



Appeal Decisions

Site Visit made on 3 November 2021

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2021

Appeal A Ref: APP/X5990/W/21/3273475

79a Warwick Avenue, London, W9 2PP

- 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 Arnold Cotton against the decision of City of Westminster Council.
 - The application Ref 21/00289/FULL, dated 18 January 2021, was refused by notice dated 16 March 2021.
 - The development proposed is installation of a glazed conservatory to the rear garden.
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Appeal B Ref: APP/X5990/W/21/3273850

79a Warwick Avenue, London, W9 2PP

- 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 Arnold Cotton against the decision of City of Westminster Council.
 - The application Ref 21/00288/FULL, dated 20 January 2021, was refused by notice dated 15 April 2021.
 - The development proposed is erection of single storey detached garden office to the rear garden.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural Matters

3. Since the Council made its decisions on applications 21/00289/FULL and 21/00288/FULL, the Westminster City Plan 2019-2040 (City Plan) has been adopted. As a result, policies from the Unitary Development Plan and City Plan 2016, including those referred to in the Council's decision notices, have now been superseded. The Council has indicated which policies within the newly adopted plan it considers to be relevant to these appeals, and has provided copies of them. In the absence of any dissenting views from the appellant, I have taken these policies into account in determining both appeals.
4. The policy context has been further altered through the adoption of the London Plan 2021 and the publication of a revised version of the National Planning Policy Framework (the Framework). Both parties have had the opportunity to comment on the implications of these changes.

Main Issue

5. In relation to both Appeal A and Appeal B, the first main issue is whether the proposal would preserve or enhance the character or appearance of the host building and the Maida Vale Conservation Area.
6. In relation to Appeal A only, there is a second main issue concerning the effect of the proposal on the living conditions of the occupiers of 77 Warwick Avenue, with particular regard to outlook.

Reasons

Character and appearance

7. Warwick Avenue is located within an elegant residential area which forms part of the Maida Vale Conservation Area (CA) and is characterised by wide, tree lined streets formed in a regular grid pattern, with grand and imposing terraces dating to the late nineteenth century. The terrace within which the appeal property is located is typical of those within this part of the CA, with accommodation over four storeys in addition to the lower ground floor. The front elevation, formed of brickwork with stucco classical detailing around the windows and doors, contributes positively to the character of the CA, and the regularly sized rear gardens add to the feeling of spaciousness.
8. The rear elevation of the terrace lacks the detailing of the elaborate frontage, but the large, regularly spaced sash windows and yellow coloured brickwork nonetheless present an attractive façade. Although they are not identical and appear to have been altered over time, the regular appearance of the closet wings, with fenestration and brickwork which reflects that of the main rear elevation, suggest that they may have formed part of the original building. However, even if that were not the case, the rear elevation of the terrace displays a fairly coherent form, and the lack of built form beyond the main building line established by the closet wings results in a uniform appearance at the rear of the terrace, and an uncluttered feel to the gardens.
9. The proposed conservatory would be a modest addition at lower ground floor level, which would not obscure the original fabric of the building. However, by projecting beyond the existing infill extension for the full depth of the lower garden area, it would disrupt the existing building line, eroding the clean and uncluttered appearance at the rear of the terrace. Furthermore, the contemporary appearance of the steel portal framed structure, with large amounts of glazing to the rear elevation and roof, would fail to reflect the materials and character of the original building.
10. Whilst it would not be overly prominent, the proposed conservatory would be visible from surrounding properties, and owing to its siting and design, would cause harm to the appearance of the host building. Given the contribution of this building to the character of the wider area, it follows that the scheme would also cause harm to the CA, albeit by a small amount.
11. Although there are some exceptions, including a garden room at 75 Warwick Avenue, the existing gardens at the rear of the appeal terrace are notable for their lack of built form and this, combined with the lack of extensions to the main building, contributes to their uncluttered and regular appearance. The high brick wall of Elanthan Mews, which forms the rear garden boundary,

encloses and contains the gardens, but also reinforces the impression of regularity and consistency at the back of the terrace.

