



Appeal Decisions

Site visit made on 9 March 2021

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2021

Appeal A: APP/X5990/Y/20/3256672

23 Grafton Street, London W1S 4EY

- 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 Gascoyne Holdings Ltd against the decision of City of Westminster Council.
 - The application Ref: 19/05568/LBC, dated 16 July 2019, was refused by notice dated 6 March 2020.
 - The works proposed are demolition of rear single storey basement extension, rear ground floor toilet block and rear external fire escape stairs at ground and first floor levels to be replaced by construction of new rear two storey extension at basement and ground floor levels. Use of the existing basement and the new extension at basement and ground floor as retail (Class A1). Removal of modern front railings and replacement with historically appropriate railings.
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Appeal B: APP/X5990/W/20/3256674

23 Grafton Street, London W1S 4EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Gascoyne Holdings Ltd against the decision of City of Westminster Council.
 - The application Ref: 19/05567/FULL, dated 16 July 2019, was refused by notice dated 6 March 2020.
 - The development proposed is demolition of rear single storey basement extension, rear ground floor toilet block and rear external fire escape stairs at ground and first floor levels including those with 22 Grafton Street and erection of new rear two storey extension at basement and ground floor levels. Use of the existing basement and the new extension at basement and ground floor as retail (Class A1). Replacement of front railings and plant installations located under the proposed walk-on grille at the rear of the extension.
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Decision

Appeal A

1. The appeal is allowed and listed building consent is granted for demolition of rear single storey basement extension, rear ground floor toilet block and rear external fire escape stairs at ground and first floor levels including those with 22 Grafton Street and erection of new rear two storey extension at basement and ground floor levels. Use of the existing basement and the new extension at basement and ground floor as retail (Class A1). Replacement of front railings and plant installations located under the proposed walk-on grille at the rear of the extension at 23 Grafton Street, London W1S 4EY in accordance with the terms of the application Ref: 19/05568/LBC, dated 16 July 2019, and the plans submitted with it, subject to the conditions on the attached Schedule A.

Appeal B

2. The appeal is allowed and planning permission is granted for demolition of rear single storey basement extension, rear ground floor toilet block and rear external fire escape stairs at ground and first floor levels including those with 22 Grafton Street and erection of new rear two storey extension at basement and ground floor levels. Use of the existing basement and the new extension at basement and ground floor as retail (Class A1). Replacement of front railings and plant installations located under the proposed walk-on grille at the rear of the extension at 23 Grafton Street, London W1S 4EY in accordance with the terms of the application, Ref 19/05567/FULL, dated 16 July 2019, and the plans submitted with it, subject to the conditions on the attached Schedule B.

Preliminary Matters

3. As the proposal relates to a listed building and is in a conservation area I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. Since the Council's decisions, the Council has confirmed its intention to adopt the emerging City of Westminster City Plan 2019-2040 (ECP) with the recommended main modifications. Given the ECP's advanced stage in the plan-making process, its policies carry significant weight.

Background and Main Issues

5. The Council considers that noise from the proposed plant to the rear of the building could be controlled by condition. Nonetheless, neighbour concerns have been raised regarding this matter.
6. Having regard to the above, the main issues are:
 - Whether the proposal would a) preserve the Grade II listed building, '21-23, Grafton Street W1' (Ref: 1213248), or any features of special architectural or historic interest that it possesses and b) preserve or enhance the character or appearance of the CA; and
 - The effect of the proposal on the living and working conditions of neighbouring occupants, with particular regard to noise and vibration.

Reasons

Heritage assets

7. The CA covers an area bounded by Park Lane, Oxford Street, Piccadilly and property to the west of Regent Street. The CA is predominantly characterised by fashionable townhouses and their mews, set within areas of eighteenth century, grid-iron layout. From what I saw during my site visit and the evidence before me, the CA's significance, insofar as it relates to the appeal, lies in its illustration of eighteenth century London estate development, and nineteenth and early twentieth century redevelopment in various architectural styles.
8. The listed building comprises a group of three terraced townhouses from Nos 21 to 23 Grafton Street that dates from the late eighteenth century. The building has been subject to a number of phases of redevelopment in its conversion from an eighteenth century residential property into offices and

commercial use. The ground floor of the appeal building includes an art gallery space.

