



Appeal Decisions

Site visit made on 26 March 2024

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 4 April 2024

Appeal A Ref: APP/Z4310/W/23/3320981

26 Marmaduke Street, Liverpool, Merseyside L7 1PB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Amy Maher against the decision of Liverpool City Council.
 - The application Ref is 22F/1611.
 - The development proposed is to erect basement and two storey extension to the rear with external terrace, conversion of the roof space with front and rear rooflights and re-instatement of front bay window at basement level.
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Appeal B Ref: APP/Z4310/Y/23/3320980

26 Marmaduke Street, Liverpool, Merseyside L7 1PB

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Mrs Amy Maher against the decision of Liverpool City Council.
 - The application Ref is 22L/1624.
 - The works proposed are to erect basement and two storey extension to the rear with external terrace, conversion of the roof space with front and rear rooflights and re-instatement of front bay window at basement level.
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Decisions

1. Both appeals are dismissed.

Preliminary Matters

2. There are two appeals on this site. They relate to the planning application and listed building consent for the same scheme. To avoid duplication, I have dealt with them together, except where otherwise indicated.
3. To be more succinct, I have revised the wording of the description of development/works in the banner heading above to reflect that stated in the appellant's appeal form and the Council's decision notices.
4. A revised version of the National Planning Policy Framework (the Framework) has been published since the Council issued its decision. In this instance, the relevant changes only relate to paragraph numbering and do not fundamentally affect the substance of the matters under appeal.
5. I have a statutory duty under sections 66(1) and 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. I have also had regard to the duty imposed by section 72(1) of the Act which requires special attention to be paid to the desirability of preserving or enhancing the character

or appearance of a Conservation Area. Paragraph 195 of the Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.

Main Issues

6. The main issues are:

- whether the proposal would preserve the listed building (listed as 26 Marmaduke Street) or any features of special architectural or historic interest that it possesses, and the effect of the proposal on the character and appearance of the Edge Lane Conservation Area and on the setting of nearby listed buildings (both Appeals); and
- the effect of the proposed extension on the living conditions of the occupants of 28 Marmaduke Street, with particular regard to outlook, daylight, privacy and noise. (Appeal A)

Reasons

Designated heritage assets (Both Appeals)

7. 26 Marmaduke Street (No.26) was listed in 1975 (Ref 1293266) and the list description mentions that the three storey house dates from the 1830s and is brick with stone detailing with a slate roof. It mentions the architectural detailing of the front elevation including the canted bay window and sash windows. It should be noted that list descriptions, are for identification purposes only and do not necessarily provide an exhaustive or complete description of the building's special interest.
8. No.26 is an attractive terraced building which, along with the adjoining three storey property, bookend a row of fine classically designed and detailed two storey town houses. No. 26 is identified as having Group Value and 28 Marmaduke Street (Ref.1363070), 24 Marmaduke Street (Ref.1070631) and 8 Church Mount (Ref.1293262) are also identified as being listed and of Group Value. Collectively, they are a group of distinguished period properties whose setting is enhanced by their set back behind elevated gardens bounded by walls and railings. Numbers 30 Marmaduke Street, 1-7 Wavertree Road (Ref.1360221) lie to the southern side of the appeal premises and are also separately listed and have Group Value. The appeal premises is therefore part of an architecturally unified and important cluster of buildings within an historic streetscape which provides evidence of the historic origins of the settlement.
9. Compared to the architectural embellishment and the symmetry of the frontage, the rear of No.26 is planer with a more functional arrangement of openings. Nevertheless, the sash windows, stone sills and lintels, and eaves band are well detailed and reflective of buildings of this period and the rear adds to the special interest and significance of the listed building. Although a previous use of the building as flats has impacted on the extent of surviving historic detailing to the interior, the historic fabric and plan form appear representative of the age and character of the building, and these contribute to its historic and aesthetic value.
10. The significance of this building, in so much as it relates to the appeal before me, is largely derived from its age, form, historic fabric and its architectural detailing. These attributes mark it as an important survival of a period

townhouse. The status and significance of this building is clearly apparent when viewed from the front and the rear, and this is reinforced by its context within the historic terrace, including views of the rear obtained from the passageways, yards and gardens. These are the surroundings in which the listed building is experienced and appreciated, and they directly contribute to its special interest and significance. Any development therefore has the potential to impact on the listed building but also on the contribution that the setting makes to the significance of the nearby listed buildings.

11. The Edge Lane Conservation Area (CA) centres on the Parish Church of St Mary's and the informally laid out elegant terraces and villas, generous gardens and open formal areas located around it. This area was a direct contrast to the regimented layout of the nearby, densely sited Victorian terraces. Much of this layout and its historic buildings survive and based on my observations, I consider that its significance is mainly drawn from the range of built development within it, and the relationship of the buildings to each other and the spaces around them. No.26, together with the historic buildings in its immediate vicinity and their curtilages, are a key part of that significance.

