



Appeal Decision

Site visit made on 17 July 2024

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th September 2024

Appeal Ref: APP/X5990/W/24/3336926

23 Southwick Street, London W2 2PR

- 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 Church Commissioners for England against the decision of City of Westminster Council.
 - The application Ref is 22/07052/FULL.
 - The development proposed is demolition of the existing standalone garages and erection of two new dwellings (Class C3) over two storeys, landscaping works and other associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A Heritage Statement¹ and photographs of timber used within the wider area have been submitted with the appeal. These documents would not fundamentally alter the proposal and would not deprive those who were entitled to be consulted on the application of the opportunity to make representations that they may have wanted to make. As such, the acceptance of these documents would not unfairly prejudice any party. I have therefore taken them into consideration.
3. No postcode has been provided on the planning application form or the appeal form. I have therefore used the postcode which is on the Council's decision notice.

Main Issues

4. The main issues are:
 - whether the proposal would preserve or enhance the character or appearance of the Bayswater Conservation Area; and,
 - the effect of the proposal on the quality and functionality of the communal garden of the Devonport building complex.

Reasons

Bayswater Conservation Area

5. As the appeal site is within the Bayswater Conservation Area (the CA), I have had regard to Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of that area.

¹ DRAFT Heritage Statement – December 2023.

6. The significance of the CA, as described in the Bayswater Conservation Audit 2000 (the CA Audit) is primarily derived from the distinct street layouts, each corresponding to a particular phase of development or developer. Generally, the buildings range from two and three-storey modest villas and mews, to taller, grander buildings and post-war redevelopments. The CA has a strong sense of place and history which is derived partly from the interrelated pattern of wide streets, crescents and squares which are still evident today. Consequently, the pattern of development and cohesive building groups are important components that contribute to the significance of the CA as a whole.
7. The appeal site is located within the Devonport building complex which includes apartment blocks and townhouses arranged in a perimeter block with street frontages to the outer edge and a communal garden within. Despite the surrounding development, the communal garden has a relatively open and verdant character.
8. The complex forms part of The Church Commissioners' Hyde Park Estate which the CA audit identifies to mainly consist of post-war development. This part of the CA marks a clear point in the post-war redevelopment and captures the evolution of the area. The complex therefore makes a positive contribution to the character and appearance of the CA as a whole.
9. The appeal site consists of a block of garages which are within the communal area of the complex which is largely used for parking. As the block is at a lower level than the communal garden with only the roof visible from the garden, the garages appear unassuming and maintain the open character of the garden.
10. Although the garages are of low architectural value, the simple design creates a relatively modest and unassuming appearance that is not visually unattractive. Its single-storey design and lower level siting respects the perimeter pattern of development. Given its positioning within the grounds of the complex, the appeal site makes a neutral contribution to the character and appearance of the CA.
11. The proposal consists of the replacement of the existing garages with a two-storey building split over the lower level and the communal garden level. Its scale would be subservient to the surrounding buildings, but taller and deeper than the existing garages. While it would largely sit on the footprint of the existing garages, it would project upwards and have a greater prominence that would infringe on the open character of this part of the communal garden.
12. The proposed building would be situated behind the surrounding buildings and would not have a street frontage. It would therefore be inconsistent with and would undermine the existing perimeter development pattern which is a defining feature of the complex. As a result of its siting and two-storey design, the proposed building would visually disrupt this established layout and would cause harm to the appearance of the Devonport building complex. This would diminish the positive contribution that the complex makes to the significance of the CA, causing harm to its character and appearance.
13. The proposed materials would include timber cladding. Whilst brick is the predominant material of the surrounding buildings, there are some examples of where timber cladding has been incorporated. The use of this material would therefore not be incongruous. However, this would not overcome my concerns regarding the building's design and siting.

14. The historical maps within the Heritage Statement demonstrate that mews-type housing was present on the site before the redevelopment. However, this housing fronted the roads and is therefore different to the siting of the proposed building.
15. The reference made to mews developments being a common feature of the area is not determinative in this appeal. I have not been provided with the full details of these examples to understand whether they are also located in the CA and are surrounded by perimeter development, similar to the appeal site. Nevertheless, 1 Southwick Yard replaced an existing property and the development at 4A Hyde Park Place related to the conversion of an existing building. These developments are different to the appeal proposal which seeks to demolish garages and replace them with a two-storey building. Whilst the development at the Water Gardens utilised a flat roof, it is not clear whether this was within a communal garden area like the appeal site. In any event, I am mindful that each proposal must be judged on its individual merits and these examples do not weigh in support of the proposal.
16. Although localised in its effect, the harm caused to the CA would be less than substantial. Nevertheless, this attracts considerable weight and importance. In accordance with paragraph 208 of the National Planning Policy Framework (the Framework), where a development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
17. The proposal would provide two new homes that would be situated in a sustainable location on a small site. The Framework recognises that these can be built-out relatively quickly and the proposal would also support the government's objective of significantly boosting the supply of homes. There would also be benefits arising from the construction phase and future occupiers would bring some trade to nearby shops and services. Nevertheless, given the quantum of development, these would amount to limited social and economic benefits in favour of the appeal scheme.
18. The Framework is also supportive of development that makes efficient use of land but given my finding in relation to the effect to the CA, it would fail to do so by not being sympathetic to local character. However, I am mindful that the proposal would secure some limited environmental benefits by incorporating sustainable design mechanisms to lower carbon emissions such as including air source heat pumps, mechanical ventilation, heat recovery units and rainwater harvesting, by re-using some materials and providing additional planting and landscaping.
19. Taking these limited benefits together, the harm that would be caused to the character and appearance of the CA by allowing the proposal would be of greater significance.
20. For the above reasons, I conclude that the proposal would fail to preserve or enhance the character or appearance of the CA. It would conflict with Policies 38, 39 and 40 of the City Plan 2019 – 2040, Adopted April 2021 (the City Plan). Amongst other things, these policies require development to positively contribute to the pattern of existing streets and the character of gardens and ensure that heritage assets are conserved and enhanced.

