



Appeal Decision

Site visit made on 4 November 2024

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 November 2024

Appeal Ref: APP/X5990/W/24/3345946

84 Westbourne Grove, City of Westminster, London W2 5RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr C Christodoulou against the decision of City of Westminster Council.
 - The application Ref is 23/07197/FULL.
 - The application sought planning permission for erection of a mansard roof to create an additional residential unit with terrace and associated vertical extension of existing kitchen extract ducts without complying with a condition attached to planning permission Ref 23/01784/FULL, dated 15 May 2023.
 - The condition in dispute is No 1 which states that: *The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.*
 - The reason given for the condition is: *For the avoidance of doubt and in the interests of proper planning.*
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a mansard roof to create an additional residential unit with terrace and associated vertical extension of existing kitchen extract ducts at 84 Westbourne Grove, City of Westminster, London W2 5RT in accordance with the terms of application ref 23/07197/FULL, without compliance with condition number 1 previously imposed on planning permission reference 23/01784/FULL, dated 15 May 2023, but subject to the conditions in the Schedule at the end of this decision.

Background and Main Issue

2. Planning permission 23/01784/FULL (the original permission) granted consent for an additional mansard roof to the building. As part of the approved plans, a skyline pediment on the roof of the building was shown to be retained. The appeal application seeks to amend the approved drawings to show a rebuilt parapet wall without the pediment. This would be done by varying condition 1, which specifies that development shall take place in accordance with the plans listed elsewhere on the Decision Notice.
3. The pediment the subject of this appeal has been removed from the building. Furthermore, the appellant states that the development approved by the original permission has been implemented and completed. However, on my

visit, I saw that the front fenestration detail is different to that shown on the plans before me. As such, I shall treat the appeal as being for a proposal.

4. The site lies within the Westbourne Conservation Area (CA) and there is no dispute that the building constitutes a Non-designated Heritage Asset (NDHA). Consequently, the main issue is the effect of the removal of the pediment on the character and appearance of the CA and the NDHA.

Reasons

5. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The CA consists of terrace and villa style developments with fairly consistent linear roofscapes defined by parapet walls, cornices and banding details. Relevant to the appeal, the significance of the CA derives from its attractive buildings and street scenes, including roof forms.
6. The appeal site consists of a four-storey, mid-terrace property, with an 1884 date stone. It is one of a row of five similar properties and shares characteristics in particular with its neighbour 86 Westbourne Grove (No. 86). The appeal building has a traditional form and decorative elements that reflect its era, and its appearance makes a positive contribution to the area generally.
7. Ariel photography shows a pediment in existence on the building in 1949, when it had a recess detail. However, there is no conclusive evidence before me that the pediment was original to the building or reflected in its structural calculations. It may have been a later addition, to hide a pyramid roof, now removed. In 2013, material from the pediment and parapet wall fell into the road. The pediment was subsequently covered and altered to have a chunky surround, giving it an incongruous, bulky appearance.
8. Recently, the appellant's survey concluded that the parapet wall and pediment were structurally unsafe, because of deflections in the supporting beam, caused by the pediment. I have little evidence to dispute this. The wall was repaired but without the pediment above. It may well be possible to recreate the pediment perhaps in a lighter material, such as fibreglass, and this would be better screened from winds by the extension behind.
9. Even so, such a replacement would amount to a replica and is not the proposal before me. Moreover, whilst there are a few examples of gabled dormers, pediments are not a notable feature of buildings in the area. Little substantive evidence is before me to show that other buildings in the terrace, such as No. 86, have historically had a pediment feature. The rebuilt parapet would reflect those either side of it. I do not therefore consider that the absence of the pediment would appear out of place on the building or as part of the rhythm of the street scene.
10. A small terrace and recessed door formed part of the original proposal. The pediment or its replacement would provide a degree of screening of the terrace and door from high-level views, such as properties opposite. However, in most obtainable public views, these features would be hidden behind the parapet. Consequently, and given their small nature, the door and terrace would not appear particularly discordant. No specific conflict with the

Supplementary Planning Guidance 'Roofs - A Guide to Alterations and Extensions on Domestic Buildings', November 2004, has been identified.

11. For these reasons, I am not convinced that the pediment, especially in its more recent bulky state, was an important feature of the building or street scene that it was necessary to retain. Instead, its permanent removal would have a small but positive effect. I therefore conclude that the proposal would maintain and enhance the character and appearance of the CA and the NDHA.
12. On this basis, the proposal would comply with policies 38, 39 and 40 of the Westminster City Plan, adopted April 2021. Amongst other things, these require proposals to conserve and enhance heritage assets, be sensitively integrated including with important historic roof forms, and to not disrupt the uniformity or rhythms of buildings. For the same reasons, it would also accord with the statutory requirements of the Act, and the aim of the National Planning Policy Framework to conserve heritage assets.

Conditions

13. The original permission did not include a specific time limit condition, so I have imposed this. However, the Planning Practice Guidance (PPG) states that a grant of planning permission under section 73 should not extend the time period for implementation. Accordingly, the condition reflects this.
14. The PPG also makes clear that decision notices for the grant of planning permission under section 73 should restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that remain relevant for the same reasons. If some have in fact been discharged, that is a matter which can be addressed by the parties. However, I have re-worded some of the conditions to reflect the advice in the PPG. Advice about changes to fixed maximum noise levels is not a matter requiring a condition.

Conclusion

15. For the reasons given above, I conclude that the appeal should be allowed and a new planning permission granted, with condition 1 varied.

O Marigold

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than three years from 15 May 2023.
- 2) The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on the Council's decision letter for permission 23/01784/FULL, except as amended by plans PL510A, PL511A, PL512A, PL513A and the Site Location Plan hereby approved.
- 3) Except for piling, excavation and demolition work, any building work which can be heard at the boundary of the site must be carried out only:
 - between 08.00 and 18.00 Monday to Friday;
 - between 08.00 and 13.00 on Saturday; and
 - not at all on Sundays, bank holidays and public holidays.

Piling, excavation and demolition work must be carried out only between 08.00 and 18.00 Monday to Friday; and not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety).

- 4) All new work to the outside of the building must match existing original work in terms of materials, method of construction and finished appearance, unless otherwise shown on the approved drawings or as required by conditions to this permission.
- 5) The development hereby approved shall not be occupied until the living green roof has been provided. It shall thereafter be maintained and retained.
- 6) Where noise emitted from any proposed plant and machinery will not contain tones or would not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the Local Planning Authority. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
- 7) No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.
- 8) The plant/machinery hereby permitted shall not be operated except between 12:00 hours and 23:00 hours daily.

- 9) The development hereby approved shall not be occupied until details of waste and recycling provision have been submitted to and approved in writing by the Local Planning Authority. The approved waste and recycling storage facilities shall thereafter be permanently retained in accordance with these details.
- 10) The flat roof of the mansard extension hereby approved shall not be used as a sitting out area and shall only be used as a means of escape in case of emergency and for the installation and maintenance of the green roof.
- 11) No work on the relevant part of the development hereby approved shall commence until a sample of the grey roof slates to clad the mansard roof have been submitted to and approved in writing by the Local Planning Authority. The approved cladding shall be installed and retained in accordance with these details.

End of Conditions