
Appeal Decision

Hearing held on 22 November 2021

Site visit made on 23 November 2021

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2021

Appeal Ref: APP/X5990/W/20/3264794

118-258 Lauderdale Mansions, London W9 1LZ

- 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 Park City Ltd against the decision of the Council of the City of Westminster.
 - The application Ref 19/01391/FULL, dated 7 February 2019, was refused by notice dated 27 November 2020.
 - The development proposed is the conversion of existing roof space and extension to provide 9no. self-contained units (5x3-bedroom, 4x1-bedroom) with associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant submitted a revised roof plan drawing with the appeal that did not form part of the planning application determined by the Council. It indicates the proposed location of photovoltaic cells.
3. I have considered this drawing under the principles established by the Courts in *Wheatcroft*¹. Given the limited depth of the panels, the height of the parapets enclosing the roof, and the structures standing upon it, as well as the potential for a planning condition to control the details of any panels, including their thickness, I am satisfied that the drawing does not change the nature of the scheme to such a degree that to consider it would deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore determined the appeal with regard to it.
4. Late evidence was exchanged between the parties before the Hearing opened, which I have taken into account in my decision. During the Hearing, I also accepted the Council's Housing Needs Analysis document. This too I have taken into account. These are recorded at the end of this decision.

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37]

Main Issues

5. The main issues are whether the proposed development would:
- provide acceptable living conditions for future occupiers, with particular regard to outlook and aspect;
 - preserve or enhance the character or appearance of the Maida Vale Conservation Area (CA); and,
 - provide an appropriate mix of dwelling sizes.

Reasons

Living conditions for future occupiers

6. Planning policy: Policy D6 of the London Plan, the Spatial Development Strategy for Greater London, March 2021, requires the design of housing to be of a high quality. It says that the qualitative aspects of a development are key to ensuring successful, sustainable housing. It sets out key qualitative aspects which should be addressed, which include that dwellings be orientated to optimise opportunities for visual interest through a range of immediate and longer-range views. It also says that development should maximise the provision of dual aspect dwellings and, normally, avoid single aspect dwellings.
7. The supporting text to the policy describes how single aspect dwellings that are north-facing, or which contain three or more bedrooms, should be avoided. Single aspect dwellings, it says, must demonstrate that the orientation enhances amenity, including views.
8. Policy 12 of Westminster's City Plan 2019-2040 adopted April 2021 also requires a high-quality living environment in new homes, its background text recognising dual aspect homes, which it defines as having openable windows on two or more walls, allowing for views in more than one direction, as meeting one measure of high quality.
9. The National Planning Policy Framework² indicates that decisions should support opportunities to use the airspace above existing buildings for new homes where they are well-designed and where this complies with local design standards. It³ also recognises that good design is a key aspect of sustainable development to create better places in which to live. It says that decisions should ensure that developments promote health and well-being, with a high standard of amenity

² National Planning Policy Framework, para 120(e)

³ National Planning Policy Framework, paras 126 & 130(f)

for future users. The National Design Guide⁴ too recognises that well-designed homes promote quality of life, and provide internal environments that support the health and well-being of all who experience them.

10. 3-bedroom flats: While the living space and the main bedroom would share a north aspect with outlooks onto the roofscape of the building and towards the surrounding buildings and spaces, there would be no second aspect in these flats, the other two bedrooms in each flat being lit only by a skylight. The appellant considers that the flats would be dual aspect because windows do not have to be vertical; the skylights in the two smaller bedrooms providing a view of the sky.
11. I accept that skylights can enhance the quality of environment in a room; they can make small rooms feel less enclosed, and a visual connection to the outside world with changing light and weather conditions can be important to well-being. In a bedroom they can also provide the opportunity to star gaze or to cloud watch, especially from a bed. However, as the primary source of outlook in a bedroom, a skylight is insufficient. This is because people tend to look ahead rather than up to the sky.
12. Without an opening set in the wall, or in the slope of the pitched section of the roof, i.e. a window or a rooflight, as distinct from a roof opening bringing light through the ceiling into the room below i.e. a skylight, the smaller bedrooms would provide insufficient opportunity for visual interest through a range of immediate and longer-range views which is an aspect of the quality of a development key to ensuring the successful, sustainable housing sought by the London Plan. Moreover, against the measure of the City Plan, the horizontally set openings giving views only of the sky, makes these flats north-facing, single aspect.
13. I acknowledge that the skylights could provide natural ventilation to prevent over-heating, as well as access to daylight and sunlight. I note that the area of the flats would be superior to the minimum required in the London Plan. I also appreciate that building flats on top of an existing building necessarily has structural, services, and spatial constraints, as demonstrated in the alternative layout suggested by the appellant, and that the main bedroom would have sufficient outlook.