Quality and functionality of the communal garden

21. The communal garden is a large space and consists of lawns, hedging, and trees and has some outdoor seating. The proposed building would take up some of the space within the garden. However, it would be a relatively small part of the

communal garden as a whole. As a substantial amount of communal space would remain, the garden would still comfortably accommodate a range of domestic activities by multiple residents.

22. Whilst the proposal would be close to one of the lawn areas, it would be seen as a single-storey building. As a result, it would not have a detrimentally overbearing presence to such a degree that would alter the purpose of the communal garden in providing amenity space to be enjoyed by the residents.
23. It would be possible to see into the communal garden from the windows and terrace areas of the proposed building, but it is already extensively overlooked from the surrounding buildings. Even though the nearest buildings to this part of the garden are set further back, their existing windows would already provide some views into the communal garden. Given this context, the proposal would not give rise to an extent of overlooking to the garden that would be materially more harmful than the existing situation.
24. The associated noise from the comings and goings of future occupiers would not be significant as two residential units are proposed. In any event, these would be residential activities in the context of a residential development. There would be some activity when the terraces are in use. However, this part of the communal garden is near several existing garden terraces which would have a similar impact on the communal garden as the proposed terraces.
25. Drawing this all together, I conclude that the proposal would not have a harmful effect on the quality and functionality of the communal garden of the Devonport building complex. It therefore complies with Policy 38C of the City Plan, which amongst other things, requires development to ensure a good standard of amenity for existing occupiers.
26. The reason for refusal refers to Policy 12D of the City Plan. As this policy relates to external amenity space provision for new build homes, it is not determinative in the context of this main issue.

Other Matters

27. There are several listed buildings near the appeal site. These include: 78-106 Sussex Gardens², Church of St John the Evangelist³, 25-37 Southwick Street⁴, 1-3 Norfolk Place⁵, The Marquis of Clanricarde Public House⁶, Wilson House⁷, 108-142 Sussex Gardens⁸ and 107-121 Sussex Gardens⁹. Section 66(1) of the Act requires that special regard is had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
28. There appears to be no intervisibility or obvious functional relationship between the appeal site and the listed buildings. Given the location of the appeal site and the extent and nature of the development relating to a two-storey building sited behind the Devonport buildings, the proposal would preserve the setting of these listed buildings.

² Historic England List Entry Number: 1237427

³ Historic England List Entry Number: 1231515

⁴ Historic England List Entry Number: 1236542

⁵ Historic England List Entry Number: 1225065

⁶ Historic England List Entry Number: 1264535

⁷ Historic England List Entry Number: 1264106

⁸ Historic England List Entry Number: 1264107

⁹ Historic England List Entry Number: 1237436

Planning Balance and Conclusion

29. The proposal would accord with the aims of the development plan regarding the standard of amenity for existing occupiers. There would also not be conflict with policies in relation to the quality of the housing proposed, the sustainable design principles that would be incorporated, the cycle storage provision, servicing, collection and delivery arrangements, the facilities for storage of waste, or the setting of nearby listed buildings. However, compliance with relevant national and local planning policies on these matters would be required for all proposals, so would neither weigh in favour nor against the appeal scheme.
30. The appellant has sought to work with the Council and has drawn my attention to the Officer's committee report. My assessment of this appeal is against the formal decision notice of the Council. This does therefore not weigh in support of the proposal.
31. I have already identified the benefits of the proposal through an assessment of public benefits in undertaking the necessary balancing exercise in relation to the heritage asset. In terms of harm, the proposal would fail to preserve or enhance the character or appearance of the CA, in conflict with the development plan and this would be of greater significance so the appeal scheme would not accord with the development plan, when considered as a whole.
32. The proposal would therefore conflict with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, the appeal should be dismissed.

L Reid

INSPECTOR