



Appeal Decisions

Site Visit made on 13 July 2021

by **F Cullen BA(Hons) MSc DipTP MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 28 September 2021

Appeal A Ref: APP/X5990/W/20/3260315

Flat 22, 29 Westbourne Terrace, London W2 3UN

- 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 Mrs Gillian Hardy against the decision of City of Westminster Council.
 - The application Ref: 20/03218/FULL, received 23 May 2020 and amended 4 June 2020, was refused by notice dated 30 July 2020.
 - The development proposed is single storey rear extension to basement flat, internal modifications and replacement of rooflights and existing windows.
-

Appeal B Ref: APP/X5990/Y/20/3260318

Flat 22, 29 Westbourne Terrace, London W2 3UN

- 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 Mrs Gillian Hardy against the decision of City of Westminster Council.
 - The application Ref: 20/03219/LBC, received 23 May 2020 and amended 4 June 2020, was refused by notice dated 30 July 2020.
 - The works proposed are single storey rear extension to basement flat, internal modifications and replacement of rooflights and existing windows.
-

Decisions

1. **Appeal A:** The appeal is allowed and planning permission is granted for single storey rear extension to basement flat, internal modifications and replacement of rooflights and existing windows, at Flat 22, 29 Westbourne Terrace, London, W2 3UN in accordance with the terms of the application, Ref: 20/03218/FULL, received 23 May 2020 and amended 4 June 2020, and the plans and information submitted with it, and subject to the conditions set out in Schedule 1 attached.
2. **Appeal B:** The appeal is allowed and listed building consent is granted for single storey rear extension to basement flat, internal modifications and replacement of rooflights and existing windows, at Flat 22, 29 Westbourne Terrace, London, W2 3UN in accordance with the terms of the application Ref: 20/03219/LBC, received 23 May 2020 and amended 4 June 2020, and the following plans submitted with it, and subject to the conditions set out in Schedule 2 attached.
Site Location Plan ST12-STA-XX-XX-DR-A-00-001 P01;
Existing Site Plan ST12-STA-XX-RF-DR-A-00-002;
Proposed Site Plan ST12-STA-XX-RF-DR-A-20-002 P01;
Existing Plans and Elevations ST12-STA-XX-XX-DR-A-00-200 P01;
Proposed Plans and Elevations ST12-STA-XX-XX-DR-A-20-200 P01;

Proposed Lightwell Elevations ST12-STA-XX-XX-DR-A 20-201 P01;
Proposed Sections ST12-STA-XX-XX-DR-A-20-210 P01;
Design and Access Statement May 2020;
Heritage and Planning Statement May 2020; and
Photographs attached to email dated 27 July 2020.

Preliminary Matters

3. The two appeals concern the same scheme under different, complementary legislation. I have dealt with both appeals together in my reasoning.
4. Following the determination of the applications and during the course of the appeals, the Westminster City Plan 2019 – 2040 (the WCP) was formally adopted in April 2021; the London Plan 2021 (the LP 2021) was formally adopted in March 2021; and a revised version of the National Planning Policy Framework (the revised Framework) was published on 20 July 2021. The WCP replaces the Westminster City Plan 2016 and the City of Westminster Unitary Development Plan 2007; the LP 2021 replaces the London Plan 2016; and the revised Framework replaces the 2019 version.
5. The main parties have been given the opportunity to comment on the implications of these changes for the appeals. I have had regard to any responses received in my determination of the appeals and my decisions are made in the context of the relevant policies and guidance within the WCP, the LP 2021 and the revised Framework. I am satisfied that no parties' interests have been prejudiced by this approach.
6. A householder application for the proposal was submitted by the appellant on 23 May 2020. At the request of the Council a full application, containing the same details, was submitted by the appellant on 4 June 2020. This is reflected in the banner headings and formal decisions above.
7. The Council has raised no objections in conservation or design terms to the proposed internal alterations (including the addition and removal of partitions and replacement of floor coverings) or the principle of the proposed installation of new and replacement windows and rooflights. From the evidence before me and my observations on site, I have no reason to take a different view. I have therefore focused my considerations of the appeals on the principle of the proposed rear extension, having regard to the plans submitted with the applications.

Main Issues

8. The main issues are the effect of the proposal on i) the special interest of the Grade II listed building, Nos 1 – 31 Westbourne Terrace (odd) and 196B and C Craven Road, and its setting; and ii) the character or appearance of the Bayswater Conservation Area.

Reasons

Special interest and significance

9. The appeals site relates to Flat 22, 29 Westbourne Terrace (Flat 22), which is a residential flat that forms part of a Grade II listed building known as, Nos 1 – 31 Westbourne Terrace (odd) and 196B and C Craven Road and which is located within the Bayswater Conservation Area (the BCA).