⁴ National Design Guide, Paras 120-124

14. Notwithstanding these factors, because of the lack of outlook from the second and third bedrooms, and because of the lack of a second aspect, the 3-bedroom flats would not meet the standards of a high-quality living environment sought in the London Plan and in the City Plan. In this respect, the proposal conflicts with London Plan policy D6, City Plan policy 12, and a key aspect of sustainable development as set out in the Framework.
15. 1-bedroom flats: While the living space and kitchen in each would have windows looking out over the roofscape of this building and towards surrounding buildings and the spaces between, in three of the four 1-bedroom flats there would be no second aspect. Indeed, the bedroom in each of these three flats would have no aspect at all, only a skylight in a flat roof, with an outlook upwards to the sky. I have taken into account that the bedroom doors are indicated to have central pivots. These may help reduce the sense of enclosure in a room without a window or a rooflight. They may also 'borrow' some of the space of the living area to increase the feeling of spaciousness. But they would not mitigate the lack of outlook from the bedroom, particularly when the door is shut. I also note that the area of the flats would be superior to the minimum required in the London Plan.
16. I have acknowledged the constraints of developing at roof level here. I understand the appellant's point that the roof spaces of existing houses are often converted into bedrooms. However, these proposals concern new flats, which have different spatial configurations from extended houses.
17. Even setting aside for a moment the lack of outlook from the bedroom, the aspect of each of the three flats would be single, and north-facing. I am not convinced that alternative proposals could not meet the design standards in the Development Plan, or at least come closer than these proposals. I acknowledge the appellant's photographs of bedrooms with skylights. There are no accompanying details such as floor plans or policy context, or even their location. Nonetheless, the room sizes and roof configurations and number of lights appear dissimilar to these proposals.
18. Because of the lack of outlook from the bedrooms in these three flats, and because of the lack of a second aspect to them, they would not meet the standards of a high-quality living environment sought in the London Plan and the City Plan. They too would conflict with London Plan policy D6, City Plan

policy 12, and a key aspect of sustainable development as set out in the Framework.

Significance of the CA

19. This is a conservation area of two contrasting architectural influences, unified in their architectural objective to impress. In the earlier Victorian section, the buildings appear 'dressed to kill'. That part of the CA is characterised by the comparative anaemia of the large, classical, stucco mansions, their formality eased by sparse intervals of brickwork across long terraces, which followed the building of the Grand Union Canal, and whose geometry its streets follow.
20. By contrast, the later Victorian section, in which the appeal building stands, is less restrained; appearing altogether more 'smart casual'. It is distinctive for the more Picturesque theatre of its large, red-brick mansion blocks. These are typically animated by their rhythm of dramatically high gables rising between paired bays over decoratively railed balconies supported on giant brackets. The whole ensembles are delicately ornamented with render or masonry highlights, and grounded to the street by the illusion of front gardens running astride neat black and white geometric paths leading to the columnated entrances of each core.
21. The mansion block typology is historically important as an enduring and successful model of Victorian housing, marking the decline of the domestic service of the middle-classes in London, and the popularity of the trend for self-contained, stacked flats. This block is part of a group of three, which share a similar arrangement and features from the hand of the same architect, their opulent symmetry giving the street a grandeur along its length. While it is the street elevations of these mansion blocks which command the scene, there are other dimensions to their architecture which make them distinctive, most notably the articulation of their street groundlines and their rooflines. These enrich the space at street level, and they bring delight to more distant views of the roofscape, from both their fronts and from their rears.
22. From the front, the roofscape of the appeal building is characterised by tall, slender chimney stacks peeping over the ridges of steep, sweeping roofs with an ordered play of lower level, dressed parapets. The back of the mansion block lacks the architectural flamboyance of the front, but it is far from being the poor cousin. In the foreground, the repeated and skewed solidity of the outriggers,

