



Appeal Decisions

Hearing held on 27 April 2022

Site visit made on 27 April 2022

by S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 JUNE 2022

Appeal A Ref: APP/X5990/W/21/3278998

6 Inverness Terrace, London W2 3HU

- 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 Inverness Land Limited against the decision of City of Westminster Council.
 - The application Ref 20/06179/FULL, dated 2 October 2020, was refused by notice dated 15 January 2021.
 - The development proposed is use of the building as serviced accommodation (Sui Generis).
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Appeal B Ref: APP/X5990/Y/21/3279002

6 Inverness Terrace, London W2 3HU

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Inverness Land Limited against the decision of City of Westminster Council.
 - The application Ref 20/06180/LBC, dated 2 October 2020, was refused by notice dated 15 January 2021.
 - The works proposed are internal alterations including removal of the internal lift and reinstatement of traditional layout and finishes in connection with the use of the building as serviced accommodation. (Linked to 20/061790/FULL).
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Decision

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

Preliminary Matters

3. The two appeals concern the same scheme under different, complimentary legislation. The Council has identified different reasons for refusal in each; I have therefore dealt with these in my reasoning as set out below.
4. The description of the development on the joint application form was given as: "Use as serviced accommodation. Alterations including removal of the internal lift and reinstatement of traditional layout and finishes to those areas affected by the installation of the lift at all levels together with removal of en-suite bathroom from the front room at ground level, reposition the wall to the front room at first and second floor in accordance with the original plan form and reinstate the historic staircase structure using traditional technique along with associated repositioning of the partition to the front rooms at fourth and fifth floor together with other internal alterations."

5. However, the Council's decision notices separated the issue of the change of use, which requires planning permission, from the works, which require listed building consent. It was agreed at the Hearing that the appeal would be determined on the basis of the descriptions set out in the Council's decision notices. This is reflected in the above banner headings.
6. During the course of the appeal the appellant submitted amended plans. The principal difference related to the location of air conditioning units on the flat roof of the fourth floor of the building. The appellant considered this to be an error and the revised plans showed no units in that location. The siting and effects of the air conditioning units was pertinent to the second and third reasons for refusal on the application for planning permission and the first of the reasons for refusing the application for listed building consent.
7. From the discussion at the Hearing, I was satisfied that the appellant does not intend to use the roof of the fourth floor for air conditioning units. The 'error' had occurred because the units are currently in place and had been included in the plans showing the existing situation, albeit that they are unlawful. Furthermore, both parties accepted that in the event that the appeal was allowed, matters relating to air conditioning would require a separate application which would need to be supported by appropriate noise reports. On this basis I was satisfied that no party would be prejudiced by my acceptance of the amended plans, and I have determined the appeal accordingly.
8. As a consequence of accepting the amended plans, it has not been necessary for me to consider the effects of the air conditioning units on the special architectural interest of the Grade II listed building, the character and appearance of the Bayswater Conservation Area or the living conditions of nearby neighbours in my determination of this appeal.
9. On 21 April 2021, after these applications were determined, the Council adopted Westminster's City Plan 2019-2040 (City Plan 2021). Consequently, the policies from the Council Unitary Development Plan, adopted in 2007, and Westminster's City Plan, adopted in 2016, referred to in the decision notices have been superseded by those in the City Plan 2021. The only ones which are relevant to the outstanding matters in dispute are Policies 8, 15 and 39.

Main Issues

10. The main issues are:

- a) Whether the location is suitable for the provision of serviced accommodation having regard to development plan policies for the delivery of visitor accommodation and housing within the city (Appeal A);
- b) whether the internal works would preserve the Grade II listed building or any features of special architectural and historic interest that it possesses (Appeal B);

Reasons

Suitability of location for serviced accommodation (Appeal A)

11. London is one of the world's great cities. Providing accommodation for visitors is vital to its role as a tourist destination and its continued economic prosperity. Policy 15 of the City Plan 2021 seeks to maintain the attractiveness of

Westminster for visitors balancing the needs of visitors, businesses and local communities. It goes on to outline how this will be achieved. In relation to the provision of hotels and conference facilities the policy states that these will be directed to commercial areas of the Central Activities Zone (CAZ) and town centres.

