



---

## Appeal Decision

Site visit made on 23 March 2022

**by Paul Thompson DipTRP MAUD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19<sup>th</sup> April 2022**

---

**Appeal Ref: APP/X5990/D/21/3278269**

**19 Graham Terrace, London SW1W 8JE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Oscorp Inc Ltd against the decision of City of Westminster Council.
  - The application Ref 21/01145/FULL, dated 25 February 2021, was refused by notice dated 16 April 2021.
  - The application sought planning permission for demolition of existing building, excluding front elevation and party walls, and construction of replacement building with mansard roof and rear extensions and altered front lightwell, without complying with a condition attached to planning permission Ref 19/01643/FULL, dated 23 April 2019.
  - The condition in dispute is No 1 which states that: The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.
  - The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.
- 

### Decision

1. The appeal is allowed and planning permission is granted for demolition of existing building, excluding front elevation and party walls, and construction of replacement building with mansard roof and rear extensions and altered front lightwell at 19 Graham Terrace, London SW1W 8JE in accordance with the application Ref 21/01145/FULL made on the 25 February 2021 without complying with Condition No 1 set out in planning permission Ref 19/01643/FULL granted on 23 April 2019 by City of Westminster Council, but otherwise subject to the following conditions:
  - 1) The development hereby permitted shall be carried out in strict accordance with the following list of approved plans: 0119-P-230 Revision D; 0119-P-351 Revision D; 0119-P-451 Revision A and 0119-P-352 Revision A.
  - 2) The roof of the ground floor rear projection shall only be used for escape purposes only and not for sitting out or any other purpose.

### Procedural Matters

2. Planning permission was granted in 2019 for a replacement building, including rear extensions at the appeal property. The Application Form states that works started in October 2019 and the application seeks permission for the development as constructed, the design of which is different from that approved, as it includes a wholly brick façade at ground floor level and different

railings to the external terrace area. The application therefore seeks a new permission that would, among other things, be subject to a condition specifying the plans that reflect the revised design. At the time of my site visit, the extension had been constructed on the rear of the appeal property.

3. Policies from the Westminster City Plan (Revised November 2016) and City of Westminster Unitary Development Plan (adopted January 2007) referred to in the Decision Notice have been superseded by policies from the City Plan 2019-2040 (Adopted April 2021) (LP). Appeal decisions must be based on the policies from the development plan prevailing at the time of determination. In the case of this appeal, Policies 38, 39, and 40 of the LP are now the policies relevant to the determination of the appeal and replace those which the Council intended to adopt (March 2021).

### **Main Issue**

4. The main issue is the effect of the proposal on the appearance of the host building and the extent to which it preserves or enhances the character or appearance of the Belgravia Conservation Area.

### **Reasons**

5. The appeal concerns a mid-terrace townhouse situated within the Belgravia Conservation Area (CA). This is predominantly a residential area formed of terraced houses dating from the Georgian and Victorian periods, with great uniformity and coherence to the architectural detailing and use of materials throughout the individual streets and terraces. The appeal property and the terrace within which it is situated make an important contribution to the townscape of the CA. The more simplistic form and variation to the appearance of the rear of the terraces, experienced from properties and gardens, reinforces the hierarchical approach to the façades of buildings in the CA.
6. The Council's Officer Report sets out that there is a general character within the wider area of closet wing outriggers and light-well voids, particularly at ground floor levels. However, the Officer Report for an earlier proposal<sup>1</sup> at the appeal property is contradictory as it suggests that there is no prevailing pattern to the rear elevations of the properties in Graham Terrace.
7. Even if I were to accept that this is a general characteristic, the additional brickwork to the rear façade of the property does not add so significantly to the scale of the rear projection that it dominates the house. Furthermore, its appearance is sensitive to the modern design approach of the ground and basement levels at the rear of the house and the traditional form and character is still evident in the higher levels of the building.
8. While the design of the black metal railings enclosing the ground floor roof terrace is different to that previously approved by the Council, it too is also an acceptable alteration to the house. I note that the Council did not have any concerns with regard to this aspect of the proposal.
9. 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. The appeal property is enclosed to the south

---

<sup>1</sup> Planning Reference: 16/03389/FULL.

and west by tall boundary walls and views toward the proposal are either over the wall from higher levels of a neighbouring school building, which is some distance away, or obliquely from houses to the northeast in the terrace. The proposal is not therefore so prominent that it is harmful to the character and appearance of the CA.

10. In light of the above, I conclude that the proposal does not have a harmful effect on the appearance of the host building and preserves the character and appearance of the Belgravia Conservation Area. This satisfies the requirements of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the design and heritage aims of Policies 38, 39, and 40 of the LP.

### **Other Matters**

11. The appeal property is adjacent to 5-17 Graham Terrace, which is designated as a Grade II listed building. I have therefore had regard to the statutory duty referred to Section 66(1) in the Act. However, given the extent of the proposal and its physical relationship with this designated asset, its setting is preserved and the proposal does not detract from it.

### **Conditions**

12. I have not included a condition limiting the time for commencement, because the development has already begun. I have specified the approved proposed plans and elevations for the revised development, in the interests of certainty.
13. In addition, I have applied the tests relevant to the remaining planning conditions from the original planning permission and reworded the condition to restrict use of the roof of the ground floor extension for sitting out or other purposes to protect the living conditions of neighbouring occupiers (No 7). I have not reimposed conditions relating to the construction working of the development (No 2) and materials (Nos 3, 5 and 6), as the works appear to be complete. Furthermore, the details regarding the glazed infill and lift to the front lightwell and the effects of construction on the London Underground, for Condition Nos 4 and 8, have been approved by the Council, so are no longer required. I note that the Council also did not request any such conditions be reimposed in its Questionnaire.

### **Conclusion**

14. For the reasons outlined above, I conclude that the appeal should be allowed.

*Paul Thompson*

INSPECTOR