



Appeal Decisions

Site visit made on 11 May 2022

by Richard McCoy BSc MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 June 2022

Appeal A Ref: APP/X5990/W/21/3276537

Eaton House School, 3-5 Eaton Gate, London SW1W 9BA

- 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 Eaton House Schools Limited against the decision of City of Westminster Council.
 - The application Ref 19/05030/FULL, dated 26 June 2019, was refused by notice dated 10 December 2020.
 - The development proposed is the erection of single storey rear extension at No.3 Eaton Gate (first floor to mews) and use of roof as external learning areas. Erection of single storey rear extension at 5 Eaton Gate (first floor to mews). Erection of outdoor learning areas between 3 and 5 Eaton Gate at the rear of the buildings, at first, second and third floors. Erection of lift shaft at the rear of the building. Refurbishment of building including, new roof, repair of windows, internal reorganisation of the building, replacement kitchen extract flue to roof level and associated works.
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Appeal B Ref: APP/X5990/Y/21/3276539

Eaton House School, 3-5 Eaton Gate, London SW1W 9BA

- 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 Eaton House Schools Limited against the decision of City of Westminster Council.
 - The application Ref 19/05031/LBC, dated 26 June 2019, was refused by notice dated 10 December 2020.
 - The works proposed are the erection of single storey rear extension at No.3 Eaton Gate (first floor to mews) and use of roof as external learning areas. Erection of single storey rear extension at 5 Eaton Gate (first floor to mews). Erection of outdoor learning areas between 3 and 5 Eaton Gate at the rear of the buildings, at first, second and third floors. Erection of lift shaft at the rear of the building. Refurbishment of building including, new roof, repair of windows, internal reorganisation of the building, replacement kitchen extract flue to roof level and associated works.
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Decisions

1. Appeal A: the appeal is allowed and planning permission is granted for the erection of single storey rear extension at No.3 Eaton Gate (first floor to mews) and use of roof as external learning areas; erection of single storey rear extension at 5 Eaton Gate (first floor to mews); erection of outdoor learning areas between 3 and 5 Eaton Gate at the rear of the buildings, at first, second and third floors; erection of lift shaft at the rear of the building; refurbishment of building including, new roof, repair of windows, internal reorganisation of the building, replacement kitchen extract flue to roof level and associated works at

Eaton House School, 3-5 Eaton Gate, London SW1W 9BA in accordance with the terms of the application, Ref 19/05030/FULL, dated 26 June 2019, subject to the conditions set out in the attached annex.

2. Appeal B: the appeal is allowed and listed building consent is granted for the erection of single storey rear extension at No.3 Eaton Gate (first floor to mews) and use of roof as external learning areas; erection of single storey rear extension at 5 Eaton Gate (first floor to mews); erection of outdoor learning areas between 3 and 5 Eaton Gate at the rear of the buildings, at first, second and third floors; erection of lift shaft at the rear of the building; refurbishment of building including, new roof, repair of windows, internal reorganisation of the building, replacement kitchen extract flue to roof level and associated works at Eaton House School, 3-5 Eaton Gate, London SW1W 9BA, in accordance with the terms of the application Ref 19/05031/LBC, dated 26 June 2019, and the plans submitted with it, subject to the conditions set out in the attached annex.

Procedural matters

3. As set out there are two appeals, one in relation to planning permission for development affecting a listed building within a conservation area and one in relation to listed building consent for works to a Grade II listed building. Although I have considered each proposal on its individual merits, to avoid duplication I have dealt with the two schemes together in this document except as otherwise indicated, by reference to Appeal A and Appeal B.
4. As the proposal relates to a listed building and is in a conservation area, I have had special regard to sections 16(2) (Appeal B), and 66(1) and 72(1) (Appeal A) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
5. Since the determination of the applications that are the subjects of these appeals, the City Council adopted its new City Plan 2019-2040 on 21 April 2021, which has now replaced the policies of the Westminster City Plan (November 2016) and the saved policies of the Unitary Development Plan (UDP), January 2007. I have dealt with the appeals on that basis.
6. On 09 July 2021 planning permission and listed building consent were granted at Committee for erection of single storey rear extension at 3 Eaton Gate (first floor to mews), erection of single storey rear extension at 5 Eaton Gate (first floor to mews), refurbishment of buildings including, new roofs to extensions with accessible walk on terraces, repair of windows, internal reorganisation of the building, replacement kitchen extract flue, and associated works. (Refs: 21/01290/FULL & 21/01291/LBC). However, the appeals before me include the descriptions of development and works as set out in the Title Block above and I have dealt with Appeal A and Appeal B on that basis.

Main Issue

7. The main issue is the effect of the proposed development and works on the special architectural and historic interest of the listed building and whether the proposed development would preserve or enhance the character or appearance of the conservation area.

Reasons

8. 3-5 Eaton Gate comprises of a pair of townhouses forming part of the Grade II listed terrace, 1 to 7 Eaton Gate. The terrace is mid 19th century in date and is in the main of a stuccoed front elevation of 5 storeys, with elegant detailing including projecting Doric porches, first floor ballustraded balcony and wrought iron railings. Its significance is very much derived from the period proportions and detail of the principal (front) elevation and the evidential and historic values this contains, giving it group value with the houses on Eaton Square.
9. The appeal site is located within the Belgravia Conservation Area. This is characterised by elegant terraces laid to a coherent plan, centred on attractive urban squares. Its significance derives from its historic and aesthetic values as an important example of early 19th century townscape design and planning. Nos 3 & 5 contribute positively to this significance in terms of the character and appearance of their principal (front) elevations and their group value relationship with the houses in Eaton Square.
10. Planning permission and listed building consent are sought for alterations and extensions to create outdoor learning spaces and to provide additional teaching and staff accommodation. The works in the main affect the rear of the site and include, the demolition and replacement of the lower ground floor to no. 3; a single storey ground floor extension to no. 3; a single storey ground floor extension to no. 5; the creation of 3 no. external decks incorporating a green wall to provide outdoor learning spaces at first, second and third floor levels and the erection of a lift shaft.
11. In addition, internal works are proposed to both nos. 3 and 5 and I note the parties view these as neutral in terms of their effect on the significance of the listed building. From my assessment, I have no reason to disagree. The works would occur in an area towards the rear of the buildings which has undergone previous alterations. The historic plan is retained along with surviving historic fabric and layout associated with the kitchens and circulation spaces, including stone stairs and iron ballustrades. The overall size and proportions of the principal rooms, now used as classrooms, would be retained.
12. Submitted details show that the improved level access and the new lift up to the third-floor level would improve access for all within the school, creating an inclusive environment for all users of the building. I consider that the proposed internal works by removing later additions to the listed building would serve to recover significance and would therefore be positive.
13. In terms of the effect of the proposed development on the conservation area, it would be limited to infilling the space to the rear of the appeal site between 2 projecting closet wings, along with modest rear extensions to both nos. 3 and 5. Given the prevailing high density urban grain, it is difficult to read the rear elevation of the appeal site as a cohesive whole, from any part of the conservation area. Moreover, the rear of the appeal site is discreetly tucked into a tightly defined corner which looks onto part of Eaton Terrace Mews, a quiet cul-de-sac. In my judgement, the character and appearance of the conservation area is very much bound up with the elegant proportions and detailing of the principal (front) elevations of its historic terraces and their inter-relationship as elements within the conservation area's principal streets and squares. The proposed development, in a lightly trafficked backland area,

would leave the character and appearance of the conservation area, as a whole, unharmed. It would therefore, have a neutral effect, thereby preserving the character and appearance of the conservation area.

14. With regard to the proposed works and their effect on the listed building, the extension at first floor to the rear of no. 3 would infill what is currently a largely concealed open space between two taller rear wings. This minor change to this rear elevation including a modest upward extension would have a negligible impact on the listed building.
15. The proposed extension to the rear of no.5 would replace an existing extension of little architectural and historic interest, partly infilling the space which currently exists between the closet wings of no.5 and the adjacent property at no.7 (part of the same listed building). While some historic fabric would be slightly relocated (the proposed roof terrace at first floor level would replace the historic balcony, relocating the decorative cast iron balcony to serve the new roof terrace and a tripartite sash window at ground floor level would be removed and relocated) I consider that the overall effect of infilling the gap next to the canted angle of the closet wing to no.5, would result in a modest extension that would snugly fit into a rear elevation that currently displays a range of additions. In my judgement, it would preserve the established architectural and historic interest to the rear of the listed building by respecting the scale and detailing of the host building. This minor change to this rear elevation would also have a negligible impact on the listed building.
16. However, in my judgement, the proposed rear multi-storey extension which would infill the space between the existing closet wings, incorporating a lift shaft, would be likely to detract from the special interest of the listed building. I consider, notwithstanding that the significance of the listed building is very much bound up with the elegant proportions and detailing of the principal (front) elevation and its relationship with the houses on Eaton Square, that the rear elevation nevertheless, contains features of interest. One of these is the articulation afforded to the rather plain elevation by the gaps between the closet wings. By infilling this gap and obscuring the historical and architectural detailing, including that provided by the gap, the proposed decking would have a blocking effect.
17. This would not be ameliorated by its open nature or the softening effect of the green wall as the depth, scale, bulk and design of this multi-storey addition would close the existing gap between the closet wings creating a visual enclosure of what is currently a well-defined open space. As such, this aspect of the proposal would detract from the special architectural and historic interest of the listed building.
18. To conclude on this main issue, I have found, having regard to section 72(1) of the Act, that the proposed development would preserve the character and appearance of the conservation area, thereby sustaining the significance of this designated heritage asset. This would accord with City Plan 21 Policies 38, 39 and 40, and National Planning Policy Framework (NPPF) paragraph 197.
19. However, having regard to sections 16(2) and 66(1) of the Act, the proposed works and development would fail to preserve the special architectural and historic interest of the listed building, causing less than substantial harm to this designated heritage asset. Under paragraph 202 of the National Planning Policy Framework NPPF this harm should be weighed against any public benefits of

the proposal, including securing the asset's optimum viable use and this is a matter I return to below.

Other matters

20. The appeal site is in close proximity to a number of dwellings in Eaton Terrace Mews, with No. 10 being directly to the rear of No. 3 Eaton Gate. Concerns were raised regarding noise disturbance and overlooking. However, the outdoor spaces would be used for learning activities only and not as external play areas. This would reduce potential noise and could be secured by suitably worded conditions as suggested by the parties, were planning permission and listed building consent to be granted.
21. Furthermore, views from the proposed outdoor areas towards the dwellings in Eaton Terrace Mews would not harmfully change the living conditions of the occupiers, given the intervening distance, existing degree of inter-visibility and the proposed use of a screen which could be secured by a suitably worded condition, as suggested by the Council, were planning permission and listed building consent to be granted.
22. I also consider that as the two proposed rear infill extensions would be mostly enclosed and given their position on the host buildings they would be unlikely to harmfully change the living conditions of the occupiers of nearby dwellings in respect of loss of daylight and loss of outlook. The main multi-level decked outdoor teaching space, given its location within the gap between nos. 3 and 5 Eaton Gate, would also be unlikely to harmfully change the living conditions of the occupiers of nearby dwellings in respect of loss of daylight and loss of outlook.
23. I also note that the Council's Highways Planning Manager raised no objection to the proposals. From my assessment, I have no reason to disagree given there would be little change to the existing situation as the proposals would not increase the number of pupils or staff.

NPPF paragraph 202 balance

24. The proposal would provide the school with a more efficient use of space and would enhance the learning facilities at the school. In particular, it would improve facilities for both pupils and staff in terms of open learning spaces, classroom sizes, enlarged library, as well as enhanced security, means of escape and teacher facilities. This is in line with current curriculum requirements and would improve the standard of education at the school, and I give this significant weight.
25. In addition, the proposed lift which would extend over 4-storeys to the third-floor level (the currently approved lift does not reach the upper level), along with internal alterations to all levels to improve circulation, would greatly assist with access throughout the school buildings for pupils and staff with impaired mobility. I give this very significant weight.
26. By contrast, I give considerable importance and weight to the desirability of preserving the building and its features of special architectural and historic interest, and to the conservation of the designated heritage asset. However, notwithstanding the considerable importance and weight that the less than substantial harm identified must attract, in this instance, I consider that the public benefits arising in terms of the improved educational facilities and access

for all within the school would outweigh the less than substantial harm arising from the proposal.

27. As a result, the proposed works and development accord with policies 39 and 40 of the City Plan 21, which reflect the approach of sections 16(2) and 66(1) of the Act. In terms of the NPPF, the balancing exercise in paragraph 202 is clearly in favour of the proposal.

