



Appeal Decision

Site visits made on 25 November 2021

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 24 June 2022

Appeal A Ref: APP/X5990/W/21/3278261

7 Devonshire Row Mews, London W1W 5AU

- 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 Luke Mosson (Howard de Walden Estate Limited) against the decision of the Council of the City of Westminster.
- The application Ref 20/06554/FULL, dated 16 October 2020, was refused by notice dated 1 April 2021.
- The development proposed is described as 'Mansard roof extension including dormers and rooflights creating two bedroom dwelling. Change of use of ground floor from garages to residential to form two bedroom dwelling, including alterations to frontage. New lightwell to rear of property. Replacement doors and windows. (Part of land use swap with 7 Bentinck Street - ground and second floor).'

Appeal B Ref: APP/X5990/W/21/3278259

7 Bentinck Street, London W1U 2EH

- 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 Luke Mosson (Howard de Walden Estate Limited) against the decision of the Council of the City of Westminster.
- The application Ref 20/06552/FULL, dated 16 October 2020, was refused by notice dated 1 April 2021.
- The development proposed is the change of use of the two existing residential units at ground and second floor of 7 Bentinck Street from C3-Residential Use to Office use (Class E)

Decisions

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

Preliminary Matters

3. The decision notices refer to the policies of the City of Westminster's City Plan: Strategic Policies (November 2016); and the saved policies of the Westminster Unitary Development Plan (January 2007). The current development plan consists of the City of Westminster City Plan 2019 – 2040 (the City Plan) and the London Plan 2021. The main parties have provided commentary on the updated policy position within their appeal submissions.

Main Issues

4. The main issues in Appeal A are: the effect of the proposal on the character and appearance of the host dwelling and surrounding area, including whether the proposal would preserve or enhance the character or appearance of the Harley

Street Conservation Area; the effect of the proposed development on the living conditions of residents of No. 88 Portland Place, with regard to outlook; and whether the proposal would make suitable provision for cycle parking.

5. The main issue in Appeal B is whether the proposal would result in a reduction of residential floorspace.

Reasons

Appeal A

Character and Appearance

6. The appeal site is in a mews within the Harley Street Conservation Area (the CA). It comprises a Victorian mews dwelling with timber garage doors at street level, located opposite a building in use as a car park and alongside a more modern row of garages. Although altered since its construction it is widely agreed to be an attractive, interesting and distinct building. The CA is characterised by finely detailed residential period properties, albeit that the Portland Place section near the site has more twentieth century redevelopment and a larger mix of uses, including examples of less traditional development visible behind the site in the form of tall buildings.
7. Although surrounded by a variety of uses the appeal property is experienced in its own right as an example of the traditional character prevalent throughout the CA. Despite later alterations its frontage retains a high degree of architectural merit due to its overall traditional character and style, reflective of the period properties in the CA. In particular, its modest scale and simplicity defines its traditional, mews character. Even acknowledging the modern elements in the immediate surrounds, the appeal property contributes positively to the character and appearance of the CA.
8. The proposal seeks to erect a single storey roof extension at the site, along with alterations to the frontage, to create additional residential accommodation. While the Harley Street Conservation Area Audit designates this building as one where a roof extension would not be suitable, I acknowledge that this SPD represents guidance rather than policy.
9. An attempt has been made to reduce the dominance of the roof extension through the sloped return, roof profile and use of complementary materials. Nevertheless, the original roof form and simple proportions of the building would be lost to a sizeable addition that, in rising above the front façade, would remain visible in the immediate vicinity.
10. While surrounded by taller development, the overall scale and bulk of this extension and associated dormer windows in the context of the appeal property itself would fail to respect the current character and modest dimensions of the building. In addition, although positioned to reflect fenestration below, the conflict of the middle dormer with the pediment would read as awkward and disjointed. It would serve to highlight the out of place nature of the proposal at the property and would reduce the visual distinctiveness of this key, traditional feature.
11. The proposed alterations to the façade of the property would also result in the loss of the ground floor timber garage doors, which would be replaced with windows and storage below. Although unlikely to be original features and

currently in need of repair, these doors are of a sympathetic design relative to the building and, along with the associated hinges, contribute to the architectural and traditional character of the building as key features.