Effect of the proposal (Both Appeals)

12. Although the evidence of brick scarring suggests that the appeal building previously had a rear extension or external staircase, I have insufficient information before me to confirm this or to suggest what it looked like. The erection of a basement and two storey extension to the rear would represent a significant addition to the appeal property. Whilst many of the properties in this row and in the immediate area have sizeable rear extensions, these appear to be of a more traditional form with gable or mono-pitch roofs, and of regular proportions. I have no adequate evidence before me to suggest that the proposed design and form of the extension is representative of any of the others. The examples of contemporary extensions submitted with the appeal give an indication of the design objective, but there are inadequate details of where these properties are, the background to them or whether they affect designated heritage assets.
13. The flat-roofed top of the extension with glass-enclosed terrace would be noticeably different in form and detailing to a more typical extension which would generally take its lead from those of the host building. This is especially the case here, given the prominence of historic rear elevations and an overall consistency to their form and detailing. The proposed extension would therefore unnecessarily draw the eye and represent an inappropriate feature on the building and significantly contrast with the general rhythm and form of extensions along the terrace.
14. Its irregular form, with a step in its width, would disrupt the elevation's symmetry and verticality of the window arrangement which is so typical of a functional rear elevation to a property of this age and character. The extension would also appear uncomfortably close to the remaining rear windows on the elevation, making them appear cramped and seemingly building over their lintels. As a result, the rear elevation would appear rather contrived, mask historic detailing and erode its historic legibility.
15. It is suggested that the proposed rear elevation would be closer to the design of the original elevation. However, with no details provided of what this elevation historically looked like it is not possible to be sure of this, other than

to conclude that the brick scarring suggests that something was attached to it. Furthermore, whilst the proposed extension would be at the rear of the building, I have already noted that the rear of these properties is visible from the yards, gardens and passages. In this context, the rear is a key part of the building's special interest and significance, and it cannot be assumed that rear elevations are of less significance to frontages. In any event, listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether public views or access can be gained. Furthermore, the contribution of setting to significance does not depend on public rights or the ability to access it. It is also suggested that the rear extension would be reversible but that would not justify the harm caused to the listed building whilst it is in place.

16. Whilst it is intended that the kitchen window would be re-used, the appellant's design statement suggests that the replacement windows would be slim-double glazed units. Windows are often a key feature of an historic building, are an integral part of its design and can provide evidence of its age and phasing, and double glazing has the potential to harm a building's special interest and significance. Insufficient details have been provided to demonstrate the proposed frame and glazing bar sections, method of securing the glass or opening method. Furthermore, the design of the proposed rear door, with glazed fanlight, does not appear to be based on a period detail and again few details are provided. Therefore, proposed rear extension, by virtue of its form and detailing, would be harmful to the special interest and significance of this listed building, harm the setting of the nearby listed buildings and the character and appearance of the CA.
17. Little information is before me relating to the suitability of the loft space for conversion, including whether there is evidence of an historic staircase, previous habitation or historic features that need to be taken account of. Nor do I have adequate details of the works necessary to achieve this conversion, such as details of insulation, staircase, floor strengthening and measures such as fire mitigation. I therefore cannot be certain that there would be no harm to the special interest and significance of the building.
18. I saw on my visit that several of the historic buildings in the terrace had rooflights to the front elevation in a range of sizes and positions, and typically with a significant upstand. Despite their shallow roofs they are prominently and collectively seen from longer-range views towards the junction with Gladstone Road. As I am not aware of the history surrounding these and other rooflights identified in the area, they do not provide adequate justification for the proposed rooflights, especially those the frontage of the appeal property.
19. Despite the greater height of the appeal property, the front roof slope is nevertheless visible from northerly views along Marmaduke Street and the junction with Gladstone Road. This is a relatively narrow roof slope, with an unbroken and uniform slate roof. The proposed addition of rooflights to this front elevation would be an intrusive element disrupting the architectural composition and integrity of the front elevation. This would still be the case if the model of the rooflights bore a closer resemblance to historic rooflights with a lower profile and less bulky frame. The rear elevation would be less conspicuous in the streetscape and associated with a less architecturally grand elevation but even here, three rooflights would appear excessive given the width of the roof.

20. Similarly, there is little information before me to explain the works necessary to convert the basement. It is unclear whether the staircase would be reinstated in its historic position or what it would look like and works such as tanking and dry lining have the potential to impact on the historic fabric of the building and could affect its special interest and significance. Furthermore, there is no detail regarding likely structural works that would be required to extend the basement which may affect the building foundations. I therefore cannot be certain that no harm would arise. Although it is indicated that the basement windows and guard rails would match similar properties nearby, I have no adequate joinery details or details of the guard rails or light wells to ensure that they are appropriate for the property, especially those which would be visible on the front elevation.
21. Whilst some of the matters of detail could be resolved by the addition of conditions to any permissions, they would not be appropriate in relation to this proposal because many of these details are fundamental to the acceptability of the proposal. Furthermore, as the nature and scale of some of the works are unclear, such information may not successfully mitigate the proposal's impact on the building.
22. Considering all of the above, I find that the proposal would fail to preserve the special interest and significance of the listed building and the setting of nearby listed buildings. In addition, I consider that the proposed extension, the insertion of the rooflights and basement windows would be readily seen within the CA and would be likely to cause harm to its character and appearance. Therefore, the expectations of the Act are not met. Paragraph 205 of the Framework advises that when considering the impact of proposals on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through alteration or destruction of those assets and any such harm should have a clear and convincing justification. I find the harm in the context of the significance of the heritage assets as a whole, in the language of the Framework, to be less than substantial in this instance. This commands considerable importance and weight and is not to be treated as a less than substantial objection to the proposal.
23. Where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimal viable use.
24. The proposal would be clearly beneficial to the appellant's living conditions, providing more space for the family and allow an improved arrangement of rooms. However, I regard this as a private rather than a public benefit. Moreover, I have been given no evidence that the continued viable use of the appeal property as a residential dwelling is dependent on this proposal, as the building has an ongoing residential use that would not cease in its absence. It is also suggested that the works would restore the basement windows to the building frontage and allow the repair of the scarred brickwork. The restoration of a listed building is a public benefit although the weight is limited by the extent of these works and the harm deriving from the rest of the proposal.
25. The proposal would also allow a member of the family to live a more independent life and enable the property to become a long-term home. The

