



Appeal Decisions

Site visits made on 20 October and 9 November 2022

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 24 November 2022

Appeal A Ref: APP/X5990/W/21/3287979

71a Randolph Avenue, London, W9 1DW

- 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 A Mason against the decision of City of Westminster Council.
 - The application Ref 21/04805/FULL, dated 14 July 2021, was refused by notice dated 29 October 2021.
 - The development proposed is the like-for-like replacement of existing chimney cowl.
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Appeal B Ref: APP/X5990/Y/21/3287980

71A Randolph Avenue, LONDON, W9 1DW

- 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 A Mason against the decision of City of Westminster Council.
 - The application Ref 21/04806/LBC, dated 14 July 2021, was refused by notice dated 29 October 2021.
 - The work proposed is the like-for-like replacement of existing chimney cowl.
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Decision – Appeal A

1. The appeal is dismissed.

Decision – Appeal B

2. The appeal is allowed, and listed building consent is granted for the like-for-like replacement of existing chimney cowl, at 71a Randolph Avenue, London, W9 1DW in accordance with the terms of the application, Ref: 21/04806/LBC dated 14 July 2021, and the following plans 1760/EX/001, 1760/EX/004 Rev A and 1760/EX/005 Rev A dated 22.11.22.

Preliminary Matters

3. The appeals relate to the same proposal under different legislation. Appeal A is made in respect of the planning application and Appeal B in respect of the listed building consent. I have considered each appeal on its own merits.
4. The replacement cowl has already been fitted. I have considered the appeals on this basis.
5. The cowl was in operation at the time of my visit to the site. It became apparent the cowl was incorrectly marked on the submitted plan. Accordingly, during the appeal process, I drew this to the attention of the appellant who submitted an updated plan to correctly mark the position of the cowl. This amendment does not change the proposal but simply resolves an error on the

submitted plan. I am satisfied that it is appropriate for me to accept this during the appeal process and that no party will be prejudiced by my doing so.

6. The cowl subject of this appeal stands next to an identical cowl that serves No. 71b Randolph Avenue. This installation was also subject to appeal¹. The appeals were decided on 17 June 2022. I have reviewed these decisions and have taken into account additional comments submitted by the parties in relation to this.
7. The Environmental Supplementary Planning Document was adopted 28 February 2022 (ESPD). It was at a draft stage when the Council issued its refusals. I have therefore taken into account the adopted version of this document in my determination of these appeals.

Main Issue Appeal A

8. The effect of the installation on the living conditions of neighbouring occupiers, with regard to noise.

Main Issue Appeals A and B

9. The effect on the character and appearance of the Grade II listed building, 63-79 Randolph Avenue, and the Maida Vale Conservation Area (MVCA).

Reasons Appeal A

10. The cowl stands on a low wall that divides two flat roof areas. The flat roof is above two storeys of accommodation and surrounded by accommodation that extends up a further four or five storeys. Accommodation at No. 69 and No. 71 is in close proximity to the cowl and faces directly towards it and over the flat roof area with opening windows. Both areas of flat roof can be accessed through doors from the adjacent accommodation, although I note that there is disagreement between the parties as to whether the use of the flat roof as a terrace garden is permitted.
11. The submitted noise assessment² found that there is a clear increase in noise levels when the fan is switched on, which persists throughout the night. The received level of sound when the fan is operating at the nearest noise sensitive receptor is 50 dB LAeq, which exceeds the lowest measured evening background noise level by 7dB. It is of course possible that this difference could be greater at times when the background noise level is lower. I note that the survey was carried out during the summer. Background noise levels may be lower during winter months.
12. Based on the lowest measured background sound level at the site the ESPD establishes that the noise generated should not exceed a level of LAeq 38 dB. The sound level of the fan is 12 dB above this.
13. At my visit to the site I was able to take note of the sound that the fan produced and experience it from the flat roof and from within adjacent rooms. From the flat roof the fan is clearly audible and quite harmful to what is otherwise a tranquil and peaceful external space. However, given the lack of clarity over how this space is used I give this matter limited weight.