12. I acknowledge these alterations would be within the existing frame of the garage doors, retaining surrounding brickwork detailing. An attempt has been made to blend with existing fenestration and materials through the use of smaller panes, and timber frames and doors. However, the replacement of both garage doors with these features would result in a busy frontage at street level, particularly due to the resulting ample glazing across the ground floor. This would be at odds with the simple and traditional character of the building and seem disjointed from the upper floor, which would retain this traditional appearance. While the appellant has stated a willingness to retain the hinge features, this would do little to address my concerns of the overall out of place nature of the ground floor frontage in the context of the building.
13. Although reference has been made to the Mews A Guide to Alterations SPD, this represents guidance rather than policy. It remains that the totality of alterations along the front façade and proposed roof addition, both alone and in combination, would fail to respect the simple, modest and traditional nature of the property.
14. For these reasons, the proposal would cause visual harm to the site and the contribution it makes to the surrounding character and appearance. As such, it would neither preserve or enhance the character or appearance of the CA. Its effect would be localised in an area where a variety of property styles exists. As such, it would equate to 'less than substantial' harm. Nonetheless the Framework makes it clear that great weight should be given to the conservation of heritage assets.
15. Paragraph 202 of the Framework specifies that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against public benefits of the proposal. The proposal would provide some public benefits through the provision of new housing, contributing to the optimum viable use of the site. These benefits, however, should only be accorded moderate weight, given the limited amount of additional dwellings that would result. In my judgement the public benefits identified do not therefore outweigh the damage to the heritage asset that would result from allowing the development to proceed.
16. For the reasons given above I find that the development would cause harm to the character and appearance of the appeal property and the surrounding area, and would fail to preserve or enhance the character or appearance of the CA. As such, it would fail to accord with Policies 38, 39 and 40 of the City Plan, which together seek to ensure good design and preserve heritage assets.

Amenity

17. Portland Place is located behind Devonshire Row Mews. I observed on my site visit that the appeal property sits directly in front of a section of No. 88 Portland Place, a tall building comprising residential flats, with some windows from flats in this building facing the rear of the site.
18. The installation of the proposed roof extension would inevitably create a change in outlook from the facing windows of No. 88 Portland Place when looking towards the site. However, while the properties sit in close proximity

to each other, the proposal would incorporate a lightwell in the corner of the roof opposite the facing windows of No. 88 Portland Place. This would also ensure that a degree of separation would exist between these windows and the principle built form of the proposed roof extension.

19. The remainder of the outlook from these windows would be largely unchanged, particularly when looking over the single storey garages along Devonshire Row Mews. Combined with the separation distance, this would ensure that the proposal does not appear unduly overbearing from these windows and that the outlook is not significantly restricted. While the built form of the structure would remain visible, it would not be to such an extent that is uncommon in this tight knit, urban area. Accordingly, the outlook would remain sufficiently open such that the proposal would not unduly impact residents' enjoyment of the associated rooms or create a sense of enclosure.
20. For the reasons given above I find that the development would not cause harm to the living conditions of residents of No. 88 Portland Place, with regard to outlook. As such, it would accord with Policy 7 of the City Plan, which seeks to ensure neighbourly development.

Cycle Storage

21. Policy 25 of the City Plan requires proposals to meet the cycle parking and cycle facilities standards of the London Plan 2021, set out in Policy T5. As such, the Council have stated that a total of six cycle parking spaces would be required with the proposal in place. This has not been demonstrated within the submitted application plans.
22. However, on the information before me I am satisfied that the proposal could accommodate this level of cycle parking. Had the proposal been acceptable in all other aspects, I am satisfied that this could have been addressed by an appropriately worded condition. Accordingly, the proposal has the capability to provide suitable provision for the parking and storage of bicycles.
23. For the reasons given, I find that the development would make suitable provision for cycle storage. As such, it would comply with Policy 25 of the City Plan and Policy T5 of the London Plan (2021).

Appeal A Conclusion

24. I have concluded that the proposal would not cause harm to the living conditions of residents of No. 88 Portland Place, and could provide adequate cycle parking spaces. However, taken together this does not outweigh the harm that I have identified to the character and appearance of the host dwelling and surrounding area, including to the CA.
25. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

Appeal B

26. The appeal site comprises residential flats at 7 Bentinck Street, within the CA. The proposal seeks to change the use of the ground and second floors of the property

to office accommodation. This is sought as part of a land use swap with the proposal at 7 Devonshire Row Mews, which is the subject of Appeal A.

27. Policy 8 of the City Plan states that all existing residential units, uses, floorspace and land will be protected, except where: (i) the reconfiguration or redevelopment of supported or affordable housing would better meet need; or (ii) non-family sized housing is being reconfigured to create family sized housing
28. The main parties agree that the change of use at the appeal site would result in a reduction of residential floorspace. However, as part of the land use swap there would be an overall uplift in both residential and office floorspace. The main parties agree that the principle of such a land use swap is acceptable. Nevertheless, as the Council refused the application at 7 Devonshire Row Mews, it was deemed that the proposal would result in a reduction of residential floorspace.
29. As can be seen from my observations above, I have dismissed Appeal A. Accordingly, I have no evidence before me of a suitable land use swap in connection with Appeal B. As a result, the proposal in connection with Appeal B would result in the loss of residential floorspace.
30. For the reasons given above I find that the development would result in the loss of residential floorspace. As such, it would fail to comply with Policy 8 of the City Plan, which seeks to protect existing residential floorspace.

Appeal B Conclusion

31. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

Conclusions

Appeal A

32. For the reasons given above, the appeal is dismissed.

Appeal B

33. For the reasons given above, the appeal is dismissed.

C Rafferty

INSPECTOR