12. Inverness Terrace lies outside the CAZ and one street beyond Queensway town centre. It is therefore not a location where the development plan supports the provision of visitor accommodation, such as serviced apartments. The supporting text indicates that in assessing proposals for such facilities the Council will take account of a site's location, its relationship with neighbouring uses, its size and other services it would offer, along with highways and parking issues. It seems reasonable to me that these considerations would apply to an assessment of any application within the CAZ or a town centre. There is nothing in the policy or supporting text to suggest that those factors are ones that would be taken into account when considering the acceptability of a proposal in a location beyond those defined areas. The starting point would be that such a location would be contrary the Council's spatial strategy. I therefore find no support for the proposal from Policy 15.
13. Outside the CAZ and town centres one of the Council's key priorities is the provision of additional homes. Policy 8 of the City Plan 2021 sets out how this will be achieved. In addition to resisting the loss of existing housing, the Council seeks to deliver new homes by optimising densities and making use of small sites. It was common ground that the appeal site currently has a nil use. Its previous use as a hostel ceased some time ago. Since then, permission for residential development was granted at Nos 2, 4 and 6. However, only that for Nos 2 and 4 has been implemented. The proposal would not result in any loss of an existing residential use. However, a residential scheme would be consistent with the site's recent planning history and support for new housing in areas outside the CAZ and town centres. It would comply with the Council's spatial strategy to secure additional homes within the City.
14. It therefore follows that in order to permit the use of No 6 as serviced apartments there would need to be exceptional circumstances to set aside the aims and requirements of the development plan. It is accepted that Inverness Terrace is very close to the CAZ and just 150m from the edge of the Queensway Major Centre. It is not an entirely residential street as there are a significant number of large and small hotels already established along the street.
15. Of particular relevance is the immediately adjoining site, Nos 8-18 Inverness Terrace, which has recently been granted planning permission for hotel use, Ref: 20/03979/FULL. However, it is apparent from the officer's report on the scheme for Nos 8-18 that the site had a long and complex history arising from its unlawful use as a hotel rather than its lawful use as a hostel. In undertaking the planning balance in respect of the use of the site, the officer's report took into account its previous use, its location, which was said to be 'as good as being within a town centre', the lack of harm to residential amenity, and the ongoing use of the site as a hotel. These material considerations collectively outweighed the conflict with the development plan. Consequently, the Council concluded that the hotel was considered acceptable in these particular circumstances.

16. I accept that there are significant similarities between that case and the appeal proposal, particularly in relation to location. However, there are also notable differences, particularly in relation to the adjacent building's continuous use as a hostel and hotel, in contrast to the nil use which is agreed in respect of No 6. I do not consider that the particular circumstances that relate to No 6, including its location, are of sufficient merit to outweigh the conflict with the development plan. Comments in the officer's report on the neighbouring site are not a justification for setting aside the requirements of the Policy 15.
17. I therefore conclude that the location is not suitable for the provision of serviced accommodation having regard to the development plan's approach to the delivery of visitor accommodation and housing within the city. The scheme would be contrary to Policy 15 and would fail to comply with Policy 8 of the City Plan 2021.

Effects on designated heritage assets (Appeal B)