12. Policy DES 5 of the Unitary Development Plan, which sought to resist extensions and alterations that occupied an excessive part of the garden, no longer forms part of the development plan. Notwithstanding that, the proposed garden room would take up a considerable proportion of the raised part of the outdoor space, and when viewed from surrounding properties would appear dominant and overly large in relation to its garden setting, despite the proposed green roof. Even though around half of the upper garden area would be retained, its existing open and uncluttered appearance, which contributes positively to the character of the host property, the wider terrace and CA, would be significantly eroded. When combined with the proposed conservatory, the effect would be even more pronounced.
13. Both the proposed conservatory and garden rooms could be removed without causing permanent harm, but it is likely that, once constructed, they would be in place for a number of years, and the potential temporary nature of the additions does not justify the harm that I have identified. Similarly, the presence of other garden rooms in the area is not a reason to allow the proposed development here with the associated harm that would result.
14. I conclude that both Appeal A and Appeal B would fail to preserve or enhance the character or appearance of the host building and the Maida Vale CA. Appeal A would conflict with City Plan Policy 12, which requires that residential extensions provide a well-designed living environment, both internally and externally; and both schemes would conflict with Policies 7 and 38 of the same plan, which seek to protect and positively respond to local character and the historic environment, having regard to materials. The proposals also conflict with Policy 39 regarding the preservation or enhancement of Westminster's conservation areas, and Policy 40, which requires that alterations and extensions respect the character of the existing and adjoining buildings.

Living conditions (Appeal A only)

15. The proposed conservatory would project beyond rear elevation of the existing single storey extension at the neighbouring property, 77 Warwick Avenue, and would be higher than the existing fence along the shared boundary. However, the extent of the additional projection would not be excessive, and the modest height of the conservatory, combined with the slight set in from the shared boundary, would ensure that the proposal would not appear overbearing from the neighbouring garden, nor would it result in unacceptable enclosure of the neighbour's outdoor space.
16. Owing to the change in levels at the rear of the proposed conservatory, the external doors would be on the side of the extension, facing towards 81 Warwick Avenue. However, there would be sufficient separation between the doors and the shared boundary to avoid the arrangement causing unacceptable harm to living conditions of that neighbouring occupier.
17. I conclude that the proposal would not cause harm to the living conditions of the occupiers of 77 Warwick Avenue as a result of outlook. It would comply with the requirements for neighbourly development which protects amenity, contained in Policy 7A. of the City Plan.

Other Matters

18. The Council has suggested that Policy 8 of the City Plan is also relevant, but this is concerned with the delivery of new housing and the protection of existing units and so is not directly applicable to either appeal.

Conclusion

19. As a result of their form and siting, the proposed conservatory and garden room would both cause harm to the host building and the wider CA. Although the harm to the CA would be small, this is a matter to which I must give great weight, as directed by paragraph 199 of the Framework. In applying the balancing test of Framework paragraph 202, I must weigh this less than substantial harm against the public benefits of the proposal.
20. The proposed conservatory and garden rooms would provide additional living space, which would help to overcome existing limitations associated with the layout of the ground floor flat. Whilst the appellant would find this advantageous, it would be a private, rather than a public benefit, and the continued residential use of the building is not dependent on either proposal.
21. In the absence of any public benefit to outweigh the harm identified above, I conclude that the works would fail to preserve the appearance of the CA. Both Appeal A and Appeal B fail to comply with the development plan and the relevant provisions of the Framework. No other material considerations outweigh this finding, including the lack of harm to the living conditions of neighbouring occupiers.
22. For the reasons given, both appeals are dismissed.

R Morgan

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/X5990/W/21/3273475	Mr Arnold Cotton
Appeal B	APP/X5990/W/21/3273850	Mr Arnold Cotton