10. The building forms part of the area properly known as Tyburnia which was laid out from 1807. Dating from the 1840s, probably by W King and W Kingdom, it is an imposing terrace in an Italianate style comprising four/five storeys, some with lower ground floor and attic. It is constructed of brick with a white stuccoed front and mostly exposed brick rear. The front of the terrace has maintained an aesthetically pleasing grandeur and uniformity. However, it is evident that the rear elevation and parts of the interior have been considerably altered over time. Behind the terrace lies Conduit Mews, made up of two-storey, terraced houses. The impressive scale and splendour of Westbourne Terrace contrasts sharply with the modest scale, form and design of the mews properties, emphasising the physical and functional differences between the principal houses and the service mews streets.
11. Flat 22 is a two bedroom lower ground floor flat accessed via a corridor in the lower ground floor of 29 Westbourne Terrace and is situated in the rear addition of No 27 Westbourne Terrace with an associated garden. The main part of Flat 22 dates from the 20th century with a single storey painted brick rear wall incorporating modern windows and a door. Internally, although the historic spine wall between Nos 27 and 29 Westbourne Terrace is legible, the property possesses a modern layout and no historic features of interest. The garden occupies the space between the rear of Flat 22 and the rear of the adjacent property on Conduit Mews.
12. From the evidence before me, the special interest and significance of the listed building are largely derived from its historic and architectural interests. Its historic interest principally relates to its age and fine illustration of mid-19th century domestic architecture, being part of the Tyburnia area. The building's architectural interest mainly relates to the grand proportions and satisfying symmetry of its handsome frontage as well as the notable contribution it makes to the composition of the surrounding townscape.
13. Where they are present, the gardens at the rear of the listed building and the separation they provide between Westbourne Terrace and Conduit Mews, allow the historic and architectural differences between the two types of development to be experienced and appreciated. As such, they form part of the immediate setting to the terrace which contributes positively to its significance.
14. The site is also located within the BCA. The BCA is principally residential with many of the properties in the form of harmonious and classically detailed long terraces, squares and crescents dating from the 19th century. Behind the formal terraces are more modest and intimate mews streets. The two types of development are sometimes separated at the lower ground floor level by rear gardens. All of these characteristics play an important role in the aesthetic quality and charm of the area's townscape. The listed terrace displays these features. Consequently, it contributes positively to the character and appearance of the BCA and thereby to its significance as a designated heritage asset.

The proposed extension and its effects

15. The proposed extension would be full-width, 2.75m deep and possess a flat green roof. It would be constructed of yellow stock brick with portland coloured stone capping and detailing around the windows. The windows and door would be timber or aluminium framed and the rooflights would be of a plain design and low profile. The remaining garden area would be landscaped.

16. Paragraph 199 of the revised Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Listed building

17. The extension would involve the loss of existing fabric. Nonetheless, given its 20th century date and basic design it is of no discernible historic or architectural merit. Therefore, this element of the development and works would not harm the identified significance of the listed building.
18. The extension would project beyond the existing consistent rear building line at lower ground floor level of Nos 19 – 27 Westbourne Terrace (Nos 19 – 27). The Council highlights that a consistent rear building line of these properties at this level can be observed in historic maps dating from 1870, 1890, 1910 and 1950. The maps referred to by the Council have not been submitted to verify this, although I note that a consistent building line for these properties is evident to a degree on the map dated 1872 submitted by the appellant.
19. Nevertheless, having regard to the 1872 map and the existing site plan, it is apparent that the rest of the terrace did not and does not display a consistent rear building line at this level and that this attribute only relates to part of the terrace. I am also mindful of the many incremental additions and alterations that have previously been carried out to the rear of the building. As such, I am not convinced that, of itself, this alleged characteristic of Nos 19 – 27 contributes in a fundamental way to the special architectural or historic interest of the listed building as a whole.
20. The extension would clearly reduce the extent of space and separation between Westbourne Terrace and Conduit Mews at this location. Given the contribution that this attribute makes to the special interest and significance of the listed building and its setting, this effect of the proposal is of greater concern.
21. Even so, I am satisfied that the proposal would retain a sufficient amount of space and division to allow the historic pattern of development and the relationship between the two buildings to be sensed and understood. Therefore, it would not undermine or dilute the special interest and significance of the listed building or the contribution its setting makes to that significance.
22. The structure would extend the full width of the property and project 2.75m into the garden. However, its single-storey nature would cause it to be wholly subservient and not excessively bulky when compared to the main terrace. In addition, its minimalist high quality design and use of complementary materials would result in it being an architecturally subordinate but sympathetic addition within the space. Combined with the incorporation of a green roof, these factors would effectively mitigate the extension's prominence when viewed from within the appeals site and from adjacent properties.
23. In coming to my decisions I have had regard to the Council's Supplementary Planning Guidance 'Development and Demolition in Conservation Areas', dated 1996 (SPG) which is referred to in the delegated report but not the reason for refusal. Whilst the guidance states that full width extensions are not acceptable, I note that it provides some flexibility for those at 'basement level'. For this reason along with those stated above, the proposal would not conflict with the guidance within the SPG.

