The Planning Inspectorate

Appeal Decision

Site visit made on 11 April 2023

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 May 2023

Appeal Ref: APP/X5990/W/22/3313163
Penthouse Flat, Tenby Mansions, Nottingham Street, London W1U 5ER

- 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 and Mrs Alan and Adele Gross against the decision of City of Westminster Council.
- The application Ref 22/04875/FULL, dated 19 July 2022, was refused by notice dated 16 November 2022.
- The development proposed is creation of roof terrace with glazed stair enclosure.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the Harley Street Conservation Area (the Conservation Area).

Reasons

3. This part of the Conservation Area comprises largely of often residential buildings of a well-established and attractive appearance. The form, scale, materials and detailing of these buildings are defining features of its character and appearance.

4. Whilst more recent than many of the buildings within the immediate area and whilst having undergone modern extensions around the roof level, the building has an ordered, well detailed and elegant front elevation. This can principally be appreciated from Nottingham Place itself and Oldbury Place which runs to the north of the appeal site.

5. It is a prominent building given that it forms one of the higher structures on this block of development and its front elevation makes a positive contribution to the character and appearance of the Conservation Area.

6. The stair enclosure would add further height to the building towards its front. Regardless of the final materials, this part of the proposal would introduce a rather modern, obvious and top heavy feature which would be likely to be in part visible in views from Oldbury Place to the north given its position on the roof.

7. Given the height of the glazed stair enclosure it would not have the same screening benefit afforded by the central chimney stack as the existing most

prominent modern intervention to the roof in the form of the top of the lift housing.

8. I appreciate that planning permission has previously been gained for relocation of the water tank to roof level. However, this would be positioned on the roof further back and as such is unlikely to form such a prominent feature in views towards the building from public areas. This does not justify the glazed structure proposed under this appeal and I afford this matter limited weight.

9. Were I minded to allow the appeal, I note the suggested condition to omit the glazed balustrade that would surround the roof terrace for a black metal balustrade. These are intermittent features within the area and formed part of the previously approved scheme 22/08115/FULL.

10. However, the introduction here would likely be accompanied by domestic paraphernalia such as seating and tables, by reason of the use of the building and these, if viewed through the balustrades would be rather discordant features in views towards the building.

11. Further, the balustrade would only be provided to one side of the building which would imbalance its current appearance. In this sense the scheme before me appears to differ from an existing approval which shows a balustrade provided at roof level to both sides of the building, while also set slightly further back from the front elevation than that under this proposal. The previous permission therefore does not justify the proposal and I afford this matter limited weight.

12. The proposal would subsequently detract from the appearance of the property. It would therefore detract from the heritage significance of the Conservation Area which lies in part with the form, scale, materials and detailing of its buildings.

13. The harm to the significance of the Conservation Area would be less than substantial. Paragraph 196 of the Framework[1] requires such harm to be weighed against any public benefits of the proposal.

14. There would be public benefits in the form of improved outdoor space and access for the occupants. However, given the degree of harm I have found that would arise from the appeal scheme and the statutory protection afforded to Conservation Areas, such benefits are not sufficient to outweigh this harm.

15. The proposal subsequently conflicts with policies 38, 39 and 40 of the Westminster City Plan (2021) which broadly require well designed schemes that protect heritage assets.

Planning balance and conclusion

16. There is nothing to indicate that the decision should me made otherwise than in accordance with the development plan and I therefore conclude that the appeal should be dismissed.

T J Burnham

INSPECTOR

[1] National Planning Policy Framework 2021.