



Appeal Decisions

Site visit made on 14 December 2021

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th January 2021

Appeal A Ref: APP/X5990/W/21/3278416

100 Fifth Avenue, London, W10 4DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Ms E Whitehorn against City of Westminster Council.
 - The application Ref 21/02310/FUL, is dated 8 April 2021.
 - The development proposed is internal alterations, alterations to rear elevation and loft conversion.
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Appeal B Ref: APP/X5990/Y/21/3278415

100 Fifth Avenue, London, W10 4DS

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Ms E Whitehorn against City of Westminster Council.
 - The application Ref 21/02311/LBC is dated 8 April 2021.
 - The works proposed are internal alterations, alterations to rear elevation and loft conversion.
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Decision

Appeal A

1. The appeal is dismissed and planning permission is refused for Loft conversion with associated installation of two rooflights to rear roof slope, erection of replacement rear infill extension with three new rooflights, alterations to rear fenestration, reinstatement of front boundary wall railings. Internal alterations including erection and demolition of partitions, installation of a WC under the existing staircase, removal of the chimney breast at first floor, lowering of first floor ceiling and installation of stair to loft conversion.

Appeal B

2. The appeal is dismissed and listed building consent is refused for Loft conversion with associated installation of two rooflights to rear roof slope, erection of replacement rear infill extension with three new rooflights, alterations to rear fenestration, reinstatement of front boundary wall railings. Internal alterations including erection and demolition of partitions, installation of a WC under the existing staircase, removal of the chimney breast at first floor, lowering of first floor ceiling and installation of stair to loft conversion.

Procedural Matters

3. The two appeals concern the same scheme under different, complementary legislation, so I have dealt with both appeals together in my reasoning.
4. The appellant's Appeal Forms describe the proposal as "Loft conversion with associated installation of two rooflights to rear roof slope, erection of replacement rear infill extension with three new rooflights, alterations to rear fenestration, reinstatement of front boundary wall railings. Internal alterations including erection and demolition of partitions, installation of a WC under the existing staircase, removal of the chimney breast at first floor, lowering of first floor ceiling and installation of stair to loft conversion". While certain elements of this description are overtaken by amendments to the drawings, as this more accurately reflects the proposed works and development I have dealt with the appeals on this basis.
5. The appeals are against the Council's failure to determine applications for planning permission and listed building consent. The Council's Statement of Case outlines the reasons that it considers the proposal would be unacceptable, but these are not formal determinations of the Council as the jurisdiction to determine the applications transferred from the Council upon valid receipt of the appeals. Nevertheless, the Council has set out that it would have refused the applications had it been empowered to do so. I have therefore taken its reasons into account in determining the Main Issues.
6. Drawings PL01A and PL02A were submitted to the Council prior to the appeals being lodged. While the Council suggest these have not been subject of public consultation, they formed part of its Questionnaire. Interested parties were therefore invited to consider the appeal documents as part of the appeal. In this context, I am satisfied that no interested parties would be inconvenienced by my consideration of the content of those drawings.
7. Notwithstanding this, as part of the appeal, the appellant has provided updated drawings PL01B and PL02B. These advance the position from the earlier revisions only to retain existing features and elements of the layout of the building and no one would be inconvenienced by my consideration of these drawings. I have therefore determined the appeal on the basis of the latest revisions to the drawings listed above.
8. Consequently, several of the Council's concerns are no longer relevant to the appeals. These include the loss of a rear first floor window and its replacement with a Juliette balcony; removal of chimney breasts and the chamfered wall to the rear return; narrowing of the rear façade of the lean-to to create a wider façade for the proposed infill extension; and blocking of the doorway into the living room.
9. I understand that the Council has open enforcement cases in respect of several matters pertaining to the nature of works undertaken to reinstate internal walls and inclusion of double glazing and plastic framing in the existing infill extension. My consideration of the appeal proposal would not appear to affect the ability of the Council to investigate and take enforcement action should it be deemed necessary.
10. The National Planning Policy Framework was revised on 20 July 2021 (the Framework). The main parties have had the opportunity to comment upon the

relevance of any revised content of the Framework and I have had regard to any comments made in my decision.

Main Issues

11. The main issue is whether the proposal preserves a Grade II listed building, known as '100-114, Fifth Avenue', and any features of special historic interest that it possesses, including its setting, and the extent to which it preserves or enhances the character or appearance of the Queen's Park Estate Conservation Area.

Reasons

Significance, special interest and setting

12. The appeal concerns a two-storey end of terrace house to the east side of Fifth Avenue. The terrace concerns Nos 100-114 (even), which is Grade II listed and situated within the Queen's Park Estate Conservation Area (CA). The Queen's Park Estate was designed in 1873 by Robert Austin and later by Roland Plumbe for the Artisans, Labourers and General Dwellings Company. This was founded by the philanthropist William Austin in response to the need for housing for the working classes of a higher standard and quality. Motifs situated at either end of the listed terrace indicate that it was constructed in the early 1880s.
13. The terrace is a symmetrical composition, predominantly of yellow brick, but incorporates a plethora of architectural details of various forms in red brick, including a moulded eaves cornice, which continues onto the verges of gables. The end terraces at Nos 100 and 114 are gable-fronted, with tripartite windows on each floor and tile hanging in recessed semi-circular features above windows at first floor, so their entrances are found on the side. The finial atop the gable of No 100 is intact. There are three-storey towers with pyramidal roofs and finials to the second house from each end. The roof of each house is separated at roof level by a low parapet and alternate houses are either vertically divided by projecting contrasting red brickwork on their front façades or striking chimney stacks to the roof.
14. The detailing to windows and doorways is consistent, with classical columns between sashes, iron guards to cills and moulded lintels above, and the porches are corbelled out with tiled roofs. Only a few of the properties in the terrace appear to have their original railings atop the low enclosing walls to their front gardens.
15. Although the list description primarily focuses on the front of the properties, it is for identification purposes only and does not form an exhaustive list of the features of the listed building that are of special architectural or historic interest. The architecture of the rear façades of the houses is simpler, but there is consistency in their layout and appearance. Moreover, rear returns are of two-storeys set down from the main roof and predominantly straddle the party wall with a dual pitch, except for Nos 100 and 114, which have separate dual pitched returns. All houses include a single storey lean-to off the rear return.
16. The rear return of No 100 is joined to the house with a chamfered section of walling, which the Council suggest is a common feature of the houses in Queen's Park. It is included to avoid interference with the principal rear windows in the house from the greater width provided to the rear returns.

This therefore constitutes an important architectural element of the original floor plan layout and fabric of the listed building.

17. The Council suggest that the ground floor of the houses in Queens Park Estate were arranged in a simple configuration of two living rooms, with a separate kitchen and inside toilet. However, there has been much change to the internal layout of No 100, with a partly open plan arrangement created between what are now the living, dining, and kitchen spaces, and the existing infill extension is incorporated. Some separation remains between ground floor rooms, including to the existing bathroom and the first-floor layout is more intact.
18. The space between the rear returns at Nos 100 and 102 has been infilled with a partly glazed and plastic and timber framed infill extension. This projects beyond the two-storey portion of the rear return and its roof is partly visible from Lothrop Street. Despite this alteration and changes to the internal layout of the appeal property, I find that the special interest of the listed building, insofar as it relates to these appeals, to be primarily associated with its architectural and historic interest, as a late 19th Century artisan house set within a planned estate of similar housing. The terrace possesses a richness and uniformity of architectural detailing that is befitting of its listing.
19. I am mindful of the definition of 'setting' contained in the Framework, as being the surroundings in which a heritage asset is experienced. In so far as is relevant to this appeal, the appeal property is very prominent within its immediate surroundings and its relationship with its rear garden is also important. These aspects therefore form an integral part of the historic setting of the listed building, which contributes to its understanding and significance.
20. There is uniformity to the layout of the streets of terraced housing with front and rear gardens and street trees, and coherence in the architectural design, detailing and use of materials throughout the individual terraces in the CA. The listed terrace holds these attributes and, together with neighbouring and opposing terraces nearby, it makes an important contribution to the CA, particularly the cohesive townscape qualities embodied within. The more simplistic form of the rear façades of the houses also reinforces the consistent hierarchical approach in the CA to their construction. In this sense, the listed building also contributes to the understanding of the historic interest associated with the planned nature of the housing within the Queen's Park Estate.

Effects of the proposal

Replacement rear infill extension

21. The existing infill extension is a relatively recent addition and it has been altered with some unsympathetic materials. The proposal would utilise high quality materials, including lead for its roof, but it would not appear as a sensitive or high-quality addition to the listed building. Instead, the primarily solid form of its roof, the projections above this to house rooflights, and the metal framing at the rear would appear rather heavy in contrast to the slender and refined domestic form and proportions of the house and wider terrace.
22. Although the proposal would be contained between the lean-to elements of Nos 100 and 102, it would project further than the existing so would likely be more prominent, most notably from within the rear garden of the property, but also from public and private land nearby. The proposed infill extension would

therefore be inharmonious with and detract from the character and appearance of the appeal property and cause harm to the special interest of the listed building, including that derived from its setting.

23. Unlike listed buildings, the significance of a conservation area is more widely experienced. Under such circumstances, proposals must be judged according to their effect on a conservation area as a whole and must therefore have a moderate degree of prominence. Based on my findings in relation to the listed building, this aspect of the proposal would not be so prominent that it would be detrimental to the character and appearance of the CA and its significance would be preserved.

Internal layout

24. I accept that the proposal to remove walling to what is now the ground floor bathroom would improve connections between the house and its garden. However, there has already been much change to the floorplan layout of the building to enable this, through the aforementioned arrangements between the living, dining, and kitchen rooms and the existing extension. While one of the physical connections between the rooms would be severed with the window to the dining room, the visual connection would remain. Further loss of historic fabric and almost total loss of legibility of the original floorplan layout would therefore not be justified.
25. The creation of an en suite bathroom for the master bedroom would require a subdivision with a dogleg. This would meet the chimney breast in the principal rear room in the house and lead to the proportions of the room being somewhat smaller and to an awkward shape. The chimney breast would also no longer be the focal point at the centre of the room. Likewise, the landing would be subdivided to create a new lobby for the master bedroom, with the bannister foreshortened and the proposed staircase to the attic space would appear to cut across the landing window.
26. Together these changes would undermine the legibility of the layout of the ground and first floor of the property and result in loss or concealment of historic fabric.
27. There are no refinements to the walls or ceilings of the first-floor rooms, such as cornices or picture rails, so they exhibit a very simple appearance. The volume created by the height of the ceilings within the rooms, landing area and above the staircase at first floor do not appear to be critical to understanding the legibility or historic interest of the appeal property. With these factors in mind, the lowering of the ceiling required to accommodate the proposed study and eaves storage in the attic would not be harmful to the significance of the listed building.
28. Similarly, the reconfiguration of the first floor within the rear return would provide a bathroom accessible to the landing and a small bedroom beyond. This would be an alternative subdivision of that part of the building, so it would not be harmful to its legibility and would provide functional spaces able to operate independently of one another.

Other external alterations

29. Rooflights are a common feature of historic buildings and the drawings suggest a sensitive approach would be adopted to their design and installation.

Nevertheless, a condition would be an appropriate way to ensure the appearance, profile, opening style, and fit of the two proposed rooflights would not be harmful to the external appearance of the building. Similarly, the window required to serve the repositioned first floor bathroom would be small and positioned beyond the chamfered section of the wall, so would not disturb this important feature of the building.

30. The removal of paint from the rear façade of the lean-to would improve its appearance and the larger proposed window would replace existing modern fabric. There are no details of the profile or colour of the window before me, but the appellants suggest it would match the replacement infill extension and rooflights. While the latter would ensure a slim profile in relation to the slate roof of the building, I have identified harm with the former. It is therefore likely that the window would stand out as an unsuitable contrast to the fenestration of the original parts of the house, particularly its timber painted sash windows. Furthermore, given my findings in relation to the internal alterations to this part of the building, it would not be appropriate to agree an alternative design of the window by condition.
31. Railings are a feature described in detail in the Queen's Park Estate Design Guide (1995) and contribute to the character and appearance of listed and other houses in the CA. With this in mind, subject to agreement over the final cast iron mouldings of the proposed railings, they would represent enhancement of the external appearance of the listed building and the CA.

Public benefits and conclusions on the main issue

32. The statutory duties in Sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) are matters of considerable importance and weight. Paragraph 197 of the Framework states that the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation should be taken into account in determining applications. Meanwhile, paragraph 199 of the Framework also advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets and that this should have a clear and convincing justification.
33. The proposed extension, alterations to the layout of the building and the removal of historic built fabric would fail to preserve the listed building or its features of special architectural or historic interest. In my view the harm that I have identified equates to less than substantial harm to the significance of the listed building, as a designated heritage asset. In such circumstances, paragraph 202 of the Framework identifies that this harm should be weighed against the public benefits of proposals.
34. Reinstatement of the railings to the front garden and the protection of historic fabric through replacement of the existing infill extension, which the appellant claims is defective, would both be heritage benefits. The extension would also improve the energy efficiency of the building, which would amount to a public benefit in environmental terms.
35. The extension and other internal alterations would also relieve obligations in respect of maintenance and cleaning, improve the living environment for the

appellant, and provide further visibility of the rear garden. Such benefits would be largely private, particularly in respect of the latter, as physical and visual connections already exist between the functional living spaces within the house and the garden.

36. Taking the above together, the public benefits I have outlined would not justify allowing works and development that would fail to preserve the special interest of the listed building. Therefore, in accordance with paragraphs 197 and 199 of the Framework, considered together, I am not persuaded that there would be wider public benefits of sufficient magnitude to outweigh the great weight to be given to the less than substantial harm that I have identified to the significance of the heritage assets.
37. In light of the above, the external works and development would not be harmful to the character and appearance of the Queen's Park Estate Conservation Area. Despite this, and my findings in relation to some aspects of the proposed works and development, on balance, I conclude that they would fail to preserve the special historic interest of the Grade II listed building. Hence, the appeal proposal would fail to satisfy the requirements of the Act, paragraphs 197, 199 and 200 of the Framework and would conflict with the design and heritage aims of Policies 38, 39 and 40 of the City Plan 2019 - 2040 (Adopted April 2021) and the Queen's Park Estate Design Guide.

Conclusion

38. Accordingly, for the reasons given, I dismiss both appeals and planning permission and listed building consent are therefore refused for the appeal scheme.

Paul Thompson

INSPECTOR