24. Taking the above into account, I conclude that the proposal would preserve the special interest of the Grade II listed building, Nos 1 – 31 Westbourne Terrace (odd) and 196B and C Craven Road, and would have a neutral effect on its setting. As such, the building's significance and the contribution its setting makes to its significance would not be harmed. Consequently, it would satisfy the requirements of sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) and paragraphs 197, 199 and 200 of the revised Framework.
25. The proposal would also accord with Policies 38, 39 and 40 of the WCP in so far as they relate to high quality design, the conservation and enhancement of heritage assets (including listed buildings), and the character and appearance of the adjoining buildings and surrounding townscape; and with the SPG referred to above. It would also comply with Policy HC1 C of the LP 2021 which requires that development proposals affecting heritage assets, and their settings, should conserve their significance.

Bayswater Conservation Area

26. The significance of a conservation area is largely dependent upon how it is experienced. Under such circumstances case law¹ has established that proposals must be judged according to their effect on a conservation area as a whole and must therefore have a moderate degree of prominence. The proposed lower ground floor level rear extension would not be visible from the public domain and would have negligible prominence from the private domain.
27. Additionally, as outlined above, the extension would maintain an acceptable level of garden space and separation between Westbourne Terrace and Conduit Mews and would be contextually considerate in terms of design and materials. In these regards, the character and appearance of the BCA as a whole would be preserved and its significance as a designated heritage asset would not be harmed.
28. Accordingly, I conclude that the proposal would preserve the character and appearance of the Bayswater Conservation Area. As such, it would satisfy the requirements of section 72(1) of the Act and paragraphs 197, 199 and 200 of the revised Framework. The proposal would also accord with Policies 38, 39 and 40 of the WCP in so far as they relate to high quality design, the conservation and enhancement of heritage assets (including conservation areas), and the character and appearance of the adjoining buildings and surrounding townscape; and with the SPG referred to above. It would also comply with Policy HC1 C of the LP 2021 which requires that development proposals affecting heritage assets, and their settings, should conserve their significance.

Conditions

29. I have had regard to the conditions suggested by the Council and interested parties and considered them in light of the Act and the advice set out in the revised Framework and the Planning Practice Guidance. In the interests of clarity I have made some minor amendments to the wording.
30. Planning permission and listed building consent are granted subject to the standard three year time limit condition. I have imposed a condition on the

¹ South Oxfordshire DC v SSE & J Donaldson [1991] CO/1440/89.

planning permission specifying the relevant drawings and other documents as this provides certainty. I have not imposed a condition on the listed building consent specifying the relevant drawings and other documents as they form part of the formal decision.

31. In the interest of the living conditions of occupiers of neighbouring properties, a condition on the planning permission restricting hours of building work is necessary.
32. To ensure that the proposal preserves the special interest and significance of the listed building and its setting and conserves the character or appearance of the BCA, conditions requiring external and internal development and works to match existing original work are necessary.
33. The Bayswater Residents Association has requested a condition necessitating that the new glazing should be single-glazed. However, as I have not been referred to the policy which requires this, I cannot be certain that such a condition would meet the tests as set out in paragraph 55 of the revised Framework. Nevertheless, given the limited detail provided relating to the new door, windows and rooflights, in the interest of the conservation of the designated heritage assets, a condition requiring details of the design and materials of these elements is necessary.

Conclusion

34. The development and works would preserve the special interest of the listed building and its setting; and would conserve the character and appearance of the BCA. The proposal would therefore satisfy the requirements of the Act, the revised Framework and the WCP. Accordingly, for the reasons given and subject to conditions, I conclude that **Appeal A** and **Appeal B** should be allowed.

F Cullen INSPECTOR

Schedule of Conditions

Appeal A Schedule 1

- 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 drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.
Site Location Plan ST12-STA-XX-XX-DR-A-00-001 P01;
Existing Site Plan ST12-STA-XX-RF-DR-A-00-002;
Proposed Site Plan ST12-STA-XX-RF-DR-A-20-002 P01;
Existing Plans and Elevations ST12-STA-XX-XX-DR-A-00-200 P01;
Proposed Plans and Elevations ST12-STA-XX-XX-DR-A-20-200 P01;
Proposed Lightwell Elevations ST12-STA-XX-XX-DR-A 20-201 P01;
Proposed Sections ST12-STA-XX-XX-DR-A-20-210 P01;
Design and Access Statement May 2020;
Heritage and Planning Statement May 2020; and
Photographs attached to email dated 27 July 2020.

- 3) Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:

- 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.

You must carry out piling, excavation and demolition work only:

- between 08.00 and 18.00 Monday to Friday; and
- not at all on Saturdays, 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).

- 4) All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required by conditions to this permission.
- 5) The facing brickwork must match the existing original work in terms of colour, texture, face bond and pointing. This applies unless differences are shown on the approved drawings.

Appeal B Schedule 2

- 1) The works authorised by this consent shall begin not later than three years from the date of this consent.
- 2) All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required by conditions to this consent.
- 3) No works relating to the installation of the new door, windows and rooflights shall take place until details of their design and materials (1:10) 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.
- 4) The facing brickwork must match the existing original work in terms of colour, texture, face bond and pointing. This applies unless differences are shown on the approved drawings.

End of Schedule of Conditions