bringing light and air into the depth of the building, have an elegant simplicity in their form, balanced by the restraint of their plain brickwork, their relatively simple openings and their crisply clipped parapets. The crowning glory of the rear is the play of the cresting array of wide, alternating-aspect chimney stacks and clay pots which rise to varying degrees free of the dull roof slopes behind them, or above the datum of the plain parapets in front of them. This brings a second dimension to the distinctive silhouettes of the roofscape of this CA.

Effect on the significance of the CA

23. Extending the slope of the roof over the end section of the block by about 1m would not, given that it would match the ridge height and front gable relationship at the opposite end, detract from the harmony of the front elevation or the end elevation of the block. Nor would the raising of the chimney stacks, in connection with the proposed roof works, undermine the present character of their stature and proportion, or their contribution to the roofscape of the CA and its architectural significance.
24. The alterations to the roof space behind the main ridges to form living spaces, i.e. altering the existing roof profile and forming openings to serve these spaces, would not, given their set-back positions in the roofscape and the generally sensitive appearance of the small openings in relation to the openings below, disrupt the spatial character at roof level or the architectural integrity of the whole building and its contribution to the significance of the CA. The plain detailing of the terrace door openings would clash with the finer-grained, more traditional fenestration of stiles and mullions of the windows below, but these could be resolved by conditions. Because of their position back from the parapets and below the ridges, I do not find any harm to the significance of the CA from the very limited extent of any railings necessary to enclose the small, private terraces of the flats.
25. However, the proposed stair enclosures on the roof would break the continuity of the silhouettes of the main ridges presently punctuated by the chimney stacks, appearing as intrusive elements in the roofscape of the building when viewed from the flats in the mansion block opposite. Rising well above the roofs beside them and infilling the space between parallel chimney stacks, together with the glazed sections over the lift enclosures to which they would connect visually, they would appear from the back as conspicuously obtrusive elements,

- their uncharacteristic extent of glazing appearing at odds with the architectural language of the rest of the block, which is more solid in character and texture.
26. So too the fire escape route railings, which although their position would be well back from the edge of the roof, their height above the rear parapets and their horizontal extent, would be sufficient to introduce an intrusive, utilitarian element, interfering with the play of space across the roofscape of the building in which it is the chimney stacks, rather than a fire-escape, which have the lead role.
27. I acknowledge the planning approvals referred to by the appellant, which include roof alterations at Lauderdale Mansions and in Lauderdale Road. While I do not have the details of these to be able to draw any direct parallels to these proposals, the Council has suggested they concern extensions rather than new dwellings, as in this case. In any event, I saw no alterations which direct me to alter my assessment of the significance of the CA and the effects of these proposals which I have identified upon it. I have taken into account the enclosure of the existing lift. However, it appears less obtrusive than the proposed enclosures which have greater impact on the architectural and spatial character of the roofscape.
28. I saw during my site visit that the insensitive elements I have identified and their obtrusive incompatibility with the architectural character of the building would be conspicuous in views towards the back of this building from the flats in the mansion block to the north. I acknowledge the appellant's point that the alterations, being largely at roof level and concentrated towards the back of the building rather than the front, would diminish their visibility in views from the public domain. However, they would also be visible, in part at least, in glimpsed views from Biddulph Road. The overall effect would be to degrade the spatial character of the roofscape and the architectural integrity of the building and thereby its contribution to the significance of the whole CA.
29. The development would thus fail to preserve the appearance of the CA, to the desirability of the preservation or enhancement of which I am required to pay special attention. Notwithstanding the support for upward extensions in City policy 8, it would conflict with policies 38, 39 and 40 of the City Plan. These require development to incorporate exemplary standards of high-quality architecture, to preserve or enhance the character and appearance of

conservation areas and to conserve features that contribute positively to their significance, as well as requiring roof extensions to be sympathetic to the architectural character of the existing building, and for development not to obscure any important architectural features or disrupt any uniformity, patterns or rhythms that contribute positively to Westminster's distinctive townscape.

Mix of dwelling sizes

30. The planning application was refused because the mix of flats did not optimise the number of flats as required by policy S14 of the 2016 City Plan. However, since the refusal, the Council has adopted a new City Plan. In the new City Plan, policy 8 describes how the number of new homes in Westminster will be achieved by optimising site densities and delivering a higher number of homes on small sites. Policy 10 says that 25% of all new homes in Westminster will be family-sized.
31. The development would include five flats, or around 55% of the total, as family-sized flats, the remainder being 1-bedroom. With sensitivity to the constraining positions of the stair cores in the existing block, the Council has indicated that the site has the capacity for a development with a mix of flat sizes far closer to the 25% figure; alongside eight 1-bedroom flats, three family-sized flats could be developed. This would equate to a proportion of around 27% being family-sized.
32. The Council's Housing Needs Analysis June 2019, to which the City Plan refers, analysed the types of new homes needed in Westminster over the next 20 years. It highlights how the proportion of 1-bedroom dwellings in Westminster is almost double the proportion in London as a whole. It identifies a need for family-sized dwellings, and describes how a target of 25% of all homes being family-sized would help to rebalance the mix of flat sizes in Westminster's housing stock. The supporting text of City Plan policy 10 reinforces these findings and recognises that while individual proposals should seek to meet the 25% figure, there may be circumstances where this is not appropriate or practicable.
33. While the flats below the proposal tend to be family-sized, there are also smaller flats in this block. There is no evidence of a singular layout of flats in the block now, nor any identification of potential, layout conflicts from developing 1-bedroom flats instead of 3-bedroom flats, over the flats in the floor below. I can identify no functional harm from a development incorporating 1-bedroom flats.

34. Equally, I see no justification for this development to avoid family-sized dwellings because of a lack of a private back garden, or any exceptional risk of falling from height. Each flat would have private, outside terrace space, as well as access to a large, communal garden, and the development would fall under the Building Regulations.
35. Notwithstanding this, City Plan policy 10 recognises that the 25% figure for family-sized dwellings is a strategic target. It refers to all new homes across Westminster rather than to all new residential development, or to site, size-specific development targets or shares.
36. Its supporting text suggests a degree of latitude to take into account the specific circumstances of the site. Here, retaining the existing chimney stacks and roofs are very material constraints to the layout of development. The alternative, target-compliant scheme, which would provide eight 1-bedroom flats, twice the number in this proposal, with three family-sized flats, would be more directly at odds with the Council's Analysis and its policy objective to give families more housing choices than the oversupply of two family-sized flats in this proposal. The second scheme suggested by the Council, of ten 1-bedroom flats and two family-sized flats would fall well short of the family-sized flats strategic target while providing even more 1-bedroom flats than this proposal, exacerbating the imbalance which the policy seeks to redress.
37. In this light, and taking into account the findings of the Housing Needs Analysis and the supporting text of the City Plan which highlights the need to redress the imbalance of family-sized dwellings, I find no harm from the excess of two family-sized flats when measured against the strategic target.
38. In these circumstances, given the particular site constraints, and without any evidence that the objective of the strategic target and the balance in the housing stock across Westminster would be in peril from the additional number of family-sized flats in this proposal, the mix of units does not count against this proposal. I acknowledge the excess of family-sized flats in this proposal against the strategic target, however, in the particular circumstances of this development, there would be no conflict with City Plan policies 8 and 10. Accordingly, I conclude on this issue that the proposed development would provide an appropriate mix of dwelling sizes.

Other Matters

39. I understand the appellant's frustration with the Council's negative decision after a period of discussions and negotiations with officers, however, it is not bound to follow the advice of its officers.
40. The yard at the west end of the block is already used for storing waste and refuse. While I note the windows in the flank wall of the block which overlook this space, they are not so large or low, nor is the yard so narrow, that the living conditions of the occupiers of these flats would be materially harmed by the additional bins and the cycle shelter proposed, the details of which could be secured by condition. For similar reasons, the second bicycle shelter, proposed at the opposite end of the building, would not harm the privacy, light or outlook of the nearby occupiers in the block.
41. While the light wells provide a source of natural light to the circulation areas of the flats, which have windows looking onto them, there is no evidence that the proposed lifts would reduce that light by an unacceptable degree, nor that without appropriate conditions, their machinery and movement would harm the living conditions of the occupiers in terms of overlooking, outlook, noise, or artificial light.
42. I have noted the other representations of the residents of the block, including structural restraint and loading, foundation design, water supply, drainage, and party walls. As the appeal is being dismissed for other reasons, and a finding on them could not affect the outcome, I have not pursued these other matters further.

Planning Balance

43. The Framework describes heritage assets as an irreplaceable resource, that should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Paragraph 199 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of the asset or from development within its setting.
44. Given my findings above, I find the harm to the CA to be less than substantial, but nevertheless of considerable importance and weight. Under such

circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal.

45. The Framework, in paragraph 120, supports the development of airspace and it requires that substantial weight be given to the value of using suitable brownfield land within settlements for homes, as here. It indicates, in paragraph 69, that great weight should be given to the benefits of using suitable sites within existing settlements for homes.
46. The development of the airspace of this small site for nine new homes, with an appropriate mix of sizes, in such a sustainable location, would, in principle, be an effective use of scarce land, making an important contribution to meeting the need for homes, as anticipated in the Framework. However, given that eight of the nine flats would not provide acceptable living conditions for their future occupiers, this diminishes the weight that I can apply to such a public benefit.
47. The development would provide storage for bicycles, carbon reduction measures, and ecological enhancements, as well as passenger lifts, which would bring environmental and social benefits, which are public, to existing and future occupiers and to their visitors. Future occupiers would spend in the local economy and support local services. Construction of the proposals would bring more short-term, public economic benefits too, from employment and the commissioning of services.
48. However, all these public benefits, which together have significant weight in favour of the proposal, would not outweigh the harm to the significance of the CA, to the conservation of which the Framework requires that great weight be given, and should require clear and convincing justification. As the harm to the significance of the heritage asset would outweigh the public benefits, there is no clear and convincing justification for the harm in this case.

Conclusion

49. I have found that the proposed development would provide an appropriate mix of dwelling sizes. It would bring all the benefits described above. Notwithstanding these, the development would fail to preserve or enhance the appearance of the CA and it would not accord with the historic environment aims in the Framework. Further, eight of the nine flats would not meet the standards of a high-quality living environment sought in the London Plan and the City Plan.

50. I conclude, therefore, that the proposal would fail to satisfy the requirements of the Act, paragraph 197 of the Framework, and it would not be in accordance with the development plan, when read as a whole. There are no other considerations to outweigh that finding. For the reasons given above, the appeal is dismissed.

Patrick Whelan

INSPECTOR

Appearances

FOR THE APPELLANT:

Anjoli Foster of Counsel	instructed by Park City Ltd
Joe Sherry	Park City Ltd
Zenab Hearn	Orcadian Planning
Richard Mellor	Landmark Architecture Limited
Nairita Chakraborty	Iceni Projects

FOR THE LOCAL PLANNING AUTHORITY:

Linda Boateng	Senior Solicitor, Westminster City Council (WCC)
Matthew Pendleton	Principal Design & Conservation Area Officer, WCC
Frederica Cooney	Senior Planning Officer, WCC

INTERESTED PARTIES:

Geoff Barraclough	Councillor, Maida Vale Ward, WCC
Nafsika Butler-Thalassis	Councillor, Maida Vale Ward, WCC
Alistair Grills	For Lauderdale Mansions (West) Ltd (LMW Ltd)
Christopher Griffiths	HCUK Group, for LMW Ltd
Gladys Jusu-Sheriff	Local resident
Christine Slight	Local resident
Mary Harvey	Local resident
Inés Hermida	Local resident
David Ettinghausen	Local resident

Late evidence

1. Amended drawing 755/103D EXISTING AND PROPOSED ROOF PLAN
2. Fire Safety Review, from LMW Ltd, 3 November 2021
3. Response to Fire Safety Review, from appellant, 15 November 2021
4. Visuals, from appellant, 17 November 2021
5. Visuals, from LMW Ltd, 17 November 2021
6. Westminster City Plan 2019-2040 Housing Needs Analysis, June 2019, from WCC, 22 November 2021