon the setting of designated heritage assets, not sustaining or enhancing the experience of the asset within its setting, thereby not preserving the setting.
19. For the reasons set out above the development would result in harm to the setting, thereby not preserving the setting of Grade II Listed Buildings within the group incorporating Nos 125 – 167 Gloucester Terrace and No 29 Cleveland Terrace, adversely affecting their significance. This would conflict with Policies DES10 of the UDP and Policy S25 of the WCP, which state that the setting of heritage assets will be conserved and respected, and permission will not be granted where a development would adversely affect the setting of listed buildings.

Living conditions

20. There is no comprehensive detailed assessment in respect of the nature and layout of the properties opposite, the relationship of the proposed development with or its effects upon those properties in respect of outlook, daylight, and overshadowing. The development would significantly increase the height of buildings to the rear of some properties on Gloucester Terrace in close proximity to their rear windows and boundaries. At my visit it was possible to view some of the affected properties from one of the rear gardens of the appeal site.
21. The appellant has advised given the distance between the properties on Gloucester Terrace there would be no encroachment upon daylight or the 45-

degree line from any window. However, based upon the evidence before me, the proposed rear elevations would result in building height of approximately 8.38m at a distance of approximately 10m from rear windows and a significantly shorter distance from the property boundaries. Based upon the substantive evidence before me, given the distances and proposed building height, the resulting level of outlook would not be likely to result in harmful living conditions to neighbouring occupiers.

22. However, the development would be due south west of Gloucester Terrace and in close proximity to properties which have elevations with a restricted level of daylight and sunlight. Based upon the evidence before me, given the height, aspect and distances, the development would be likely to result in a significant increase in overshadowing and reduction in daylight at the lower windows and rear amenity spaces for the occupiers of Nos 135 – 141. The effects from reduced daylight and increased overshadowing would be particularly significant during the shorter months of the year, resulting in darkened living spaces with only limited light. This would be likely to be such that it would result in harmful living conditions for those occupiers of the ground floors of Nos 135 – 141. There is no substantive evidence provided that would lead me to an alternative conclusion.
23. The proposed development would not be likely to result in a harmful loss of outlook for neighbouring occupiers, however, for the reasons set out above, the development would result in a loss of daylight and increase in overshadowing that would be likely to result in harmful living conditions for the occupiers of Nos 135 – 141 Gloucester Terrace. Therefore, it would result in a conflict with Policy S29 of the WCP and Policy ENV13 of the UDP, which seek to protect the living conditions of neighbouring occupiers, including ensuring no material loss of daylight or unacceptable overshadowing.

Other Matters

24. The appellant has suggested the development could take place on individual properties under permitted development rights in a manner which could have an adverse effect upon the character and appearance of the terrace. However, no scheme setting out the fall-back development to be implemented is provided or express confirmation that the fall-back position will be implemented by the appellant in the event the appeal fails. Therefore, the fall-back position attracts very limited weight.
25. The Council has set out concerns that Certificate B submitted with the application is not compliant with the relevant legislative provisions, as it does not refer to all the names of those upon which it was served. The appellant has stated the letters were served on the homeowner of the relevant properties. However, as I am dismissing this appeal, I have not investigated this matter further.

Planning Balance

26. Paragraph 193 of the Framework requires when considering the impact upon the significance of a designated heritage asset great weight should be given to the asset's conservation. Harm to the significance of a designated heritage asset should require clear and convincing justification (paragraph 194). The harm to the setting of the Grade II Listed Buildings and the BCA set out above would be less than substantial harm. Paragraph 196 of the Framework

requires that where a proposal would lead to less than substantial harm to designated assets, the harm should be weighed against the public benefits. However, less than substantial harm should not be equated with a less than substantial planning objection.

27. The proposed development would provide benefits to the occupiers of the residential properties by providing an additional room to each house. There would also be a small economic benefit from construction. However, in the context of this appeal scheme these are modest public benefits. If the development were to have been demonstrated to be compliant with development plan policies in respect of the various living conditions of neighbouring occupiers, this would be a neutral matter that would attract neutral weight.
28. The collective public benefits, policy compliance of the development and fall-back position attracts only limited weight in favour of the scheme. However, these do not outweigh the harm to the living conditions of neighbouring occupiers, the harm to the character and appearance of the host buildings, the harm to the character and appearance of BCA and the setting of listed buildings and their significance, which attracts great weight against the scheme. Therefore, the development also conflicts with the Framework.

Conclusion

29. The proposed development would be contrary to the development plan and the National Planning Policy Framework as a whole. There are no other considerations advanced, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR