



Appeal Decision

Site visit made on 15 July 2024

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 September 2024

Appeal Ref: APP/X5990/W/23/3330744

23-29 St John's Wood High Street, Westminster NW8 7NH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Cadent Gas Ltd against City of Westminster Council.
 - The application reference is 23/00776/FULL.
 - The development proposed is described as 'Installation of 2 no. new external risers to the front (north-easting facing) elevations of no. 23-25 and 27-29 St John's Wood High Street (Retrospective)'.
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Decision

1. The appeal is dismissed and planning permission for the installation of 2 no. new external risers to the front (north-easting facing) elevations of no. 23-25 and 27-29 St John's Wood High Street, is refused.

Applications for costs

2. An application for costs was made by Cadent Gas Ltd against City of Westminster Council. This application is the subject of a separate decision.

Preliminary Matters

3. At the time of my site visit, external risers had been fitted at the appeal site in the approximate location of the appeal scheme. Nevertheless, I have determined the appeal based on the plans before me.
4. The Council has advised that since the lodging of the appeal, it has published its draft City Plan Partial Review for consultation. As this draft plan remains at a pre-submission stage, the Council affords the policies within it limited weight and from the information before me, I have no reason to disagree.
5. In the above decision, I have omitted the word retrospective from the description of the proposal, as this does not describe an act of development.

Main Issue

6. The Council failed to determine the application within the prescribed period. Following the submission of the appeal, the Council prepared a Statement of Case which advised that had the Council determined the application, planning permission would have been refused on the basis that the development fails to preserve the character or appearance of the St John's Wood Conservation Area (the CA). Additionally, I have been provided with responses to the consultation process.

7. Taking these factors into account and my own observations on site, the main issue is whether the development would preserve or enhance the character or appearance of the CA.

Reasons

8. The properties of 23-29 St John's Wood High Street comprise commercial uses at ground floor level, with residential uses above, set over four floors. The ground floor shopfronts appear to be of timber construction, with detailed cornicing and decorative capitals atop pilasters. At the upper floors, further historic detailing includes timber multi-pane sliding sash windows with decorative stone and brick lintels, stone and brick banded pilasters, a deep stone cornice, diamond shaped stone features to the parapet, with a decorative Dutch gable and six arched dormer windows set in a steeply pitched roof. This historic detailing, along with the symmetry of the fenestration, combine to give the appeal properties an attractive appearance.
9. According to the Council's Supplementary Planning Document Conservation Area Audit, St John's Wood, June 2008, (CAA), these properties form part of the late Victorian/Edwardian townscape along St John's Wood High Street, where terraced buildings are large scale, and front directly onto the street, providing a busy, urban character resulting from its role as a retail area. While there is some variety in the architectural detailing of buildings forming this townscape, the combined form, scale and proportions of these buildings, along with their architectural quality and detailing, including traditional shopfronts, contribute positively to the character and appearance of the CA. This is recognised in the CAA, which identifies the terraced properties of St John's High Street as unlisted buildings of merit. The significance of the CA derives in part from the aesthetic value of the many high quality historic buildings in this area, as well as their historic value in providing an understanding of the area's development over time.
10. The CAA recognises that even small-scale negative alterations, such as pipework, can result in visual clutter and have a cumulative impact on the character of terraces, which can be detrimental to the character of the area as a whole. It states that modern plumbing requirements and other features should be positioned as unobtrusively as possible on elevations, to avoid conflicting with the original clean lines of the building.
11. The replacement piping has become necessary following a gas leak at the appeal site. The appellant states that on the basis that the existing gas pipework is buried within the building fabric and is inaccessible, replacement pipework has been mounted externally to the front façade of the building, where it connects to the gas main located to the front of the property.
12. The pipework travels in two separate branches from ground level, up to and over the parapet at roof level, and so extends for the full height of the facade. It mostly extends in a vertical fashion, albeit there are horizontal branches where it connects to individual flats.
13. The pipework is relatively slimline. As mitigation, the pipework colour matches the paintwork to the shopfronts at ground floor level, while a black paint finish at the upper levels matches the existing downpipes. Further, I am advised that drilling has been undertaken between the brick joints rather than the bricks themselves. However, the positioning of the pipework on these buildings,

particularly its placement in relation to historic detailing is awkward. For example, the pipework extends vertically over the horizontal banding of pilasters, it projects noticeably out from the building façade at right angles to wraparound features such as the shopfront and upper-level cornicing, and it extends across existing downpipes. This requires a number of brackets and junctions, which emphasize the utilitarian appearance of the pipework, and result in a convoluted arrangement that contrasts with the simple alignment of the existing downpipes and detracts from the historic features of these buildings.

14. The fenestration and architectural detailing of a building are important components in defining its architectural quality. While it would remain possible to appreciate the architectural quality of these properties overall, the awkward positioning and arrangement of this pipework against the historic detailing of these buildings, jars the eye, resulting in harm to the architectural integrity of these buildings. I note the appellant's acceptance that the proposal would add visual clutter, which the CAA seeks to resist. This visual clutter detracts from the contribution these buildings make towards the appearance of the CA, causing a modest level of harm to its significance. Measures to reinstate the working area following completion of the works and produce a photographic record of the building's condition before and after, would not reduce this level of harm. While the pipework would be reversible, a timescale for the phasing out of gas is not known. As such, the pipework could remain in place for a considerable period.
15. Paragraph 205 of the National Planning Policy Framework (the Framework) states that great weight should be given to a heritage asset's conservation (the more important the asset, the greater the weight should be), irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. In the context of the Framework, I find the harm to the CA to be less than substantial, but nevertheless of considerable importance and weight.
16. In such circumstances, it is necessary to balance this harm against any public benefits. As a statutory undertaker, the appellant has the responsibility of maintaining a safe system of gas supply to their customers. The appeal scheme would provide this, powering hot water, central heating, gas fires, and cooking facilities. Such measures facilitate continued occupation of the building, which is in the public interest.
17. In support of the pipework routing, reference has been made by the appellant to the Gas Industry Regulations and the Institute of Gas Engineers and Managers standard (IGEM/G/5 Edition 3) For Gas Installations in Multi-Occupancy Buildings (MOB's), which states that gas pipework cannot be installed in stairways that make up escape routes in such buildings. Additional restrictions are also referred to regarding provision of sufficient venting and avoiding voids, as these also pose a significant fire risk.
18. The appellant has discounted re-using the existing internal route as it is buried in the fabric of the building. In the absence of a basement, it is advised that gas pipes cannot be routed below ground, nor can internal floors be excavated inground within a property as this would not be compliant with the quoted regulations. Internal underfloor or internal wall spaces and chasing through the fabric of the building are discounted on the basis of risk where the pipes pass

through unventilated voids, where in the event of a leak, gas can accumulate and pose a greater risk of fire or explosion. New pipework at the rear of the building has been discounted on the basis that the gas main lies to the front of the property. The appellant therefore contends that the gas pipework needs to be surface mounted to the front of the property to maintain current industry standards.

19. The importance of ensuring that a gas supply is safe, is not in dispute and I note reference to Policy D12 of the London Plan 2021 which seeks the highest standards of fire safety in all developments. However, I have not been provided with copies of the referenced regulations and best practice standards referred to by the appellant, which have influenced the design choice. It is unclear if both are publicly available. As such, I do not have the full context for those sections referenced by the appellant, to clearly understand their implications for the appeal scheme, or any alternative routing options.
20. Further, while the appellant's statement of case indicates that alternatives have been fully considered within the submitted Design and Access Statement, this document does not provide a detailed appraisal of alternative design options, including how the internal layout and arrangement of these buildings has influenced the routing of pipework. As such, the available evidence is not sufficient to allow me to conclude that the gas pipework needs to be surface mounted to the front of the property.
21. Even if this had been demonstrated, I am not convinced that the selected routing to the front of these properties is the least intrusive method for delivering gas. There is little evidence before me demonstrating any detailed consideration of alternative surface mounted routes to that proposed, and what these could look like, or whether a combination of internal and external pipework is feasible, depending on the layout and ventilation of internal areas. For example, the Council suggests one alternative, that small drill holes could be utilised through the cornice or the parapet brickwork, which would negate the need for awkward sections of pipework that wraparound these features.
22. I appreciate that having an externally mounted supply would provide easy access for maintenance, repair and refurbishment works, no loss of internal historic fabric, and it would avoid the requirement for access into residents' homes for extended periods of time. Nevertheless, it has not been robustly demonstrated that the appeal proposal is the only means by which to secure this, or that there are no less harmful alternatives.
23. To conclude, the development would not preserve or enhance the character or appearance of the CA. As it has not been demonstrated that the same or similar public benefits could not be delivered by an alternative and potentially less harmful proposal than the appeal scheme, I find that the public benefits of the development do not outweigh the great weight that should be given to a heritage asset's conservation. The proposal would conflict with policies 38, 39 and 40 of Westminster's City Plan 2019 – 2040, adopted April 2021, which amongst other matters, seeks to ensure that new development is sensitively designed having regard to the prevailing architectural quality in the surrounding townscape, positively contributes to Westminster's streetscape, while ensuring heritage assets are conserved and enhanced in a manner appropriate to their significance, including their sensitive adaptation which will avoid harm to their significance.

Other Matters

24. As part of determining this appeal proposal, I have had due regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010, which requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include a person's disability or age.
25. In correspondence with the Council, the appellant indicates that in the event of planning permission being refused, they would serve a Section 10 notice under the Gas Act, explaining their inability to maintain gas supply to the property, which they suggest would leave occupiers of these buildings without cooking, heating and hot water facilities, as all of the affected flats are currently fully dependent on gas for these amenities. The appellant refers to the vulnerability of some occupiers, including those with young families, but without any further detail.
26. This development would ensure an uninterrupted supply of gas to these properties, which presently facilitates cooking, heating and hot water for existing residents. Dismissing this appeal could therefore affect persons with a protected characteristic. This must, however, be balanced against the great weight to be attributed to the conservation of a designated heritage asset, which would be in the wider public interest. For the reasons set out above, I have been unable to conclude from the evidence before me that all alternative and potentially less harmful means of supplying gas to these properties have been fully exhausted. As such, there may be other viable options for maintaining a gas supply to these properties, other than the appeal scheme. Alternatively, cooking, heating and hot water facilities could potentially be provided by other means, such as an electric supply. These factors limit the weight I can give the proposition cited. I conclude that the harm caused by the development to the CA, which is of considerable importance and weight, would outweigh its benefits in terms of eliminating discrimination against persons with the protected characteristics identified.
27. My attention has been drawn to an appeal decision at 43 Chepstow Road which related to a similar installation. However, that decision related to a listed building in a different conservation area. My findings in relation to this appeal are very much dependent on the characteristics of the appeal properties and their relationship to the surrounding area, and so I have considered the appeal on its individual planning merits.

Conclusion

28. For the reasons given above, having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed, and planning permission refused.

S Brook

INSPECTOR