Conditions

28. I have considered the conditions suggested by the Council and agreed in writing by the appellant. Where necessary, I have amended the wording in the interests of clarity and to accord with the tests set out in NPPF paragraph 56. With regard to Appeal A, in addition to conditions in respect of commencement time and carrying out the development in accordance with the approved plans in the interests of providing certainty, further conditions are necessary with regard to sample panels, design details, hours of carrying out site works, noise and vibration, operation of plant and machinery, provision of 1st floor screen, submission of an updated External Learning Space Management Plan and details of the living wall, in the interests of preserving the special architectural and historic interest of the listed building and protecting the living conditions of the occupiers of adjacent dwellings.
29. I shall not however attach conditions in respect of all new work matching the existing as the details are clearly shown on the approved plans and a sample panel of brickwork and details of new rooflights, windows, balustrades and deck cladding are required under other conditions attached to the planning permission. In addition, a condition in relation to restricting further works such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terrace is unnecessary as such works to a listed building would require a further grant of listed building consent.
30. With regard to Appeal B, in addition to the commencement condition, a condition is also necessary in respect of making good on completion of the works, in the interests of preserving the special architectural and historic interest of the listed building. I shall not however attach conditions in respect of all new work matching the existing as the details are clearly shown on the approved plans and an approved plans condition and a sample panel of brickwork and details of new rooflights, windows, balustrades and deck cladding are required under conditions attached to the accompanying planning permission.
31. In addition, a condition in relation to restricting further works such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terrace is unnecessary as such works to a listed building would require a further grant of listed building consent. Similarly, a condition requiring that existing ornamental features including chimney pieces, plasterwork, architraves, panelling, doors and staircase balustrades should not be disturbed is unnecessary as works to these features that are not subject to this grant of listed building consent would be unauthorised and it would be open to the Council to take whatever action it deemed necessary.

Conclusion

32. For the reasons given above, I conclude that the proposal would preserve the character and appearance of the Belgravia Conservation Area and that the harmful elements of the proposal in relation to their impact on the special architectural and historic interest of the listed building, and its significance as a designated heritage asset, are far outweighed by the public benefits. Accordingly, I allow the appeals.

Richard McCoy

Inspector

Annex

Appeal A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 941 P01; 941 P100 Rev.C; 941 P101 Rev.C; 941 P102 Rev.D; 941 P103 Rev.C; 941 P104 Rev.C; 941 P105 Rev.B; 941 P106 Rev.A; 941 P110 Rev.A; 941 P111 Rev.A; 941 P112 Rev.A; 941 P113 Rev.A; 941 P114 Rev.A; 941 P115; 941 P116 Rev.A; 941 P130 Rev.C; 941 P131 Rev.B; 941 P132 Rev.C; 941 P133 Rev.C; 941 P134; 941 P140; 941 P142; 941 P143; 941 P144; 941 P200 Rev.G; 941 P201 Rev.G; 941 P202 Rev.H; 941 P203 Rev.G; 941 P204 Rev.G; 941 P205 Rev.J; 941 P206 Rev.F; 941 P300 Rev.E; 941 P301 Rev.E; 941 P302 Rev.D; 941 P303 Rev.D; 941 P304 Rev.B; 941 P410 Rev.A; 941 SK-20; 941 SK-21; 941 C610 Rev. A; 941 C611 Rev. A; 941 C612; External learning space management plan; Boitecture living walls; Planning compliance report 18894.PCR.01; Noise impact assessment 18894.NIA.01 Rev. B; Photographs of windows/French doors to Headmaster's office room; First floor glazing - headmaster's office - condition report dated 22.10.19 prepared by Woodland of Kingston.
- 3) The development hereby approved shall not take place until sample panels of all new facing brickwork showing the proposed bricks, face-bond and pointing mortar have been provided on site and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved sample panels.
- 4) No development shall take place until details of the design of new rooflights, windows, balustrades and deck cladding including plans/elevations/drawings at scale 1:20 have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
 - between 08.00 and 18.00 Monday to Friday;
 - between 08.00 and 13.00 on Saturday; and
 - not at all on Sundays, bank holidays and public holidays.You must carry out piling, excavation and demolition work only:

- between 08.00 and 18.00 Monday to Friday; and
- not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety).

- 6) (1). Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(3). Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for written approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;

- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
 - (g) The lowest existing LA90, 15 mins measurement recorded under (f) above;
 - (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
 - (i) The proposed maximum noise level to be emitted by the plant and equipment.
- 7) The plant/machinery hereby permitted shall not be operated except between 0700 hours and 2300 hours daily.
 - 8) No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.
 - 9) The development hereby permitted shall not be brought into use until the screen to the first floor terrace shall have been constructed in accordance with details shown on the submitted plans.
 - 10) Notwithstanding the information submitted, an updated External Learning Space Management Plan shall be submitted for the written approval of the local planning authority. The external learning spaces hereby approved shall not be brought into use until the submitted details have been approved. The external learning spaces shall be managed in accordance with the approved Plan for as long as they remain in use.
 - 11) No development shall take place until detailed drawings and a management plan of the design of the living wall including construction method, layout, species, and maintenance regime have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter the living wall shall be retained and maintained in accordance with the approved management plan.

Appeal B

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
- 2) Upon completion of the works authorised by this consent, any damage caused to the building in the course of carrying out the works shall be made good within 3 months in accordance with a scheme submitted to, and approved in writing by, the local planning authority.