



Appeal Decision

Site visit made on 26 July 2022

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2022

Appeal Ref: APP/X5990/W/21/3277532

6 Balfour Place (including 82 Mount Street), London W1K 2AX

- 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 6 Balfour Place Limited against the decision of City of Westminster Council.
 - The application Ref 20/06389/FULL, dated 9 November 2020, was refused by notice dated 22 December 2020.
 - The development proposed is describe on the planning application form as 'Roof extension to create a duplex residential unit; creation of a new retail unit; insertion of new windows and doors on the north and east elevations; creation of terraces at third floor level; extension of ground floor level to provide additional retail floorspace; infill of lower ground floor courtyard for office use; provision of plant within existing vaults; and associated internal refurbishment and reconfiguration including repositioning of the core.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). Furthermore, in April 2021 the Council adopted the City Plan 2019-2040 which has superseded the previous development plan policies cited in the Council's reasons for refusal. The London Plan was also adopted in March 2021, replacing the previous version.
3. The Council has identified that the following City Plan policies are relevant to the reasons for refusal: 38 (Design Principles), 39 (Westminster's Heritage) and 40 (Townscape and Architecture). The Council asserts that the proposed development conflicts with these policies. The Council has also highlighted that Section 5.1 (MD: Design) of the Mayfair Neighbourhood Plan (MNP) is relevant. The MNP was made on 24 December 2019 prior to the determination of the planning application.
4. The appellant has had an opportunity to make representations in response to the Council's submissions in this regard. With regard to the MNP, although this was made prior to the Council's decision, given that reference to it does not alter the main issues of this appeal and that the appellant has had opportunity to comment on it, the appellant has not been prejudiced by my consideration of it in this appeal.

5. All parties have also had an opportunity to comment on the revised Framework and the new London Plan and I have had regard to them in considering this appeal.

Fallback Position

6. Planning permission was granted by the Council, under reference 19/09635/FULL (the Original Permission), for erection of an infill extension at basement level in order to enlarge an existing office (former Use Class B1), use of part ground floor on Mount Street elevation as a shop (former Use Class A1) accessed from an existing bay, erection of roof extension to enlarge an existing flat (Use Class C3), insertion of new windows and doors on the north and east elevations, creation of a residential terrace at third floor level and provision of plant within existing vaults. Permission was subsequently granted under Council Reference 20/04800/FULL to vary the Original Permission, primarily to allow changes to create a roof level terrace and associated internal reconfiguration at fourth and fifth floor level, with alterations to the roof pitch and valley.
7. During my site visit I noted that works had been commenced, with the lower ground floor extension at least partially constructed. Given that work has commenced I consider that it is very likely that the development will be implemented. It is not entirely clear which of the two planning permissions will be implemented (albeit I acknowledge that the latter is most likely to be implemented taking a logical approach). Nonetheless, the material differences between the two consents are not significant in terms of their relevance to this appeal. Given that works have commenced and that there is a realistic prospect of either development being implemented, they both represent fallback positions which are material to the consideration of this appeal.
8. On this basis, the main area of contention between the two parties relates to the proposed ground floor infill extension to the building to create a new retail unit. This would be located within the existing ground floor gap between the host property and the neighbouring building at 84 Mount Street to the east. In contrast, the previously approved developments did not include a ground floor extension in this location¹. This aspect of the proposal forms the primary focus of my consideration.

Main Issue

9. The main issue is the effect of the proposed development on the character and appearance of the Mayfair Conservation Area (the CA).

Reasons

10. The appeal site comprises 6 Balfour Place and 82 Mount Street (the host property), which is a six-storey building on the corner of Balfour Place and Mount Street. The appeal site also includes the area immediately surrounding the building, including the area above the recently constructed lower ground floor office, between the host property and 84 Mount Street to the east. The appeal site is located within the CA.
11. Under section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am obliged to pay special attention to the desirability of preserving

¹ Although, a Lower Ground Floor extension was approved.

