



Appeal Decisions

Hearing held on 22 November 2022

Site visit made on 22 November 2022

by C Masters MA (Hons) FRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2022

Appeal A Ref: APP/X5990/Y/21/3288617

41 Devonshire Place, London, W1G 6JY

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
- The appeal is made by Python Holding Limited against City of Westminster Council.
- The application Ref 21/06647/LBC is dated 23 September 2021.
- The works proposed are the rebuilding of first floor of 'link building', extension to rear of "link building" and associated external alterations to 41 Devonshire Place; use of 41 Devonshire Place as 4 self-contained residential units (Class C3) at part lower ground, part ground, part first, second, third and fourth floor levels; erection of rear extension to 41 Devonshire Place over first to third floor levels to provide a lift; works at 21b Devonshire Street and use of building as a single family dwellinghouse (Class C3) and associated works.

Appeal B Ref: APP/X5990/W/21/3288618

41 Devonshire Place, London, W1G 6JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Python Holding Limited against City of Westminster Council.
- The application Ref 21/06646/FULL is dated 23 September 2021.
- The development proposed is: Rebuilding of first floor of 'link building', extension to rear of "link building" and associated external alterations to 41 Devonshire Place; use of 41 Devonshire Place as 4 self-contained residential units (Class C3) at part lower ground, part ground, part first, second, third and fourth floor levels; erection of rear extension to 41 Devonshire Place over first to third floor levels to provide a lift; works at 21b Devonshire Street and use of building as a single family dwellinghouse (Class C3) and associated works.

Decision

1. The appeals are dismissed.

Preliminary Matters

2. Prior to the hearing opening, the appellant and the Council agreed matters in relation to the issue of air quality and this was confirmed in writing by the Council on 13 October 2022. As a result, this was no longer a contested issue between the parties.

3. Planning permission and listed building consent were granted in August 2021 for a majority of the works included within these appeals including the change of use to residential. I was advised at the hearing that these works have been implemented but not completed. The appeal proposal before me and the primary area of dispute between the parties focuses on the new extension to accommodate the proposed lift shaft and store.

Main Issue

4. The effect of the proposal on the special architectural and historic interest of the Grade II listed building and on the character and appearance of the Harley Street Conservation Area.

Reasons

5. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states the need to have special regard to the desirability of preserving listed buildings and any features of special architectural or historic interest they possess. Section 72 (1) states that special attention should be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Moreover, paragraphs 199 and 200 of the National Planning Policy Framework (the Framework) state that great weight should be given to the conservation of a heritage asset, (including listed buildings and conservation areas) and any harm to their significance should require clear and convincing justification.
6. The appeal property is grade II listed and forms part of an attractive group of uniform Georgian properties within a prominent corner position of the Harley Street Conservation Area. The property is currently vacant, having previously been used by the Royal Philatelic Society.
7. From the evidence available to me, including what I saw on the site visit, I consider the significance of the listed building is largely derived from its architectural, historic and aesthetic value as a terraced town house and the general uniformity of the terrace of which it forms a part. The appeal property and that opposite at number 1 Devonshire Place have an important and cohesive role in townscape terms, framing the view from Devonshire Street. The appellant contends the flank and rear elevations are of limited importance to the significance of the listed building. I disagree. The flank and rear elevations are clearly visible in both immediate and distant views along Devonshire Street. This increases the prominence and significance of these elevations of the property in the wider composition of the group of buildings and adds to their overall significance.
8. The property is located within the Harley Street Conservation Area. From my observations on the site visit, this part of the conservation area is characterised by a number of Georgian terraced townhouses set in a regular street grid. Taking into account the aesthetic and historic value of the property which I have identified above, the appeal property makes an important contribution to the significance of the conservation area as a heritage asset. I now turn to consider the impact of the proposed rear extension.
9. The proposed extension and associated works would add significantly to the bulk and massing of the rear of the building from the 2nd to 3rd floors. Given the size and scale of the extension relative to the host property, the proposal

would in my view be at odds with the proportions and scale of the existing property. The proposed bay detailing to the rear would also be at odds with the flat rear facades and blind windows which are typically seen in this locality. Whilst I am aware of other examples of rear bays within the conservation area, none of the examples referred to appear to show the same locational characteristics of the appeal property. I am not convinced that such detailing would be appropriate in this prominent and highly visible corner location. It would fail to be subordinate to the original building and as a result of the height and scale of the proposal, would present a visually intrusive addition to the host property. It would also harm the setting of 1 Devonshire Place as a designated heritage asset within the Conservation Area. As a result, the proposal would cause visual harm to the listed building, the setting of 1 Devonshire Place as well as the conservation area.

10. My attention has been drawn to a previous planning and listed building consent granted in 2014 to provide a lift access. Whilst I note that this permission has now expired, I also note that this proposal was for a lower lift extension than is now proposed. The similarities and the heritage impacts I can draw between the two proposals are therefore limited.
11. Accordingly, I conclude on the main issue that the proposal would fail to preserve the special architectural or historic interest of the Grade II listed building and would harm the setting of 1 Devonshire Place. It would also fail to preserve the character or appearance of the conservation area. Paragraph 202 of the Framework states that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal.
12. The proposal would provide unrestricted access to the upper floors of the property. In allowing unrestricted access to the upper floors, I acknowledge that this would be a public benefit which would accord with policy 38 of the City Plan (April 2021) as well as policy D7 of the London Plan (March 2012) which seek to secure inclusive and accessible spaces. However, given that this would allow unrestricted access to only two units, this would in my view present a modest public benefit. The appellant also contends that the proposal would improve the long-term viability of the building. However, I have no evidence before me to substantiate this claim and as such I am unable to attribute any weight to this as a suggested public benefit. In the case of these appeals, the public benefit would not be sufficient to outweigh the harm to the designated heritage assets identified.

Other Matters

13. I note a third party has raised concerns regarding the impact of the proposal on the living conditions of the occupiers of 39 Devonshire Place. The Council have concluded that the proposal would not result in any material harm in this regard. On the basis of the evidence before me, I can see no reason to reach a different view.

Conclusion

14. To conclude, the proposal would detract from the historic interest and special architectural interest of the grade II listed building, would harm the setting of 1 Devonshire Place and would fail to preserve the character or appearance of the Harley Street Conservation Area. This would result in less than substantial

harm to the significance of these heritage assets. There are no public benefits which would outweigh this harm.

15. As a result, the proposal would conflict with policy HC1 part C of The London Plan (March 2012) which states, amongst other things, that development proposals affecting heritage assets and their setting should conserve their significance. In terms of the City Plan (April 2021), the proposal would conflict with policy 38 which seeks to, amongst other things, ensure that all development positively contributes to Westminster's townscape and streetscape. The proposal would also conflict with policy 39 which covers Westminster's heritage and which seeks to ensure, amongst other things, heritage assets and their setting are conserved and enhanced, in a manner appropriate to their significance. The proposal would also conflict with policy 40 relating to townscape and architecture which advises, amongst other things, that development should have regard to the prevailing scale, height and character of the surrounding townscape. The remaining policies referred to by the parties are not directly relevant to the main issue before me.
16. For the above reasons I conclude the appeals should be dismissed.

C Masters

INSPECTOR

APPERANCES

On behalf of the Council:

M Hollington Area Planning Officer, Westminster City Council

S Miller Principal Design and Conservation Officer, Westminster City Council

On behalf of the Appellant:

Neil Henderson Gerald Eve

T Matheou Gerald Eve

Erin Davidson Feilden and Mawson

Documents submitted at the hearing:

Dwg. No. GA-0002 Rev. P01