



Appeal Decision

Site visit made on 15 September 2021

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 04 November 2021

Appeal Ref: APP/X5990/F/21/3275376

Flat 3, 31 Eaton Place, London SW1X 8BP

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Ms Maria Komarova against a listed building enforcement notice issued by City of Westminster Council.
 - The enforcement notice was issued on 15 April 2021.
 - The contraventions of listed building control alleged in the notice are:
 - a) The placement of planter boxes on the roof of the property as shown outlined in red in 'Photographs A' and 'B' attached;
 - b) The installation of metal railings on the roof of the property as shown outlined in red in 'Photographs C' and 'D'; and shaded red in 'Front and Rear Elevation Plans'; the location of which is shown shaded in red in 'Roof Plan 1' attached; and
 - c) The installation of an air-conditioning unit and associated enclosure on the roof of the property as shown outlined in red in 'Photograph E'; the location of which is shown shaded in red in 'Roof Plan 2' attached.
 - The requirements of the notice are:
 - a) Remove all the planter boxes from the roof of the property as shown outlined in red in 'Photographs A and B' attached;
 - b) Remove the metal railings from the roof of the property as shown in part outlined in red in 'Photographs C and D'; shaded red in 'Front and Rear Elevation Plans'; the location of which is shaded in red in 'Roof Plan 1' attached;
 - c) Remove the air-conditioning unit and its associated enclosure from the roof of the property as shown outlined in red in 'Photograph E'; the location of which is shown shaded in red in 'Roof Plan 2' attached.
 - The period for compliance with the requirements is four months.
 - The appeal is made on the grounds set out in section 39(1)(e) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Summary of Decision

1. It is directed that the listed building notice (LBEN) be corrected by making reference to the correct London Plan policy. Subject to this correction, the appeal is dismissed and the listed building enforcement notice (LBEN) is upheld. Listed building consent is refused for the retention of the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Procedural Matters

2. The London Plan 2016 has been replaced with London Plan, The Spatial Strategy for Greater London, March 2021 (the London Plan 2021). Policy HC1 (Heritage Conservation and Growth) of the London Plan 2021 reaffirms the aims and objectives of the previous heritage related policy and continues to

place great importance on the conservation and protection of London's heritage assets. I have noticed that paragraph 3 of Section 4 of the LBEN refers to '*policy (Heritage Conservation and Growth) of the Mayor of London's London Plan (2016)*'. This is incorrect and should refer to '*Policy HC1 (Heritage Conservation and Growth) of the London Plan 2021*'. In this case I am satisfied that the LBEN is capable of being corrected without causing injustice to the main parties.

3. Also, since the service of the LBEN the Council adopted its City Plan 2019-2040 on 21 April 2021. This has replaced the UDP and 2016 City Plan.
4. As the proposal is in a conservation area and relates to a listed building, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). In addition, I have had special regard to the provisions of section 16(2) of the Act.
5. At my site visit I observed that the planter boxes had been removed from the roof of the property and the metal railings on the roof of the property had also been collapsed. In addition, the enclosure for the air conditioning unit had also been removed, in part compliance with the LBEN. However, they remain the subject of the LBEN and consequently I have determined the current appeal on its merits.

Application for costs

6. An application for costs was made by City of Westminster Council against Ms Maria Komorova. This application is the subject of a separate Decision.

The appeal on ground (e)

7. The ground of appeal is that listed building consent ought to be granted for the works and therefore the main issue is the effect of the works on the special architectural and historic interest of the Grade II listed building and the extent to which the works preserve or enhance the character or appearance of the Belgravia Conservation Area.
8. Section 16(2) of the Act requires the decision-maker, in considering whether to grant listed building consent for any works affecting a listed building or its setting, to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest it possesses.
9. Policy 38 of the City Plan relates to design principles and states that new development will incorporate exemplary standards of high quality, sustainable and inclusive urban design and architecture. Policy 39 (Westminster's Heritage) states that development must optimise the positive role of the historic environment and ensure that heritage assets and their settings are conserved and enhanced. Policy 39 states that works to listed buildings will preserve their special interest, relating sensitively to the period and architectural detail of the building and protecting historic fabric. In addition, it states that development will preserve or enhance the character and appearance of conservation areas. Policy 40 relates to townscape and architecture, stating that alterations will be expected to respect the character of the existing and adjoining buildings and avoid adverse visual impacts. Additions such as plant and balustrades, as well as air-conditioning units should always be carefully designed, sited and detailed or screened where appropriate.