- or enhancing the character and appearance of the CA. In undertaking this obligation, I have had regard to the evidence provided by the appeal parties.
12. The CA primarily derives its significance from its architectural qualities which comprise of grand and elegant buildings of high-quality design, many of which comprise historic forms of architecture and are listed (the host property is not a listed building). The CA also derives significance from its 'grid-iron' layout and the juxtaposition of residential and commercial uses.
 13. Two areas which are particularly characterised by retail development include Oxford Street and surrounding areas to the north of the CA as well as Mount Street and Adams Row which are located more centrally within the CA. Indeed, many of the ground floor street frontages of buildings on Mount Street comprise retail units which are typically high-end luxury stores. However, travelling along Mount Street between the appeal site and Hyde Park, development is predominantly more residential in character and appearance.
 14. There is a distinctive gap between the host property and 84 Mount Street. This provides an important physical separation between the appearance of the busier retail character to the east and the appearance of quieter more residential character to the west. It also provides visual interest, with the stimulating and architecturally varied rear elevations of buildings visible through the gap and views also attainable through towards Aldford Street to the south. Indeed, given the function and visual interest of the gap, it is a distinctive feature which, along with the host property, contributes positively to the significance of the CA.
 15. Parts of the CA have been subject to change over the years for various reasons. The evidence before me indicates that the building which formerly occupied the appeal site was destroyed in a bombing raid during World War II. The evidence also suggests that the host property was developed as a replacement.
 16. The appellant has provided various historic maps to indicate that the gap did not exist prior to the bombing. The appellant has also provided a plan which dates from 1893 and indicates 'flat above offices' in the location of the gap. However, even if a gap did not previously exist in this location (which is by no means certain) it does not alter the role that the existing gap plays in contributing to the significance of the CA. Furthermore, whether townscape gaps are a recurring feature within the CA is not the primary consideration. Indeed, commonality of a characteristic does not necessarily dictate significance.
 17. The appellant asserts that the gap is not a planned or intended feature. However, it is clear that it was intended at the time which the host property was built after the original building was destroyed. This is obvious, given the presence of several large windows which directly overlook the gap. Indeed, the character of a CA will of course change over time and the historic layout of development does not necessarily take precedence over changes that have occurred since then. Furthermore, it is by no means clear how accurate the OS maps were at that time nor what the scale of any development within the gap might have been.
 18. I note the examples provided by the appellant of infill extensions in the surrounding area. However, these all include different contexts and none of the

examples provided truly reflect the two positive characteristics of the gap on the appeal site, namely its functional separation of two distinct types of character and the visual interest which it creates. I acknowledge that the single storey extension would allow some limited views through the gap to be retained. However, the development would nonetheless harmfully reduce these views and diminish the functional role of the gap.

19. I accept that a key characteristic of Mount Street is the proliferation of ground floor high-end retail stores. Indeed, much of the literature cited by the appellant identifies these uses as a key feature of Mount Street. In addition, the MNP also cites Mount Street as having a more commercial character in contrast to the quieter residential character of other areas. However, I consider that these references primarily refer to the proliferation of retail development further to the east of the appeal site, where the hustle and bustle of retail activity creates busier streets with residential uses above. The appeal site is located within a completely different context.
20. I accept that there is an existing fallback position of retail development on the ground floor of the host property. This, if implemented, somewhat reduces the functional separation of the host property from the adjacent retail use at 84 Mount Street. However, it does not sever this role completely, given that the approved retail use does not involve significant alterations, other than a new entrance door and steps, to the building fabric. As such, the approved development largely maintains the appearance of the more residential character of this part of the CA.
21. In contrast, the proposed development would extend the line of ground floor retail development from the east to incorporate the host property. This would result in a harmful physical amalgamation of the busier retail frontages and the less active frontage of the host property. The retail unit approved under the fallback position would sit relatively subtly within the existing building, whilst the proposed development would read as a physical extension to the more overt retail appearance of the adjacent unit at 84 Mount Street. For this reason, the fact that the new doorway provided under the fallback position would no longer be required, does not come close to mitigating the harmful visual impact of the proposed development.
22. The architectural detailing of the proposed retail unit would reflect that of the host property and the appellant asserts that it has been designed with regard to Westminster's supplementary guidance document - 'Shop fronts, Blinds and Sign'. However, the architectural detail of the proposed development would jar with 84 Mount Street, particularly at the key junctions between the two buildings, notably where the proposed cornices intersect. This would exacerbate the visual harm caused by the development.
23. In summary, the proposed development would harmfully erode an important gap which serves as a functional separation and feature of visual interest. It would be materially more harmful than the fallback schemes in this regard. The other elements of the proposal would have a neutral impact on the character and appearance of the CA, however this does not reduce the harm caused by the proposed infill extension. The proposed development would neither preserve nor enhance the CA. Indeed, it would have a harmful impact on the character and appearance and therefore the significance of the CA and it would