benefit to the individual and the appellant's family arising from an improvement in their living conditions is recognised, and these are personal circumstances to which I attribute weight in favour of the appeal.

26. I have had due regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010, which sets out the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act.
27. I am also mindful of the advice contained in the Planning Practice Guidance that in general planning is concerned with land use in the public interest. Therefore, whilst I acknowledge the personal circumstances of the appellant, it has not been demonstrated that these benefits could not be achieved by an alternative scheme which does not involve harm to designated heritage assets or convince me that the harm identified is justified. This matter therefore can only attract limited weight to this consideration.
28. Given the above, I conclude that the public benefits identified would be of insufficient weight to outweigh the great weight to be given to the harm to the designated heritage assets. As such, the proposal would not comply with paragraph 208 of the Framework. In addition, there is no clear and convincing justification for the harm to their significance.
29. The proposal would fail to preserve the Grade II listed building and any of the features of special architectural or historic interest that it possesses and would not preserve the significance of the CA or the setting of other listed buildings. It would fail to satisfy the requirements of the Act and the Framework. It would also conflict with Policies HD1, H8 and UD7 of the Liverpool Local Plan (2022) (LLP) which seek to underpin the statutory and policy objectives.

Living conditions (Appeal A)

30. Many of the nearby properties have rear extensions, and these are a characteristic feature seen from the yards, gardens and passages in the immediate area. Given this characteristic and the evidence of brick scarring on the property, suggesting that there was previously some form of structure on the rear, it would not be unreasonable, in my view, to add one.
31. The rear yard of 28 Marmaduke Street (No.28) is within a relatively confined space, being located at the inner angle of the junction of the two roads, and the surrounding buildings create a strong feeling of enclosure. Given the significant height and length of the existing rear extension at No.24, the proposed rear extension, which would be lower and shorter than it, would not significantly add to any existing feeling of overbearing experienced by the occupants of No.28. The proposed set back in the width at the first floor would also assist in this regard. In addition, the frosting of the glass enclosure and its height should prevent overlooking and any significant loss of privacy to the adjoining occupants. The proposed incorporation of frosted glass into the side windows would also ensure privacy, subject to a condition being attached to any permissions to ensure that their openings would be restricted.
32. The position of the proposed extension to the north of No.28 would mean that there would be unlikely to be any significant loss of daylight to the rear of the

elevation of No.28 or to cast any shadow into the rear yard. This is also demonstrated in the appellant's daylight study, and I have been presented with no adequate evidence which suggests otherwise.

33. The proposed second floor roof terrace accessed from a bedroom would be of a significant size and near to several upper, rear windows on No.28. Although the appellant suggests that the room would serve as a child's bedroom, and therefore would be unlikely to result in significant noise or disturbance, its occupants will change in the future, as could the use of the room. Therefore, there is the potential for noise to be generated from this terrace area, in a position where the occupants of the adjoining property would reasonably expect a lack of disturbance. Therefore, this element of the proposal has the potential to generate a harmful level of noise.
34. Taking the above points together, although I have found no harm to the living conditions to the occupants of No.28 in terms of overbearing, privacy and daylight, I consider that the proposed development is likely to result in increased noise and disturbance to those occupants. It would, therefore, conflict with LLP Policies H8, and the Council's Supplementary Planning Guidance Note: House Extensions (2001). These seek to ensure that existing living conditions are not harmed and is consistent with the requirements of the Framework.

Other Matters

35. Matters relating to land ownership and access rights on private land are not matters that can be addressed through these appeals.

Conclusion

36. I have concluded that the harm to the heritage assets would not be outweighed by the public benefits of the proposal. The proposal would therefore fail to satisfy the requirements of the Act and paragraph 205 of the Framework. In addition, I have found harm to the living conditions of adjoining occupants. Whilst there would be benefits associated with the proposal, I consider that there are no material considerations, including the provisions of the Framework, of such weight to lead me to the conclusion that the proposal should be determined other than in accordance with the development plan as a whole.
37. For the above reasons, and having regard to all other matters raised, I conclude that both appeals should be dismissed.

G Bayliss

INSPECTOR