9. The building is located off the axis of New Bond Street, within a grid of streets to the east of Berkeley Square. It comprises four storeys plus basement and mansard levels. The listed building exemplifies a row of substantial eighteenth century Mayfair townhouses.
10. The listed building's front and rear elevations are mainly faced with London stock brick and it has slate roofs. At the rear, the Georgian townhouse character is further illustrated by fenestration in the form of gauged arches above ground floor window openings, single glazed six over six paned sash windows at ground, first and second floors, and taller windows at first floor reflecting the principal nature of this level.
11. The listed building also illustrates subsequent redevelopment spanning the nineteenth and twentieth centuries. At the appeal property, this includes a lower ground floor rear extension and associated raising of the yard floor to ground floor level, by the early twentieth century. This extension contains a modern meeting room. A lightwell covered by a plain metal grille separates the extension from the main building. A modern toilet block and substantial metal fire escape staircase are also later additions to the rear of the building, which contribute to the rear elevation and yard having a cluttered appearance.
12. The yards to the rear of Nos 21 and 22 Grafton Street have been substantially enclosed by rear lower ground floor and ground floor extensions of various mass, style and profile, as has that at No 24 which adjoins the listed building. The yard space to the rear of the host terrace thus lacks consistent character and is substantially compromised. This leaves the rear yard at the appeal property as a surviving substantive remnant yard to the rear of the listed building and host terrace, albeit containing substantial modern clutter. Even though the floor level of the yard is not original, the presence of uncovered yard space from ground floor upwards to the rear of the building is historic and thus contributes to illustration of the domestic character of the Georgian townhouse and the relationship between its internal and external spaces.
13. Consequently, the listed building embodies evidential and historical values. The above contributes to both the building's special interest and the significance of the wider CA.
14. Given the above, I consider the special interest of the listed building, insofar as it relates to these appeals, to be primarily associated with the legibility of its eighteenth century Georgian townhouse architecture and its evolved rear yard space.
15. The rear part of the lower ground floor of the appeal building mainly comprises a group of meeting rooms of modern appearance. This layered character has superseded the original domestic character of this part of the building. Consequently, the lightwell does not obviously demarcate historic and contemporary elements of the building. Instead, they appear to flow into each other in an evolved commercial context. Within this context, the proposed removal of the lightwell and historic rear lower ground wall and windows would modestly enlarge the lower ground floor extension room but not significantly alter the layered character and function of this level of the building. Therefore,

these elements of the proposal would have a neutral impact on the special interest of the listed building.

16. Removal and replacement of the non-original front railings with a design sympathetic to the Georgian character of the building and the CA would have a positive impact on the special interest of the listed building.
17. The proposed removal of the rear ground floor toilet extension, external fire escape stairs from ground floor to first floor, ducting, unsympathetic fire door and various modern hard landscape elements would declutter the rear yard space, and better reveal the historic rear building line and elevation. This would have a positive impact on the special interest of the listed building.
18. The envisaged ground floor gallery area would create a space of stylishly minimalist character, from which to appreciate the rear elevation of the listed building. The proposed roof's glass material would substantially retain visibility of the building's rear external walls and windows, both from within the ground floor extension and looking down from other buildings in the host block. Also, the roof's modern materials would differentiate the proposed extension from the historic architecture. As such, the proposal would not dominate or obscure the rear elevation of the building, and the legibility of the rear building line of the townhouses would be preserved. Consequently, the proposal would not compromise the integrity of the building's original plan form.
19. However, the enclosure of the appeal building's rear yard by the glass roof would change the nature of the space from an external yard that is unenclosed above, and open to the elements, to an enclosed extension. This would result in loss of the substantive surviving remnant uncovered yard at the rear of the listed building and host terrace. It would internalise the exterior face of the ground floor sash windows. The insertion of the glass roof layer would mildly interrupt views of the building's rear elevation from the former yard space.
20. Moreover, the glass roofed enclosure of the yard would diminish the original character of the building and authenticity of relationship between its internal and rear external space. This would be contrary to Historic England's guidance¹ to ensure that an appropriate relationship is maintained between the main house, rear extensions and the original extent of the yard. In this way, the proposed extension at ground floor level would have a negative impact on the special interest of the listed building. Therefore, I find that the proposal would fail to preserve the special interest of the listed building.
21. However, given the proposal's positive impact to the front of the building, through sympathetic replacement of railings, as well as the containment of the negative impact to the relatively secluded rear of the building, I am satisfied that the proposal would enhance the character and appearance of the CA.
22. Paragraph 193 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Given the scale and substance of the proposal I find the harm to the listed building to be less than substantial in this instance, but nonetheless of considerable importance and weight.

¹ Conserving Georgian and Victorian terraced housing: A guide to managing change.

23. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against public benefits of the proposal, including any contribution to securing optimal viable use of listed buildings.
24. The proposal would create approximately 199 sq.m of retail floorspace that would provide positive economic stimulus to Mayfair's status as an internationally important centre for the art trade. This would contribute to viable future use and upkeep of the listed building. The envisaged ground floor gallery area would create a space of stylishly minimalist character, which would architecturally re-energize the yard space in a creative way that would resonate with Mayfair's artistic flavour. Furthermore, the removal of the modern toilet extension and part of the substantial fire escape staircase would significantly declutter the rear elevation and yard of the appeal building. The original arched rear ground floor door opening would also be restored to view. The above together would provide fresh opportunities to appreciate the listed building's original Georgian architecture and the extent of its yard space.
25. In addition, the proposed replacement of modern front railings with historically sympathetic railings would enhance the character and appearance of the front of the building, the streetscene of Grafton Street and the CA.
26. Together these benefits carry significant weight. Taking all the above into consideration, I am of the view that together the public benefits outweigh the harm that would be caused to the heritage asset.