10. In addition, there is specific advice in 'Roofs: A Guide to Alterations and Extensions on Domestic Buildings' (1995) and advice within Supplementary Planning Guidance 'Repairs and Alterations to Listed Buildings' (1996) which provide specific guidance and design advice regarding alterations to the roofs of listed buildings in Westminster.
11. The appeal building was first listed in February 1958 along with Nos 1-31 Eaton Place, Nos 17, 18 and 19 Belgrave Place and the adjoining Mews arch. They are of group value and form a grand terrace of houses in yellow brick, stucco with slate mansards to some. They are a balanced composition with centre house and end houses set forward slightly in addition to numbers 3, 11, 21 and 29. They have a giant order of pilasters rising through first and second floors and the centre house has giant Corinthian half-columns. There are Doric porches to numbers 9, 13, 15, 19 and 21 and the centre house has a Doric colonnade. There is a continuous balcony at first floor level, square headed windows and doors, gauged heads, sashes and glazing bars. French casements to first floor, a cornice above the second floor and a subsidiary cornice to the attics. The buildings also feature cast iron area railings.
12. The site is also situated within the Belgravia Conservation Area and the draft Conservation Area Audit (October 2013) states that the properties on the north side of Eaton Square are mostly the work of Thomas Cubit and his sons. It goes on to state that the slow progress of building westwards along Eaton Place is visible through the changing architectural detail to the terraces moving from east to west. The terraces lining the principal streets in the area are consistent in their height and massing with most individual houses being three windows wide and rising four storeys with variations in attic storeys.
13. The evidence before me shows that the planter boxes were not fixed to the roof but added significant visual clutter to the roof of the property and the wider roofscape in the historically sensitive locality. As a consequence of their size, number and position at roof level, they were visually prominent from public views and detracted from the special architectural quality of the listed building, the wider terrace and the Conservation Area, generally. As alien features, they were at odds with the host building, detracting from its special qualities and were harmful to its special architectural and historic interest.
14. It appears to me that the metal railings were placed on the roof in order to facilitate use of the flat area as a roof terrace. Policies relating to roof level alterations and extensions state that roof level terraces and gardens can provide attractive outdoor spaces but, unless sensitively handled, can harm the appearance of buildings and impair local amenity. The evidence submitted shows clearly that all of the properties within the appeal terrace, and indeed others in the immediate locality, have mansard roof extensions and, consequently, the appeal site and adjoining buildings are a complete architectural composition where mansard roofs are a uniform feature across the roofline. The metal railings were visually intrusive features within that context, disrupting the relative uniformity of the roofscape of the host property and the terrace of which it forms part.
15. There is no consistent pattern of roof terraces in the immediate locality, but those that do exist are mainly hidden, enclosed or otherwise incorporated in false mansard roofs or their railings and /or balustrade are set back from the front elevation of their respective properties in order to minimise their effect on

the character and appearance of the area. The metal railings the subject of the LBEN were situated close to the edge of the mansard and were clear visual evidence of a roof terrace, others of which are much less intrusive or otherwise not visible at all from ground level or their immediate surroundings. As such they harmed the architectural integrity of the Grade II listed building and failed to preserve or enhance the character or appearance of the Conservation Area.

16. My own site observations and the evidence before me confirms that the enclosure for the air conditioning unit has been removed and the Council concedes that the air conditioning unit itself cannot be seen from street level from the rear of the site. I noted on site that the air conditioning unit is not visible from street level elsewhere around the site. However, photographic evidence clearly shows that as a consequence of the removal of the planter boxes part of the enclosure would be visible from street level from Belgravia Place to the south.
17. Furthermore, from nearby private views from neighbouring properties the air conditioning units and associated enclosure would be easily visible at upper floors on the street opposite along Eaton Place. They would be even more prominent at roof level from neighbouring properties. Therefore, as a result of their visual prominent position towards the front elevation of the property, the air conditioning unit and associated enclosure add visual clutter to the roofscape of the building and detract from its special architectural quality, failing to preserve or enhance the character or appearance of the Belgravia Conservation Area.
18. Given the above, I find that the matters the subject of the LBEN would fail to preserve the special interest of the listed building and the significance of the Conservation Area. Consequently, I give this harm considerable importance and weight. Paragraph 193 of the Framework advises that when considering the impact on the significance of designated heritage assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets. Given the visual clutter resulting from the planter boxes, metal railings and air conditioning unit and associated enclosure installed on the roof of the property and the harm caused by reason of their appearance and prominence and the harm to the character and appearance of the Conservation Area, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
19. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The appellant has not advanced arguments with regard to the public benefits that would arise from the works that have taken place. It seems to me that there may be some private benefits for the occupants of the flat, but these cannot be described as public benefits.
20. Given the above and in the absence of public benefit, I conclude that the works proposal would fail to preserve the special historic interest of the Grade II listed building and the character or appearance of the Belgravia Conservation Area. This would fail to satisfy the requirements of the Act, the Framework and conflict with Policies 38, 39 and 40 of the City Plan and advice contained in the SPDs.

Formal Decision

21. I direct that the LBEN be corrected by the deletion from the third paragraph of Section 4 of the LBEN of the words '*policy (Heritage Conservation and Growth) of the Mayor of London's London Plan (2016)*' and the replacement therefor of the words '*Policy HC1 (Heritage Conservation and Growth) of the London Plan 2021*'.
22. Subject to this correction the appeal is dismissed and the LBEN is upheld. Listed building consent is refused for the retention of the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

A A Phillips

INSPECTOR