Significance

18. No 6 Inverness Terrace is part of a terrace of neo-Classical buildings (Nos 2-46) that were group-listed as Grade II in December 1987. The terrace formed an integral part of the extensive building activity that took place in this part of London in the middle of the 19th century. It was built around 1860 and comprises a series of 4 storey town houses, with attics and basements and projecting Doric porches.
19. The whole terrace has a stucco fronted finish which includes a first floor balustraded balcony, architraves and cornices to first and second floor windows. The terrace is defined and reads as a large group, rather than individual houses. It has a unified architectural composition due to the consistent use of materials, proportions and similarity of detailing. These features are repeated along the street frontage. Notwithstanding minor variations of some architectural details, the streetscene exhibits a strong sense of rhythm, uniformity and cohesion which are major contributors to the significance of the terrace.
20. Internally the arrangement of space is also an important aspect of the significance of the individual houses and is expressed in the traditional hierarchy between the floors. The rooms found on the ground and first floors would have been the most important. This is reflected in their grander proportions and decorative treatments. In No 6 this is illustrated by the high quality of the hallway and the stone staircase with its intricate metal balustrade that links the rooms on the ground and first floors. The lower status rooms were smaller and simpler. The basement would have been a service area. The rooms on the upper floors and in the attic would primarily have provided sleeping accommodation and are connected by wooden staircases.
21. The repetitive pattern of the room layout on each floor contributes to the architectural and historic significance of the house as do the staircases that link them. Although much historic fabric has been lost internally, the marble fireplace in the front room on the ground floor is of note. The ceilings are believed to include extensive cornicing and plaster work. Although currently obscured by suspended ceilings there is evidence of such features in rooms on the ground, first and second floors. These further emphasise the grandeur of the house and the hierarchy of rooms on each floor.

Assessment of scheme

22. The significance of the building has been considerably harmed internally by a series of unlawful works that have been undertaken to convert the building into serviced apartments. A lift has been installed, disrupting the layout of the rooms on every floor. Suspended ceilings have been inserted which have hidden the historic cornicing. Limited opening up works shows that the insertion of services within the void has damaged the plaster work. However, the extent of this harm cannot be fully assessed while the suspended ceilings remain in place. All the historic doors have been lost and replaced with modern ones of uniform appearance and design. These are out of keeping in an historic building.
23. The plans submitted with the application, and illustrated as 'existing', show the layout of the building as it is now, not how it would have been before these unlawful works were undertaken. I have therefore had regard to the layout shown in the D&A statement associated with the 2014 application. However, even at that time the original floorplan had been altered and in places rooms had been unsympathetically sub-divided. Nevertheless, the current proposal seeks to address and rectify some of the harm that has been caused by the unlawful works. The appellant's principal contention was that the proposal would therefore not harm the listed building and that the detail of these remedial works could be addressed through the imposition of a series of appropriate conditions.
24. It was agreed that the removal of the lift and the reinstatement of the floor plan across all the floors affected by insertion would be beneficial. Similarly, the removal of the suspended ceilings would reveal the original ceilings and give greater appreciation of the proportions of the rooms, particularly those of grand proportions on the ground and first floors. The removal of the bathroom within the front room on the ground floor would restore the proportions of this important principal room. However, these alterations are not dependent on the approval of the appeal proposal as they could be required in response to enforcement action by the Council.

a) Bathroom pods

25. The 'existing' plans submitted with the application shows that a series of shower rooms (bathroom pods) has been inserted to facilitate the use of the rooms as serviced accommodation. The proposal would retain the footprint of these bathroom pods but would remove the upper sections of their walls. This would enable the ceiling height and any cornicing to be visible and would give a better impression of the overall shape and size of the original rooms.
26. However, the insertion of back-to-back shower rooms on several floors has significantly compromised the sense of spaciousness of a number of these rooms. To enter rooms 10, 14, 17 and 21 it is necessary to pass along a narrow passageway between the original wall and that of the bathroom pods. Consequently, this significantly reduces the legibility of the original room's size and layout. The reduction in the height of the enclosure wall would not address the loss of the original plan form of the house even if the ceilings were fully restored to their former height and décor. I am therefore not satisfied that the proposed works would address the harm that has been caused by the insertion of so many bathroom pods throughout the building.

b) Ceiling and cornicing strategy

27. The proposal would retain the suspended ceiling on the lower ground floor. Elsewhere the intention is to remove those that have been inserted and to repair damage to cornicing. Opening up works have shown that there is original cornicing in the principal rooms which reflects the grandeur of the house when first built. It is likely to be particularly fine on the ground and first floors. What is less clear is whether there are other features in the ceiling plaster work that also contribute to the significance of the building and therefore require careful and appropriate repair and restoration. There was some evidence that there may be ceiling roses in the principal rooms, but their position, extent and state of repair was effectively unknown.
28. The drawings with the application gave an indication of the rooms where it is anticipated repairs will be required. However, the level of detail of the extent and nature of the repairs was minimal. The appellant contended that this matter could be addressed through the imposition of an appropriate condition. However, in the absence of a better understanding of what currently exists, which can really only be fully assessed once the suspended ceilings have been removed, I cannot be satisfied that all the matters that should be addressed would subsequently be agreed by the parties, even with the wording suggested by the conditions submitted after the closure of the Hearing.

c) Doors

29. From the evidence provided and my internal inspection of the building, it appears that all the internal doors of any historic interest have been lost. All are now modern, solid wood doors with entry keypads. There is some variation of size, but this does not reflect the greater variety that would have been present originally given the very different size of the rooms that were served. Neither does the uniform design respect the type of door which would be found in a house of this period.
30. As a result of the replacement of the original doors, the architraves and surrounds have also been lost, even though some of the décor has been retained on the ground floor. There is virtually no detail provided about the original doors elsewhere in the building and even less about the architraves.
31. The plans submitted with the application provided a schedule of doors to be replaced but details of their proposed designs were not. In my view the doors are an important element in the significance of the building as a heritage asset. The size, design and quality of any replacements should reflect the hierarchy of the rooms and be appropriate for a building dating from the 1860s. This is likely to require important differences of details between the floors. A uniform approach, which is what is seen at the moment, would be highly inappropriate.
32. In these circumstances an intention to replace the doors, and an assumption that all these could be agreed by condition following the grant of listed building consent, does not give me sufficient certainty of a satisfactory outcome for this important listed building. Furthermore, the amended plans did not include a door schedule and were not used as an opportunity to provide additional details to address the Council's concerns in respect of this issue.

d) Service strategy

33. Providing services to 23 individual rooms and associated bathroom pods in this building is a challenge. In addition to electricity for lighting and power, water and waste disposal, it would also be necessary to provide smoke detection and sprinkler systems to protect the building in the event of fire. Many of the services would need to be provided in the floor voids rather than above the suspended ceilings which is what appears to have been done to date.
34. It was suggested that smoke detection and possibly some other services could be provided through the inclusion of suspended service trays. These would be required within the front ground floor reception room, rooms 9, 10 and 11 on the first floor and rooms 13, 14 and 15 on the second floor. However, these new features would clutter the ceilings in the grander and more important rooms to the detriment of their appearance. The amended plans did not present an accurate picture of the extent of the suspended trays that would be required. Furthermore, at the Hearing the Council suggested that there may be less harmful ways of providing the servicing, such as through small, carefully placed cuts into the original ceilings but away from important features such as the cornicing. However, such matters could only be negotiated and agreed following removal of the suspended ceilings to give greater understanding and clarity of what remains of the original ceilings and the full extent of the repairs required.
35. The amended plans also showed the position of kitchenettes within each room. I accept that these are small features that have not resulted in undue harm to any historic fabric within the building. However, their retention would also be dependent on agreeing appropriate means of providing them with services including water and waste-water discharge.
36. To grant listed building consent, I would need to be convinced that there was a high probability that agreement of all these details could be reached. In the absence of further details, I am unable to be certain that this would be the case. Consequently, the imposition of a condition would not be an appropriate mechanism to use to secure an appropriate service strategy.

e) Staircase

37. The staircase between the 3rd and 4th floors appears to have been partially replaced. This staircase has timber balustrading which is appropriate for an access between the less important rooms on the upper floors. However, the current detailing does not reflect those of the other timber staircase between the 2nd and 3rd floors.
38. The photograph submitted with the application did not satisfy the Council that a suitable replacement would be installed. However, having seen the staircase on my site visit and discussed the amendments that would be necessary at the Hearing, I am satisfied that this matter is a modest detail which should be capable of resolution between the parties. There is also photographic evidence in the Design and Access statement dated April 2014 which may assist. I am therefore satisfied that the reinstatement of the staircase could be addressed by the imposition of a suitably worded condition, if the proposal had been acceptable in all other respects.

f) Skirtings

39. There is evidence of original skirtings in some parts of the building. However, replacements that do not fully reflect the hierarchy of rooms on the different floors have also been used. Nevertheless, there would be no reason to doubt that skirtings that are appropriate for each floor could be agreed between the parties for the room layout that now pertains throughout the building.
40. I therefore agree with the appellant that this could be addressed through the imposition of an appropriately worded condition.