Noise and vibration

27. There is no substantive record before me of noise nuisance arising from art gallery or other commercial activity in the locality. Furthermore, with regard to activity in the rear yard space, the proposed glass roof would provide an added layer of noise insulation compared to the existing open air arrangement. As such, the proposal is unlikely to result in significant noise disturbance to neighbours arising from use of the proposed ground floor extension.
28. With regard to the proposed plant, the appellant has submitted a revised Acoustic Consultancy Report with the appeal. In the light of this evidence and its assessment by the Council's Environmental Health Officer, the Council considers that noise and vibration control and management is capable of being secured by planning condition. I agree and attach a condition covering these matters to protect the living and working conditions of neighbours.
29. Therefore, subject to planning condition, the proposal would not harm the living and working conditions of neighbouring occupants, in terms of noise and vibration. As such, it would accord with saved Policies ENV6 and ENV7 of the City of Westminster Unitary Development Plan (2007) (UDP) and Policy 33 of the ECP. Together the policies seek to ensure that noise and vibration from development is suitably limited and controlled.

Other Matter

30. It is likely that vehicular activity arising from the proposed additional gallery space would be satisfactorily absorbed within the parking and loading provision that apparently accommodates a range of activity in the locality, including art gallery use.

Planning Balance

31. I have found that the proposal would result in some harm to the listed building's special interest, through not maintaining the uncovered character of the rear yard. This would conflict with saved Policy DES10 of the UDP, Policies S25 and S28 of the Westminster City Plan (2016) (CP) and Policy 39 of the ECP. It would also not accord with paragraph 5.6 of the City of Westminster Repairs and Alterations to Listed Buildings Supplementary Planning Guidance (1995) (SPG1).
32. That said, through providing stylish, high quality architecture that articulates local distinctiveness, the proposal would accord with saved Policy DES1 of the UDP and Policies 28 and 40 of the ECP. Furthermore, the neutral impact of the removal of the non-original lightwell would avoid conflict with Policy DES5 of the UDP, which does not explicitly preclude loss of lightwells. The neutral impact of the lower ground floor works would prevent conflict with Policy 45 of the ECP. The identified preservation of the character and appearance of the CA would avoid conflict with Policy DES9 of the UDP.
33. As the integrity of the building's original plan form would not be compromised, the proposal would not conflict with the guidance in supplementary listed buildings policy SPG/HB2 or paragraph 6.19 of the SPG1. While the loss of lower ground floor wall fabric would not accord with the guidance in paragraph 5.4 of the SPG1, the lower ground floor extension would not diminish the special interest of the building. While the guidance in paragraph I.4 of the City of Westminster Demolition and Development in Conservation Areas Supplementary Planning Guidance states that generally full width extensions are not acceptable, the full width of the proposed glass roofed ground floor extension would better reveal the rear space than a narrower one. Therefore, the width of the extension is not a decisive factor in this case.
34. In addition, the proposal would encourage the internationally significant art trade in Mayfair, thus supporting delivery of saved Policy SS4 of the UDP, Core Central Activities Zone Policy S6 of the CP and Mayfair Special Policy Area Policy CM2.5 of the CP.
35. When assessed against the public benefits the scheme would bring, including heritage benefits to the listed building and CA, I conclude that these would significantly outweigh the identified less than substantial harm to the listed building.
36. Moreover, a number of similar elements to those in the current appeal proposal - in the form of demolition and reconstruction of the rear single storey lower ground floor extension, removal of the lower ground floor outer wall fabric and lightwell, and creation of a terrace and installation of plant with associated screening - are a legitimate fallback position². This is a compelling material consideration in favour of part of the proposal.
37. Taken all together therefore, despite the breach of development plan policy identified above and the significant weight attributed to this, the adverse impacts do not outweigh the significant benefits the scheme would bring when assessed against the policies of the Framework, and of the development plan as a whole.

² Under Planning Permission Ref:15/07774/FULL and Listed Building Consent Ref: 15/08220/LBC.

38. The above together would amount to clear and convincing justification for the proposal, thus satisfying Paragraph 194 of the Framework.

