



Appeal Decisions

Site visit made on 29 June 2023

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 August 2023

Appeal A Ref: APP/X5990/W/23/3314478

27 Cleveland Gardens, London W2 6DE

- 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 SSG Investments Ltd against the decision of City of Westminster Council.
 - The application Ref 22/04931/FULL, dated 21 July 2022, was refused by notice dated 28 October 2022.
 - The development proposed is internal reconfiguration of the listed building to facilitate a new lift and amended unit mix and layouts including reduction of one residential unit, and associated alterations and refurbishment. Relocation of one external skylight.
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Appeal B Ref: APP/X5990/Y/23/3314477

27 Cleveland Gardens, London W2 6DE

- 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 SSG Investments Ltd against the decision of City of Westminster Council.
 - The application Ref 22/04932/LBC, dated 21 July 2022, was refused by notice dated 28 October 2022.
 - The works proposed are internal reconfiguration of the listed building to facilitate a new lift and amended unit mix and layouts including reduction of one residential unit, and associated alterations and refurbishment. Relocation of one external skylight.
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Decision

1. **Appeal A:** The appeal is dismissed.
2. **Appeal B:** The appeal is dismissed.

Preliminary Matters

3. These decisions address both planning and listed building consent appeals for the same site and the same scheme. To reduce repetition, and for the avoidance of doubt, I have dealt with both appeals together within a single decision letter.
4. As the proposal is in a conservation area and relates to a listed building, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

5. The main issues are:
 - the effect of the proposal on the supply of permanent residential accommodation in Westminster (appeal A); and

- whether the proposal would preserve a Grade II listed building, known as 25-29 Cleveland Gardens, and any features of special architectural or historic interest which it possesses (both appeals).

Reasons

Effect on the supply of permanent residential accommodation (appeal a)

6. Policy 8 of the Council's City Plan (2021) states that it is necessary to protect existing housing to achieve housing targets and meet growing and diversifying housing need. A continued need to provide for family-sized homes is also identified. Policy 8C states that all existing residential units, uses, floorspace and land will be protected. One exception to this is where non-family sized housing is being reconfigured to create family sized housing.
7. The appeal proposal would result in the loss of one studio flat. No matter its size, the loss of one unit would be at odds with the first limb of Policy 8C. The proposal would include one three-bedroom unit (proposed Unit 06), which would result from the amalgamation of existing Units 06 and 07. Unit 07 is already a three-bedroom unit and thus constitutes family sized housing as defined within the City Plan Glossary. In this regard, the proposal would not result in non-family sized housing being reconfigured to create family sized housing. Moreover, it would not satisfy any of the exceptions to Policy 8C of the City Plan. As such, the proposal would result in the loss of permanent residential accommodation, and in doing so, would exacerbate the shortage of dwellings available for households in Westminster.
8. The existing Unit 07 is 4m² below the minimum gross internal floor area for a 3-bed-4-person unit as described within the Technical Housing Standards – Nationally Described Space Standard (2015) (NDSS). However, this is a small amount, and from the evidence before me and my observations, it has sufficient space to be capable of being used by a small family without being cramped. In any case, paragraph 2 of the NDSS says that its requirements for bedrooms, storage and internal areas are relevant only in determining compliance with the NDSS in new dwellings and have no other statutory meaning or use.
9. I therefore conclude on this main issue that the proposal would have a harmful effect on the supply of permanent residential accommodation in Westminster. As such, the proposal would not accord with the requirements of Policy 8 of the City Plan. Insofar as it relates to this main issue, the proposal would be contrary to the National Planning Policy Framework (the Framework) (2021) where it aims to significantly boost the supply of housing.

Grade II listed building, known as 25-29 Cleveland Gardens (both appeals)

Special interest and significance

10. 27 Cleveland Gardens is a mid-nineteenth century mid-terrace residential property, which has been subdivided into flats. It forms part of a Grade II listed building, 25-29 Cleveland Gardens which is an integral component of the Cleveland Square and Cleveland Gardens planned housing development. Together they form a fine architectural set piece, with houses laid out around two communal gardens.

11. Constructed in an Italianate style with a uniformly ornamented stucco front, the principal facades of 25-29 Cleveland Gardens present a formal, harmonious and aesthetically pleasing frontage. Insofar as it is relevant to these appeals the special interest and significance of the listed building resides in its terraced design, detailing and layout, within which repetition and uniformity are defining original characteristics. It also lies in its relationship with the planned layout of other historic terraces of a similar age and style.
12. Internally, the original characteristic two-room plan form at the appeal premises has been significantly eroded over time. The subdivision into flats, including numerous partitions, has significantly weakened the legibility of the original layout and thus the building's heritage merit. Despite this, the original two-room layout does remain clearly legible at the ground floor and basement. Moreover, even though it has been significantly diluted by partitions and alterations to create the existing flats, the original premise of a larger room to the front and a smaller room to the rear on each floor is still legible on the first floor and, to varying degrees up to the fourth floor, from the alignment of the wall by the kitchens on these floors.
13. Whilst there may be better preserved examples elsewhere, the surviving elements of this historic plan form, particularly at the ground floor given its historical hierarchical status within the townhouse, remain important in revealing the history of the property. Moreover, with its decorative cornicing to the front ground floor room, the historical hierarchical importance of this room remains evident. These aspects, and other remaining historic fabric, including amongst other things, the staircase, chimney breasts, and decorative plasterwork also contribute, to a small degree, to the building's historic and architectural interest and significance.

Appeal proposal and effects

14. The lift shaft would compromise the integrity of the historic plan form at ground floor and basement level. This would lead to the partial loss of the original spine wall to the basement and the formation of an uncharacteristic L-shape of the original rear rooms at both the ground and basement levels.
15. Moreover, the appeal proposal would result in the irrevocable loss of historic fabric, however negligible, including a small section of the surviving decorative cornicing to the first floor rear room. The extent of change to date within the building does not vindicate the further loss of historic fabric. In this regard, the loss of even a small section of the decorative cornicing, which has architectural and historic interest, would be harmful.
16. The insertion of the lift would result in the permanent loss of historic fabric including the hallway wall, non-decorative cornicing and floor and ceiling material. Although these elements do not hold a high degree of architectural interest, the permanent loss of historic fabric would also be harmful.
17. The removal of modern inappropriate additions and interventions, including the partition to open up bedroom 1 on the second floor, would better reveal some of the historic fabric of the building. However, the simplification of the internal layout of the flats on the first and upper floors to include more spacious rooms would result in distinctly modern layouts to each floor with its central lift, short spacious internal hallways, and fewer spacious rooms including open plan kitchen/living/dining areas.

18. Moreover, the proposal would result in uncharacteristically large rear rooms on the first, second and third floors for the kitchen/living/dining areas. Overall, the resulting layout would further erode the surviving legibility of the original premise of the two-room layout on the upper floors. It would also result in contrivances with the front room chimney breast being partially subsumed on the first and second floor. These elements would undermine the aim to better reveal the original spatial qualities and hierarchy of the house.
19. On balance, considering the existing arrangement, even with appropriate joinery/plasterwork, the internal reconfiguration to the layout on the first and upper floors would have a very minor harmful impact on the historical and architectural interest of the building.
20. The absence of harm in relation to other aspects of the proposal including, the small relocation of the external skylight on the ground floor rear roof, are neutral matters.
21. Consequently, the proposal would fail to preserve, and instead harm, the special architectural and historic interest, and hence significance of the Grade II listed building, known as 25-29 Cleveland Gardens.

Public benefits and heritage balance

22. Paragraph 199 of the Framework advises that great weight be given to the conservation of designated heritage assets (and the more important the asset, the greater the weight should be). Paragraph 200 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.
23. With reference to paragraphs 201 and 202 of the Framework, in finding harm to the significance of a designated heritage asset, the magnitude of that harm should be assessed. In this instance, as the harm would be confined to a small section of internal works and development at the appeal property, the harm to the listed building would be 'less than substantial' but, nevertheless, of great weight. Under such circumstances, paragraph 202 advises that this harm should be weighed against the public benefits of the proposal, which includes securing the asset's optimum viable use.
24. There would be some limited public benefits from the opening up of the first floor front room, removing harmful partitions, better revealing the original spatial qualities and hierarchy of the house and general refurbishment with appropriate joinery/plasterwork.
25. Moreover, the proposal would result in the refurbishment of the flats and provide simpler internal layouts with increased accessibility. The existing Unit 06, which would be lost, is a very small studio and, due to its size, does not provide a high-quality living space. The reconfiguration would result in all six proposed units being of a size that would accord with the NDSS, and they would be well proportioned with spacious open plan living/dining/kitchen areas and good-sized bedrooms. Moreover, even though there would be a small loss of floorspace, the communal lift would improve the accessibility of the flats. Overall, the size and layout of each of the units would create a high standard of amenity for future users. This would be an improvement in quality from the existing situation.

26. Although these effects would generate some private benefits to the appellant and future occupiers, they would also facilitate the delivery of the economic, social, and environmental objectives of the planning system as outlined in the Framework. These outcomes would be limited by the extent of the development and works that are proposed. Moreover, the social and economic benefits would be moderated by the loss of one studio flat which, although not providing a high-quality living space, does contribute to the supply of housing in Westminster to a very small degree. Overall, I afford these benefits moderate weight in favour of the appeals.
27. Nonetheless, although the harm in this instance may be considered 'less than substantial', this should not be equated with a less than substantial planning objection. There is no substantive evidence before me which verifies that the proposal is essential to ensure the long-term future of the building. Nor am I persuaded that similar public benefits could not be achieved by a scheme which would be less harmful to the significance of the designated heritage asset. In these respects, clear and convincing justification has not been provided for the identified harm.
28. Overall, the weight that I ascribe to the public benefits that would accrue from the proposal, is not sufficient to outweigh the great weight that I attach to the harm I have found. As such, the proposal would not comply with paragraph 202 of the Framework.
29. The proposal would fail to preserve the Grade II listed building known as 25-29 Cleveland Gardens, or its features of special architectural or historic interest which it possesses. This would be contrary to the requirements of sections 16(2) and 66(1) of the Act and the provisions within the Framework, which seek to conserve and enhance the historic environment. It would also be contrary to the requirements of Policy 39 of the City Plan and the Council's Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. These say, amongst other things, that development must optimise the positive role of the historic environment in Westminster's townscape, economy and sustainability, and will ensure heritage assets and their settings are conserved and enhanced, in a manner appropriate to their significance.

Other Matters

30. The site lies in the Bayswater Conservation Area (BCA). The Council has not objected to the proposal on this basis. Since the proposal includes only nominal alterations to the external building fabric with the relocation of one external skylight on the ground floor rear roof, I see no reason to disagree. On this basis, the proposal would preserve the character and appearance of the BCA and would accord with section 72(1) of the Act.

Conclusion

31. **Appeal A:** The proposed development would conflict with the development plan as a whole and there are no material considerations, including the benefits associated with the improved quality and accessibility of the resulting accommodation, which indicate that the decision should be made other than in accordance with it. Therefore, for the reasons given, I conclude that Appeal A should be dismissed.

32. **Appeal B:** For the reasons given, I conclude that Appeal B should be dismissed.

Mr R Walker

INSPECTOR