Overall findings and public benefits

41. Drawing the threads of my assessment together, whilst some aspects of the proposal could be adequately controlled through the imposition of conditions, insufficient details were provided as a whole to enable me to be certain that works of a satisfactory nature could be agreed between the parties. This leads me to conclude that the internal works would fail to preserve the Grade II listed building and the features of special architectural and historic interest that it possesses. This would be contrary to the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires me to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
42. In reaching this conclusion I have had regard to the scheme for the conversion of the building into 6 self-contained flats, for which planning permission and listed building consent was granted by the Council on 10 December 2021, refs: 21/05518/FULL and 21/05519/LBC. The listed building consent is subject to a series of detailed conditions, some of which are similar to those that were discussed at the Hearing in relation to the appeal proposal.
43. However, from my examination of the plans there are significant material differences between the layout of that scheme and the appeal proposal. The residential scheme would remove many of the small bathroom pods. This will provide the opportunity to create a layout which more closely relates to the original than would be possible with the appeal scheme. This has implications for other elements of the restoration, particularly in respect of ceilings, doors, and the provision of services. It was for the Council to be satisfied that the conditions it imposed were capable of being discharged in the context of granting permission for that scheme as a whole. However, there was insufficient certainty about several key aspects of the scheme for serviced apartments to enable me to conclude that such an approach would adequately protect the special architectural and historic interest of the listed building.
44. Consequently, in addition to the scheme's failure to preserve the listed building, contrary to the 1990 Act, it would be harmful to the significance of the building, contrary to the National Planning Policy Framework's requirement to conserve heritage assets in a manner appropriate to their significance. I am of the view that this assessment of harm may be quantified as less than substantial. Nevertheless, it amounts to a significant objection to the proposal. It is therefore necessary for me to weigh this harm against the public benefits of the scheme including, where appropriate, securing its optimum viable use as required by paragraph 202 of the Framework.

45. The building currently has a nil use, is vacant and is deteriorating due to lack of maintenance. Bringing it back into use as serviced accommodation would therefore be of some public benefit. However, as I have found such a change of use would be contrary to the development plan those benefits would be limited. Consequently, they would not outweigh the less than substantial harm to the significance of the listed building. Furthermore, from the evidence before me, there is a recently approved residential scheme for the site that would be less harmful to the heritage asset. On this basis the appeal scheme does not represent the optimum viable use for the site.

Conclusion

46. The proposed change of use would conflict with the aims of the City Plan 2021 to direct visitor accommodation to the CAZ and designated town centres. It would also undermine the Council's spatial strategy to make use of small sites to deliver a higher number of homes.
47. The proposed internal works would fail to comply with paragraph 199 of the Framework which states that great weight should be given to conserving a designated heritage asset's significance. In addition, they would be contrary to Policy 39 of the City Plan which seeks to secure conservation and continued beneficial use of heritage assets through sensitive adaptation which will avoid harm to their significance while allowing them to meet changing needs and adapting to climate change.
48. For these reasons, I conclude that both appeals should be dismissed.

Sheila Holden

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Julian Sutton	JMS Planning
Joanna Burton	JB Heritage Consulting Ltd
Christine Hereward	Solicitor

FOR THE COUNCIL

Sarah Whitnall	Area Planning Officer
Alistair Taylor	Design, Sustainability and Conservation officer
Anil Drayan	Environmental Health Officer

DOCUMENTS SUBMITTED AFTER THE HEARING

1. List of conditions agreed by the parties
2. Officer report relating to linked applications 21/05518/FULL and 21/05519/LBC.
3. Plans associated with applications 21/05518/FULL and 21/05519/LBC