¹ APP/X5990/W/21/3287981 and APP/X5990/W/21/3287982

² ACA Acoustics Acoustic Assessment of Installed Mechanical Services Equipment Ref 210718-R001 23.08.21

14. From within the adjacent flats, including from within one of the upper ground floor rooms of No. 69, a low and constant hum was clearly audible, even with windows closed. This was during a day time visit. During the night, when background sounds are lower, this constant noise has the potential to become a source of significant irritation to those residing in these adjacent dwellings.
15. In summary, the proposal harms the living conditions of neighbouring occupiers. It is contrary to Policies 7, 33 and 38 of the City Plan 2019-2040 (CP) and the ESPD, which together seek to ensure that development is neighbourly, does not result in adverse effects of noise, and ensures a good standard of amenity for existing occupiers.

Reasons Appeals A and B

16. Section 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires the decision maker to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Additionally, Section 72 of the LBCA requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
17. The listed building comprises a terrace of individual dwellings dating from circa 1860. It faces out over the wide road with a fine stucco front; embellished with projecting porches, pediments, fluted columns, cornices and a freeze.
18. In contrast the rear elevation has a much more functional appearance, with plain brick and limited decoration. In addition, the rear façade has seen a great deal of change, particularly at the level of the flat roof where various extensions have been added in a mix of styles. Therefore, whilst the rear of the terrace still has some value in terms of understanding how it originally functioned and the role it plays in defining the open space behind, it is much less significant than its fine front façade.
19. The MVCA is characterised by a uniform arrangement of formal terraces and semi-detached pairs fronting broad streets, of which the appeal terrace is a prime example. These characteristics give the area a high quality and a strong and consistent identity.
20. At my visit I was able to see that the cowl fitting is almost completely hidden from the large garden at the rear by the existing low wall and balustrade. Even if it could be glimpsed, it would appear as a minor service addition in the context of numerous similar fixtures that have been added to the less formal rear face of the terrace, and in such views it would not cause harm.
21. It can be seen at close range by those occupying the residential units to either side of the flat roof, and those who have windows that look out over the flat roof from an upper level. I accept that in this context the unit is not visually appealing, particularly with a rather scruffy arrangement of wiring; however, it is seen in the context of a functional area of flat roof with a corresponding light well and near to various vents and small fixtures. There is no evidence before me to suggest that the outlook from any of the nearby windows over the flat roof is historically significant.
22. For these reasons the cowl does not harm the special interest of the listed building. It follows that it also preserves the character and appearance of the MVCA. It thus accords with the requirements of the LBCA and paragraph 199 of

the National Planning Policy Framework, which states that great weight should be given to the conservation of heritage assets. It also accords with Policies 38, 39 and 40 of the CP, which together seek to ensure that development proposals are of a high quality and that they conserve and enhance heritage assets.

Other Matters

23. It is suggested that the cowl is important to retain the functionality and secure the retention of the historic fireplace. The fireplace is an attractive historic element to the room. It would remain so if the gas fire insert was not in use, and other forms of supplementary heating could be utilised for the comfort of those occupying the flat. Providing ventilation to an historic chimney breast is important, but simple non-mechanical vents at the top and bottom to allow air to draw up through the stack are usually sufficient to achieve such. I therefore give little weight to this matter.
24. The cowl replaced a previous fitting that was very similar and had been in situ for a few decades. It does not appear to be the case that this received any formal permission. Furthermore, it was clearly a matter of significant contention between the various occupiers of the dwellings, and it is suggested that it was not used for a long period. For these reasons I am of the view that I should give limited weight to the existence of the previous cowl, and this is a matter that is not sufficient to outweigh my findings in relation to the first main issue.

Conditions

25. Various conditions are suggested by the Council in the event that both appeals are allowed, but most of these relate to noise matters and therefore would only apply to the planning permission. In my decision for Appeal B I have referred to the approved plans to provide clarity, and am satisfied that no further conditions are necessary.

Conclusion

26. For the reasons above, Appeal A should be dismissed, and Appeal B should be allowed.

A Tucker

INSPECTOR