Conditions

Appeal A

39. In addition to the standard time limit condition, a condition requiring the works to be carried out in accordance with the submitted details is necessary to ensure that they are implemented as approved. Conditions covering architectural detailing, submission of samples and the use of specified materials are necessary to ensure that the appearance and construction of the extension is of a suitably high standard. A structural report condition is necessary to safeguard the fabric of the listed building. In order to preserve historic architectural detail a condition requiring the making good of any disturbed surfaces is also necessary.

Appeal B

40. In addition to the standard time limit condition, a condition requiring the works to be carried out in accordance with the submitted details is necessary to ensure that they are implemented as approved. Conditions covering architectural detailing, submission of samples and the use of specified materials are necessary to ensure that the appearance and construction of the extension is of a suitably high standard. Conditions regarding cycle storage and water and recycling storage are required in the interests of environmental sustainability. Conditions covering noise and vibration, and construction hours are necessary to safeguard the living and working conditions of neighbours.

Conclusion

41. Therefore, for the above reasons I conclude that the appeals should be allowed.

William Cooper

INSPECTOR

Schedule A) Conditions for Appeal A

- 1) The works hereby consented shall begin not later than 3 years from the date of this decision.
- 2) The works hereby consented relate solely to the plans, drawings, notes and written details submitted with the application or as subsequently amended and approved in writing by the following conditions.
- 3) No works shall commence until the following detailed drawings have been submitted to and approved in writing by the local planning authority: 1:2 and 1:5 scale section and elevation drawings of a) the replacement front railings, b) alterations to party walls and buttress and c) all new windows and doors. The works shall be implemented in accordance with the approved drawings and maintained thereafter.
- 4) No works shall commence until a structural report to demonstrate the proposals will have no impact on the structural integrity of the rear facade of the listed building has been submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved drawings and maintained thereafter.
- 5) No works shall commence until details and samples of the materials to be used in the construction of external surfaces hereby permitted have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details and samples.
- 6) The materials to be used for making good disturbed internal or external surfaces shall be of matching composition, form and finish to those of any adjoining, original fabric.

Schedule B) Conditions for Appeal B

- 1) The works hereby consented 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: A001 Rev A Existing Basement Showing Demolition; A002 Rev B Existing Ground Floor Showing Demolition; A003 Rev B Existing First Fl. Showing Demolition; A004 Rev A Existing Second Fl. Showing Demolition; A005 Rev A Existing Third Fl. Showing Demolition; A006 Rev A Existing Fourth Fl. Showing Demolition; A007 Rev. B Existing Section 1-1 Showing Demolition; A008 Rev B Existing Section 2-2 Showing Demolition; A009 Rev A Existing Section 3-3 Showing Demolition; A010 Rev B Existing Section 4-4 Showing Demolition; A020 Rev A Existing Location Plan; A021 Existing Site Plan; A101 Rev A Proposed Basement Plan; A102 Rev B Proposed Ground Floor Plan; A103 Rev B Proposed First Floor Plan; A104 Rev A Proposed Second Floor Plan; A105 Rev A Proposed Third Floor Plan; A106 Rev A Proposed Fourth Floor Plan; A107 Rev B Proposed Section 1-1; A108 Rev B Proposed Section 2-2; A109 Rev A Proposed Section 3-3; A110 Rev B Proposed Section 4-4; A111 Rev A Existing & Proposed Front Elevation; A115 Rev A Proposed Elevation.
- 3) No development shall commence until the following detailed drawings have been submitted to and approved in writing by the local planning authority:

1:2 and 1:5 scale section and elevation drawings of a) the replacement front railings, b) alterations to party walls and buttress and c) all new windows and doors. The works shall be implemented in accordance with the approved drawings and maintained thereafter.

4) No development shall commence until details and samples of the materials to be used in the construction of external surfaces hereby permitted have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details and samples.

5) Prior to occupation of the development hereby permitted, details of a scheme for secure cycle storage for the gallery shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved drawings and maintained thereafter.

6) Prior to occupation of the development hereby permitted, details of a scheme for waste and recycling storage for the gallery shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved drawings and maintained thereafter.

7) No development shall commence, until a sound and vibration insulation and management scheme to protect the occupiers of properties in the vicinity from unacceptable levels of noise and disturbance associated with the use of the development, including plant, and machinery, has been submitted to and approved in writing by the local planning authority. The scheme shall include hours of use of plant and machinery, and provision for controlling and monitoring noise and vibration levels arising from the development. The scheme shall be implemented as approved and maintained thereafter.

8) The following works shall only be carried out within the following hours:
a) piling, excavation and demolition work - between 08.00 and 18.00 Monday to Friday and not at all on Saturdays, Sundays, bank holidays and public holidays; b) building work which can be heard at the boundary of the site only, except for piling, excavation and demolition work - between 08.00 and 18.00 Monday to Friday, between 08.00 and 13.00 on Saturday, and not at all on Sundays, bank holidays and public holidays. Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety).