



Appeal Decisions

Site visit made on 15 December 2021

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2022

Appeal A Ref: APP/X5990/C/20/3257619

2 Wellington Road, London NW8 9SP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Ricky Sandhu of Devonshire Property Holdings Limited against an enforcement notice issued by City of Westminster Council.
 - The enforcement notice was issued on 14 July 2020.
 - The breach of planning control as alleged in the notice is: Without the requisite planning permission and within the last 4 years alterations to the main roof of the building, comprising the removal of the former main roof and the installation of a new main roof with a higher ridge, steeper pitches, a side dormer and a rear dormer.
 - The requirements of the notice are:
 - 1) Demolish the unauthorised alterations made to the main roof of the building, as shaded red on the attached Plans 1, 2, and 3; and
 - 2) Return the main roof of the building to its former design and layout, as shown on the attached Plans 4, 5, 6, 7 and 8, parts of which are shown in the attached photographs A, B and C; and
 - 3) Remove from the land any and all waste material and/or debris resulting from compliance with requirements 1 and 2 of this Notice.
 - The period for compliance with the requirements is: Six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal B Ref: APP/X5990/W/20/3263160

2 Wellington Road, London NW8 9SP

- 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 Ricky Sandhu of Devonshire Property Holdings Limited against the decision of City of Westminster Council.
 - The application Ref 20/05732/FULL, dated 11 September 2020, was refused by notice dated 6 November 2020.
 - The development proposed is: Alterations to the existing roof height and pitch; replacement of the existing dormer windows on the south and rear elevations; and the addition of a balconette to the first floor window of the front elevation.
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Appeal C Ref: APP/X5990/W/20/3263162

4 Wellington Road, London NW8 9SP

- 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 Ricky Sandhu of Devonshire Property Holdings Limited against the decision of City of Westminster Council.

- The application Ref 20/05731/FULL, dated 11 September 2020, was refused by notice dated 6 November 2020.
 - The development proposed is: Raising the height and pitch of the roof; replacing the existing dormer windows on the north and rear elevations; replacing the modern sash windows on the front elevation to match those at No. 2 Wellington Road; and removing unnecessary pipework from the front elevation.
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Decisions

1. Appeal A is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.
2. Appeal B is dismissed.
3. Appeal C is dismissed.

Preliminary Matters

4. Each appeal has been lodged by the same appellant and principally concerns roof extensions and alterations on properties which adjoin and which raise the same main issues. So I have dealt with each appeal in this single decision document.
5. Both properties may be clearly seen from public land and both main parties have confirmed their satisfaction for me to determine the appeals based on an unaccompanied site visit. I have proceeded with the appeals on this basis.
6. Since the enforcement notice and decision notices were issued, the revised National Planning Policy Framework (the Framework) came into force, replacing a previous version of the Framework. In addition, the development plan policies referred to in each of the above notices have been superseded. Both main parties were given an opportunity to comment on any relevant implications of the above for the appeals and any relevant comments received have been taken into account in my reasoning.

Reasons

7. Based on the reasons for issuing the enforcement notice and the reasons for refusing both planning applications, the main issues in each appeal are:
 - the effect of the appeal development on the character and appearance of the area, including the St John's Wood Conservation Area; and
 - if there is harm arising from the effect of the appeal development, whether the harm is outweighed by public benefits to justify a grant of planning permission.
8. For the purposes of the Framework, the St John's Wood Conservation Area is a designated heritage asset. As both sites are within this area there is a statutory duty upon me, under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
9. I have had regard to the Council's St John's Wood Conservation Area Audit (the CAA). This has been adopted as a Supplementary Planning Document following public consultation and so I give it significant weight as a material consideration in each appeal.

10. I have also had regard to the Council's 'Roofs – A Guide to Alterations and Extensions on Domestic Buildings' Supplementary Planning Guidance (the SPG). From the information provided, the SPG was adopted following public consultation and despite referencing development plan policies which are no longer current, it contains relevant guidance on roof alterations and extensions. Despite its title, it states that much of its advice is applicable to some commercial buildings. I have no reason to believe it is not applicable in each of these appeals.
11. The appeal sites consist of 2 and 4 Wellington Road which are contiguous semi-detached buildings on a wide, busy road. They form part of a group of such buildings built with distinctive shallow pitched roofs on the same side of the road.
12. The CAA designates each building in this group as an 'Unlisted Building of Merit', ie according to the CAA, they each contribute to the character and quality of the local area, due to their value within the townscape, their architectural qualities or local historical and cultural associations.
13. According to the Council, the reason for No 2's designation is the fact that it is one of the earliest examples of semi-detached houses found within the area. I have no reason to believe the same is not also applicable to No 4.
14. The appellant describes the buildings as being of low architectural and historic interest and as having a neutral impact on the conservation area's character and appearance. But these descriptions cannot be reconciled with the CAA to which I have given significant weight. So even taking into account the appellant's views, I have no reason to disagree with the above CAA designations.
15. As part of the CAA, a survey of roof profiles was undertaken. The CAA states that when considering applications for roof alterations and extensions the Council will be guided, so far as townscape issues are concerned, by the categories set out in the CAA. This indicates to me that roofs in the conservation area form an important part of its significance for the purposes of the Framework.
16. The CAA states: "*All applications for roof extensions to be determined with reference to the roof extension map*". I have no reason to believe that the above references to "applications" does not encompass a deemed application for planning permission, under section 177(5) of the 1990 Act. The roof extension map designates both appeal sites as having a 'Category 1' roof profile, ie according to the CAA, they are properties with existing roof extensions, or where extensions would not normally be acceptable.
17. The CAA states that roof profiles are fundamental to the architectural character of any building or group of buildings and that, as such, they contribute to the character and appearance of conservation areas. It further states that rooflines are extremely sensitive to change. I have taken account of this in these appeals.

Appeal A – Character and Appearance

18. Based on the evidence provided, No 2 did not have a roof extension prior to the unauthorised works which are the subject of the enforcement notice. So in terms of the Category 1 sub-categories, I consider No 2 falls into the latter

sub-category, ie it is a property where a roof extension would not normally be acceptable.

19. No 2 is prominently sited. Its roof is clearly seen along and across the road, as well as from Wellington Place, St John's Wood Church Gardens and from Cochrane Street to the rear. The appeal development has fundamentally changed the shape and size of the roof of No 2. This is particularly obvious when viewed from the front. The pitch and ridge height of the roof have increased significantly and its hips now have a distinctive and uncharacteristic curve.
20. The dormers on the side and rear elevations of No 2 sit high up on the new roof, at a level comparable with the new raised ridgeline. The side dormer has a long apron and reaches horizontally far toward the side elevation of the building. As a result of the above, significant bulk has been added to the roof of No 2.
21. Seen within the context of the shallow pitched roof of No 4, as well as those on the other buildings in the rest of the group to the northwest, the appeal development is an incongruous and unsympathetic addition within the street scene. It harms the character and appearance of the area, including the conservation area and therefore causes harm to its significance.
22. I appreciate that, as a result of works to No 4, said to have been carried out by the mid-1970s, the roofs of No 2 and No 4 were not symmetrical prior to the construction of the appeal development. But I am not satisfied the minor imbalance as a result of the previous arrangement is sufficient justification for the significant imbalance which results from the current arrangement.
23. The appellant states that the uneven look of the dormer windows on either side of this pair of villas is not uncommon in the conservation area. But I do not consider this is a good enough reason to allow the appeal development in light of the roof profile category designation in the CAA, explained above.

Appeal B – Character and Appearance

24. Appeal B is presented as an alternative scheme to Appeal A. It includes smaller dormer windows and the drawings include annotations which show render would be added to the ground floor and a balconette would be added to the first floor front window, both of which are said "to match No 4". Based on the cases put to me, I have no reason to believe that the render and first floor window alterations would not be acceptable.
25. The statement provided relating to heritage and design matters, states that the proposals involve reducing the height and pitch of the roof of No 2. However, a reduction in the height of the roof as a result of this scheme is not what is reflected on the drawings¹ provided. Compared with what the evidence indicates was the lawful position, the roof height would remain significantly higher, comparable to the unauthorised roof height in Appeal A. This would be at odds with the shallow pitched roofs seen on the other properties in the group, to the northwest.
26. The appellant states that the dormers have been designed as traditional three-over-three sash windows, in accordance with the Council's design guidance on

¹ Drawing 3853_PL208 compared with drawing 3853_PL211

roofs. Be this as it may, they would still be visually prominent and on a property where (according to the CAA) a roof extension would not normally be acceptable. The dormers rely on a larger roof and this is clear from the red dotted line seen on Figure 15 and Figure 17 of the heritage and design statement.

27. The Appeal B scheme includes a large central flat section of roof rather than a single ridgeline. As a consequence, no roof apex would be evident on the particularly prominent side elevation and the original shallow pitched hipped roof form and shape would remain lost, as is the case with Appeal A. Moreover, viewed from the front or side, the roof pitches would remain significantly steeper than the lawful position.
28. Taking all of the above points into account, overall the Appeal B scheme would harm the character and appearance of the area, including the conservation area and would therefore harm its significance.

Appeal C – Character and Appearance

29. The roof of No 4 is clearly seen along and across the road, as well as from Cochrane Street to the rear.
30. Appeal C is presented as a complementary scheme to Appeal B, ie according to the appellant, if the schemes in Appeal B and Appeal C were both implemented then the roofs and rear and side dormers of No 2 and No 4 would result in a symmetrical appearance.
31. In addition to raising the height and pitch of the roof of No 4 and replacing the existing side and rear dormer windows, the scheme in Appeal C includes replacing windows on the front elevation of No 4 to match those at No 2 and removing pipework (described as unnecessary) from the front elevation. However, from the drawings² provided it is not clear what pipework would be removed.
32. Given that the evidence indicates No 4 has had an extended roof since at least the mid-1970s, based on the cases put to me I have no reason to believe the replacement dormers, front windows and pipework removal would not be acceptable. This is particularly given that the windows of the replacement dormers would reflect those illustrated in the SPG. However, the replacement dormers rely on a larger roof. This is clear from the red dotted line seen on Figure 15 and Figure 17 of the heritage and design statement.
33. Increasing the height and pitch of the roof as a result of the Appeal C scheme would result in the loss of the existing relatively shallow pitched hipped roof form and shape. This would be at odds with the shallow pitched roofs seen on the other properties in the group, to the northwest.
34. Taking all of the above points into account, overall the Appeal C scheme would harm the character and appearance of the area, including the conservation area and would therefore harm its significance.

Appeal A, Appeal B and Appeal C – Public Benefits

35. Given the size and scale of each appeal development within the context of the conservation area as a whole, I consider each results in less than substantial

² Drawing 3853_PL406 compared with drawing 3853_PL411

harm to the designated heritage asset. Nevertheless, any harm to its significance should require clear and convincing justification and in accordance with paragraph 202 of the Framework, I must weigh the harm against the public benefits of each appeal development.

36. For Appeal A and Appeal B, my attention has been drawn to business requirements of the appellant as well as economic benefits, although the Council state that it is unclear whether the use as office space is lawful. In both cases, the appellant has indicated the development improves the usability of the existing space to allow additional staff to be employed on-site without requiring the business to relocate.
37. For Appeal C, the appellant states the proposals will improve the living conditions of the existing residential accommodation through extending the height and pitch of the roof, therefore providing an increased amount of living space. The same would also be true for Appeal A and Appeal B, if the lawful use is residential rather than office use, as is suggested by the Council. So I have taken this into account too. Whatever the land use, the additional space would optimise site capacity, according to the appellant.
38. For Appeal A, the appellant has invited me to grant planning permission with a condition requiring a balconette to be added to the first floor front window of No 2, to match No 4, as is proposed in Appeal B.
39. I have taken into account the appellant's assertion that Appeal B and Appeal C, if both implemented, would reinstate symmetry to No 2 and No 4. According to the appellant, a planning condition can be used to ensure that both sets of works are delivered together. But no wording has been provided which satisfies me that such a condition would comply with the 6 tests for conditions set out in paragraph 56 of the Framework.
40. From the information provided, No 4 is owned by a separate party and so is not within the control of the appellant and there is no evidence the owner of No 4 has any intention of carrying out the works proposed for their property. So I cannot be certain that the works proposed to No 4 would ever be carried out, or that a mechanism exists to compel the owner to implement (and complete) the scheme in Appeal C, for it to have the balancing effect the appellant has referred to.
41. In any event, even if the schemes in Appeal B and Appeal C were both implemented, the result would be higher, steeper and consequently more prominent roofs and the loss of the shallow pitched roof form which is characteristic of the group of which No 2 and No 4 form part. This would result in harm to the character and appearance of the area, including the conservation area and would therefore harm its significance.
42. Having considered all of the above points, I am not satisfied any of the benefits referred to, separately or cumulatively, are public benefits of sufficient weight to justify a grant of planning permission for any of the appeal developments in light of the harm identified. In other words, in each case, I have ascribed more weight to the conservation of the designated heritage asset than to the benefits of each appeal development that my attention has been drawn to.

43. As a result of each appeal development, the appellant states there is no material reduction in the amenities of neighbouring properties or spaces. But this is not a benefit and so it makes no difference to my decisions.
44. My attention has also been drawn to permitted development rights allowing for upwards extensions. But there is no evidence either appeal building benefits from such rights given their location in a conservation area.
45. I conclude that each appeal development harms the character and appearance of the area, including the conservation area and its significance. In this regard, each appeal development does not comply with the design and heritage policies of the Framework, the CAA, the SPG or the current relevant development plan policies that I have been referred to. These are Policy HC1 of the London Plan 2021 and Policies 38, 39 and 40 of the Westminster City Plan 2019 – 2040.
46. My attention has also been drawn to Policy D1 of the London Plan 2021. But it has not been explained in the information provided how this policy is directly relevant to these appeal developments or the main issues in each case. So in my view this policy weighs neither in favour of nor against the appeal developments.
47. Taking all of the above into account, the Appeal A ground (a) Appeal fails, as does Appeal B and Appeal C.

Conclusion

48. For the reasons given above, I conclude that Appeal A does not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended
49. For the reasons given above Appeal B is dismissed.
50. For the reasons given above Appeal C is dismissed.

L Perkins

INSPECTOR