



Appeal Decisions

Site visit made on 26 April 2023

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 June 2023

Appeal A Ref: APP/X5990/W/22/3307978

79A Warwick Avenue, City of Westminster, London W9 2PP

- 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 Arnold Cotton (WNA Properties Ltd) against the decision of City of Westminster Council.
 - The application Ref 22/01519/FULL, dated 7 March 2022, was refused by notice dated 18 July 2022.
 - The development proposed is rear extension to existing flat.
-

Appeal B Ref: APP/X5990/W/22/3307980

79A Warwick Avenue, City of Westminster, London W9 2PP

- 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 Arnold Cotton (WNA Properties Ltd) against the decision of City of Westminster Council.
 - The application Ref 22/01520/FULL, dated 7 March 2022, was refused by notice dated 18 July 2022.
 - The development proposed is erection of a home office garden room.
-

Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is allowed, and planning permission is granted for the erection of a home office garden room at 79a Warwick Avenue, City of Westminster, London W9 2PP in accordance with the terms of the application, Ref 22/01520/FULL, dated 7 March 2022, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Procedural Matter

3. As part of the appeal submission, the appellant has put forward a revised drawing which omits a shower room from the internal layout of the proposed home office in Appeal B. I am mindful that the appeal process should not be used to evolve a scheme to overcome the Local Planning Authority's reasons for refusal. However, having considered the Wheatcroft principles¹, I am satisfied that no party would be prejudiced by my taking this plan into consideration in the determination of the appeal. I have, therefore, dealt with the appeal on the basis that the revised plan forms the layout of the proposed development.

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982, p37]

Main Issue

4. The main issue for both appeals is the effect of the proposed development on the character and appearance of the Maida Vale Conservation Area (MVCA).

Reasons

5. Warwick Avenue is a long, tree-lined road consisting mainly of substantial three and four storey residential properties with basements. Many have been converted to flats of which the appeal property is one. The rears of the properties in this section of the terrace have shallow closet wings. There are a few small single storey extensions, the majority of which do not extend beyond the rear elevation of the closet wing.
6. This part of the MVCA is characterised by Victorian terraces, which are visible over a long distance due to the straight wide nature of the Avenue. The appeal property is a basement flat which has been previously extended to infill the return of the rear closet wing. Appeal A involves the further extension of this addition for the full depth of the lower part of the garden and across over half the width of the property. It would have a flat roof with a small lantern style skylight over. Appeal B involves the erection of flat roofed, timber clad garden office building with a green roof adjacent to the high blank brick rear wall of a property on Elanthan Mews, which forms the rear garden boundary of the appeal property.

Appeal A

7. The rear extension would have a flat roof. The cumulative depth over and above the previous infill extension would project significantly beyond the rear extension of the neighbouring property and substantially beyond the rear elevation and wrap around the corner of the closet wing. The resultant structure would thereby appear bulky and would disrupt the rear building line of the terrace to a greater extent than the existing smaller infill extension here.
8. Whilst I accept that the proposal would affect only the rear of the property and would be largely unnoticed in the majority of public views and therefore its effect on the townscape would not be as apparent as a change to the front of the property, It would nevertheless be visible from the rear windows of properties within the terrace. Moreover, the character of the MVCA is derived from the buildings and their layout, regardless of whether particular elements are open to public view. Its significance does not therefore rely only on the elements that can readily be seen.
9. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on the decision maker to have regard to the desirability of the preserving or enhancing the character or appearance of the heritage asset. In considering the effect of the proposal on the MVCA the impact must be weighed against the harm it would have on the heritage asset.
10. I have carefully considered the appellant's desire to extend the property and to alter the internal layout and make it more thermally efficient. The public benefits arising as a result would be negligible and would be mostly private. However, the harm to the MVCA which would arise as, a consequence of the proposal would be less than substantial.

11. Having considered Paragraph 202 of the National Planning Policy Framework (the 'Framework') which states that where the harm is less than substantial, this harm should be weighed against the identified public benefits of the proposal. As I consider the public benefits in this case to be negligible, they would not outweigh the harm to the heritage asset that I have identified.
12. I note the earlier appeal decision² for this site and the differences in design between that scheme and this one. The overall width and depth of this proposal would be similar to the previously dismissed scheme. However, the approach to reducing the bulk of the proposal by incorporation of a flat roof and reduction in height of the flank walls would not significantly alter the relationship of the extension with the host building. The rear building line would still exceed the prevailing pattern. Overall, therefore, the new design would not wholly overcome the harm to the character and appearance of the area identified by the previous Inspector. However, each proposal must be determined on its own merits, and I have considered this appeal accordingly.
13. Accordingly, I conclude that the proposed rear extension of the existing flat at basement level would have an unacceptably harmful impact on the character and appearance of the appeal property and would fail to preserve or enhance the character or appearance of the MVCA. As such it would be contrary to Policies 38, 39 and 40 of the Westminster City Plan 2019-2040 (WCP) which, amongst other things, seek to ensure that development is of a high standard, conserves or enhances heritage assets, in a manner appropriate to their significance and respect the character of existing and adjoining buildings.

Appeal B

14. On my site visit I observed a timber shed of an approximately similar size to the proposed home office roughly in the location of the proposal before me. The appellant has confirmed that since the previous appeal³ for a similar garden room as the one before me, planning permission for a sectional timber pitched roofed shed was granted in October 2022. In coming to my decision, I have taken this into account.
15. The proposed building would be similar in size, proportions and location to that of other free-standing buildings in gardens to the rear of properties close by at 75 and 107 Warwick Avenue and similar to that of the shed currently in situ at the appeal property. The building would have a flat green roof and would have timber clad elevations. The limited scale and appropriate design are such that the proposed building would assimilate well with its surroundings. The appellant has stated that it would be used as a space which would allow him to work from home.
16. The proposed home office garden room would be of a more substantial construction than that of the timber garden shed. Nevertheless, it would be possible to use the shed as a home office with little or no alterations to its external appearance. The proposal with its flat green roof and vertical timber cladding would appear more in keeping with its surroundings than the shed.
17. In considering the effect of the proposal on the MVCA the impact must be weighed against the harm it would have on the heritage asset. When considered individually and cumulatively with other buildings within the

² APP/X5990/W/21/3273475

³ APP/X5990/W/21/3273850

gardens of other properties on the terrace and the existing shed at the appeal property, it would not result in harm to the special interest of the MVCA. Its effect on the character and appearance of the MVCA would be neutral and therefore the significance of the MVCA would be preserved.

18. Accordingly, I conclude that the proposal would not have any adverse effect on the character and appearance of the appeal property or the MVCA. There would be no conflict with the WCP Policies 34, 38, 39 and 40 which, amongst other things, seek to ensure that development is of a high quality and conserves or enhances heritage assets, has regard to prevailing development, and contributes to the greening of the borough by incorporating, amongst other things, green roofs.

Conditions

19. With regard to Appeal B, I have considered the Council's suggested conditions in the light of the Framework and Planning Practice Guidance. A plans condition is necessary and reasonable in the interests of certainty. With some minor alterations to the wording in the interests of accuracy, a construction hours condition is considered reasonable given the proximity of the development to residential properties.
20. I have considered whether a condition to restrict the use of the building to that which the development is described in the banner. However, I consider that the description of the development is sufficient to ensure that it is only used for the purposes to which planning permission is granted.

Conclusion

Appeal A

21. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

Appeal B

22. For the reasons given above, having regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal is allowed subject to the conditions set out in the schedule below.

K L Robbie

INSPECTOR

SCHEDULE OF CONDITIONS – APPEAL B

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Site Block Plan 001 Rev A; Proposed Block Plan 100 Rev A; Proposed Garden Building Floor Plan 110 Rev B; Proposed Garden Building Roof Plan 111 Rev A; Proposed Section A-A 210 Rev A; Proposed Elevations 310 Rev A; Proposed Elevations 311 Rev A.
- 3) Demolition or construction works shall take place only between 0800 and 1800 Monday to Friday and between 0800 and 1300 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.

End of schedule