



Appeal Decision

Site visit made on 2 August 2023

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2023

Appeal Ref: APP/X5990/W/22/3311354

32 Chilworth Street, London W2 6DT

- 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 & Mrs Bharat and Jaimie Patel against the decision of City of Westminster Council.
 - The application Ref 22/02819/FULL, dated 26 April 2022, was refused by notice dated 25 August 2022.
 - The development proposed is use of ground floor as 1 bedroom flat (Class C3); alterations to front facade; removal of flue, grille and rooflight to rear roof and installation of new rooflight in same opening; raising the window to main rear wall; and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development above is taken from the Council's decision notice which accurately and succinctly describes the proposal.
3. The appeal premises is part of a grade II listed building known as 30 and 32 Chilworth Street (Nos 30 and 32) and is located within the Bayswater Conservation Area (BCA). The Council have granted listed building consent (Ref: 22/02820/LBC) for the works described above. Nonetheless, as the scheme relates to a listed building in a conservation area, I have a statutory duty to consider these matters in this appeal. As such, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) in my decision.
4. The Council's planning decision notice includes one reason for refusal, which relates to the loss of the laundrette. However, the Council's officer report also raises concerns regarding natural ventilation in the bedroom in the proposed scheme. This, the report indicates, stems from the Council's desire to retain the requirements of a previous permission (Ref: 07/04202/FULL) for the existing window serving the laundrette's office to be fixed shut and obscure glazed to mitigate against overlooking to the neighbouring property.
5. The Council's officer report suggests a potential design solution to provide ventilation in the form of an openable window positioned in the bedroom wall onto the lightwell. However, no such design is before me, and the planning and heritage merits of any such alternative scheme are not matters for my consideration as part of this appeal. It therefore falls on me to determine the appeal scheme on its own merits and consider the effects of the scheme on living conditions.

6. As these matters were expressed in the Council's officer report and, in relation to overlooking, by a third party, no party has been prejudiced by my consideration of these matters in the determination of the appeal.

Main Issues

7. Accordingly, the main issues in the appeal are:
- Whether the development would provide existing and future occupiers of No 1 Cleveland Square and the proposed flat with acceptable living conditions with particular reference to privacy and, also in the case of future occupiers of the proposed flat, with particular reference to ventilation; and
 - The effects of the proposal on the availability of local services to persons in the area.

Reasons

Living conditions

8. The existing office window is positioned very close to a window on the rear elevation of No 1 Cleveland Square (No 1). Even considering the angle, if this window was not obscure glazed or not permanently fixed shut, the distance would enable a high degree of overlooking between the windows. In this regard, the living conditions of existing and future occupiers of both No 1 and the proposed development would be significantly impacted by a lack of privacy.
9. The general tight knit nature of buildings to the rear and the existing level of overlooking between other windows would not justify the harm that would ensue from such a scenario. However, the existing office window is obscure glazed and there are no plans before me to alter this. Moreover, it would be possible to mitigate against overlooking, if I were minded to allow the appeal, by a condition requiring the window to be fixed shut, obscure glazed and maintained as such.
10. However, the effect of me taking such an approach would be that the bedroom in the proposed development would have no means of providing natural ventilation. The lack of natural ventilation in the bedroom, where future occupiers would spend considerable time, would adversely affect the health and wellbeing of its occupiers and would be unacceptable.
11. I have also given consideration to the use of a condition to overcome the lack of ventilation, were I minded to allow the appeal. However, there are no firm details of a solution before me and given the listed status of the building and my statutory duty it would not be appropriate to require such details by way of a condition.
12. To conclude on this main issue, without controls on the glazing, and the ability to open the bedroom window of the proposed flat, there would be unacceptable living conditions for both the existing occupiers of No 1 and future occupiers of the proposed development. In the alternative, with such controls on the proposed bedroom window in place, this would result in unacceptable living conditions for the future occupiers of the proposed flat with particular reference to ventilation.

13. In either scenario, the proposal would fall short of the high standard of amenity sought for existing and future users by the National Planning Policy Framework (the Framework) (2021). Moreover, in so far as it relates to these matters, it would not comply with Policies 7 and 12 of the City Plan (2021) as it would result in unacceptable impacts in terms of privacy and overlooking, or would not achieve a high-quality internal living environment that ensures the health and wellbeing of its occupants.