lead to 'less than substantial harm' within the meaning of Framework Paragraph 202.

24. Framework Paragraph 202 requires that less than substantial harm is weighed against the public benefits of a proposal including, where appropriate, securing the heritage asset's optimum viable use.
25. The proposed development results in a small increase in employment floorspace which results in an economic benefit. There would be provision of a new retail unit (and associated business rates), which would carry economic and social benefits. There would also be permanent employment benefits for retail staff and temporary support for construction jobs. These are all public benefits associated with the development. In contrast, the proposed extension and improvement of living accommodation is a private benefit.
26. Whilst the proposed development would result in an efficient use of land, there is insufficient substantive evidence before me to indicate that it would comprise the optimum use of land.
27. The appellant also asserts that there would be a benefit from the re-instatement of the previous historic built form and the omission of the previously approved alterations to the front bay. However, I have found that the harm to the CA is not mitigated by these considerations, and they do not therefore equate to a benefit.
28. The public benefits are modest, given the relatively small scale of the development. As such, they can only be afforded moderate weight. Conversely, the less than substantial harm to the heritage asset (the CA) should be afforded great weight, in line with the provisions of Framework Paragraph 199. As a result, the modest public benefits of the proposed development would not outweigh the less than substantial harm.
29. For these reasons the proposed development would conflict with City Plan Policies 38, 39 and 40 which seek to ensure that new development: contributes positively to local character and townscape; conserves heritage assets; and protects spaces which positively contribute to the significance of heritage assets, respectively. It would also conflict with MNP Policy MD:Design which broadly seeks to meet the same aims as the aforementioned City Plan policies.
30. The appellant has referred to London Plan Policy HC1, which states in part that development proposals affecting heritage assets and their settings should conserve their significance. For the reasons outline above, the proposed development would also conflict with this policy.
31. There would also be a conflict with Framework Paragraph 130, which requires in part that new development is sympathetic to local character.

Other Matters

32. The appellant refers to a previous planning permission granted under Council Reference PT/TP/8368 relating to a basement and ground floor extension. However, this was not implemented, and the decision was made in a materially different planning policy context in 1988. As such, this consideration carries very limited weight and does not alter my conclusions.

33. A large number of representations from interested parties, many of whom are nearby residents, have been received. Many have objected to the proposed development. Some of these representations focus on the main issue of this appeal whilst others refer to other considerations such as (but not limited to) living conditions. However, given that I am dismissing this appeal on the grounds of the main issue it is not necessary to consider the representations in further detail, albeit I have reviewed every one of them.
34. The Council has not alleged any harm to the setting of any listed buildings within the reasons for refusal. However, the evidence indicates that there are Listed Buildings within the general vicinity of the appeal site. Under section 66 (1) and section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am obliged to have special regard to the desirability of preserving these listed buildings, their setting and any features of special architectural or historic interest. However, I have not been provided with sufficient information to identify the precise location of surrounding listed buildings nor information pertaining to their significance. As such, there is no substantive evidence before me to indicate that there would be any harm to the setting and significance of any listed building. Given that I am dismissing the appeal in any case, it is not necessary to consider this matter further.

Conclusion

35. The proposed development would conflict with the development plan taken as a whole. There are no material considerations of sufficient weight to warrant a decision other than in accordance with the development plan. The appeal is therefore dismissed.

Luke Simpson

INSPECTOR