Availability of local services

14. Policy 14(I) of the City Plan says that within largely residential areas not well served by the town centre hierarchy, the conversion of existing shops to residential use will be resisted. Alternative uses that maintain an active frontage, provide opportunities for employment, or serve local community needs, will be supported where any negative impacts on residential amenity are fully mitigated. This policy is broadly consistent with the requirements of the Framework.
15. The supporting text to Policy 14 advises that outside of the Central Activities Zone (CAZ) there are some residential areas that are not within easy walking distance (i.e. 400m or less) of a designated town centre or high street. The Council consider that the area is not well served by the town centre hierarchy.
16. However, the evidence before me indicates that the appeal premises is less than 400m walking distance from the CAZ where the Praed Street District Centre is located. It is also within 400m walking distance from the Craven Road/Craven Terrace Local Centre and the Leinster Terrace Local Centre. In this regard, I am satisfied that although the appeal site is within a largely residential area, it is well served by the town centre hierarchy.
17. I recognise that the laundrette is a local service available for use by local residents. Even so, and irrespective of the viability of the laundrette or any alternative use, or the health of other businesses in the street, I have not been presented with any policy that would resist the loss of such a use in a residential area that is well served by the town centre hierarchy.
18. Moreover, the appellant has provided evidence of a range of alternative laundrette and dry-cleaning facilities within the area within walking distance of the site. Even excluding dry cleaners, which provide a more specialised form of cleaning service rather than the more general items of clothing washed at a laundrette, the evidence before me indicates that the community would still be well served by such facilities.
19. I have had regard to the Council's concerns regarding a 'dead frontage' being created. However, the appeal premises is positioned between a residential property and a convenience store in a largely residential area, rather than being located centrally within a parade of shops. Changing to a residential use would be compatible with its surroundings and would not therefore appear a 'dead frontage'.
20. Drawing the above together, I find that the proposal would not have an unacceptable effect on the availability of local services to persons in the area. As such, I find no conflict with the requirements of Policy 14 of the City Plan or the Framework in so far as they relate to this main issue.

Other Matters

21. The appeal premises is part of a grade II listed building and is located within the BCA. In so far as it is relevant to this appeal, I consider the special interest and significance of the listed building to be largely derived from its historic and architectural interest as a mid-19th century domestic property, which forms part of the planned layout of other historic terraces of a similar age and style. The building's age, surviving uniformity, pleasing architectural form and use of traditional materials all contribute positively to these heritage interests and the value of this designated heritage asset.
22. The appeal building is prominently positioned in the street near the junction of Chilworth Street, Cleveland Square and Devonshire Terrace. The historic integrity and surviving architectural unity of the appeal building contribute positively to the character and appearance of the BCA as a whole, and thereby to its significance as a designated heritage asset.
23. Heritage benefits would accrue from the removal of harmful infrastructure associated with the Laundrette, such as the external water tank, which obscures a rear window. Considering the removal of modern interventions associated with the laundrette use and the modest extent and nature of the additional physical alterations proposed, the proposed development would lead to an enhancement of the listed building overall. These heritage benefits weigh in favour of the appeal.
24. Moreover, bearing in mind the extent, nature and location of the development, the character and appearance of the BCA as a whole would be preserved. I note the Council has not objected to the proposal in relation to these matters either.
25. There would be improvements to the outlook of neighbouring occupiers from the removal of the external water tank. There would be some economic benefits brought about through the investment into the property and the construction phase. Also, social benefits would be gained through improvements to the local housing stock. Together, these outcomes would facilitate the delivery of the main objectives of the planning system as outlined in the Framework.
26. However, I am not persuaded that similar public benefits, including those identified heritage benefits, could not be achieved by a scheme, which would avoid the unacceptable living conditions I have identified, moderating the weight I afford them.
27. The absence of harm in relation to other considerations weighs neither for nor against the proposal and are neutral matters.

Conclusion

28. The proposed development would conflict with the development plan as a whole and there are no material considerations, which indicate that the decision should be made other than in accordance with it. Therefore, for the reasons given, the appeal is dismissed.

Mr R Walker

INSPECTOR