



Appeal Decision

Site visit made on 25 October 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th November 2024

Appeal Ref: APP/X5990/D/24/3350076

46 Boscobel Place, London SW1W 9PE

- 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 Mr P Killoughery against the decision of City of Westminster Council.
 - The application Ref is 22/07498/FULL.
 - The development proposed is installation of one air condenser unit at roof level.
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Decision

1. The appeal is allowed and planning permission is granted for installation of one air condenser unit at roof level at 46 Boscobel Place, London SW1W 9PE in accordance with the terms of the application, Ref 22/07498/FULL, subject to the following conditions set out in the schedule below.

Preliminary Matter

2. The description of development in the banner heading above is taken from the Council's decision notice and the appeal form. The description of development originally submitted to the Council included solar panels, however, these were removed from the proposal during the course of the application. As such they are not subject to consideration as part of this appeal.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area, including the Belgravia Conservation Area.

Reasons

4. The appeal site lies within the Belgravia Conservation Area (the CA). Accordingly, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the CA. I have been provided with a copy of the Conservation Area Audit for Belgravia, Consultation Draft 2013 (the CAA), which assists in setting out the significance of the CA. This describes that the character of the CA is derived from, among other things, the intimate mews properties hidden behind the larger properties of the main squares, and the clear hierarchy of streets and mews.
5. This is the case for Boscobel Place, which is a narrow cobbled street accessed via a gap between buildings on Elizabeth Street, which contributes to its hidden and intimate character. Boscobel Place is enclosed by a row of three storey mews properties to its northern edge, which share a consistent front

parapet level and include garages to the ground floor level with a traditional window configuration above but with some variation in their individual appearance. Their scale is less and their detailed design more simple to those properties on Eaton Square behind, reflecting the hierarchy of streets described by the CAA.

6. The CAA sets out that roof profiles are fundamental to the architectural character of any building or a group of buildings and can be negatively impacted by roof level alterations. The roof level of no.46 Boscobel Place is not visible from the road of the mews itself and there is not evidence to suggest that it is visible in any wider public viewpoints. However, given its enclosure by taller buildings, it is very likely that the roof level is visible in private views across the area, including from properties on Eaton Square and Chester Square, as reported by third parties.
7. There is little evidence as to the nature of the existing roof form or the contribution that it makes to the character and appearance of the area, particularly given its visibility. An aerial photograph included in the appellant's noise report, however, shows the properties on Boscobel Place to have predominantly flat roofs with some items upon them. I note that other alterations have been approved to the roof level of no.46 as described in the officer's report, including roof lights and a retractable roof covering¹.
8. The proposed air condenser unit would rise higher than the defining front parapet wall. However, it would be set back from the front elevation and positioned close to the chimney stack which sits on the party wall and would not stand as high as the chimney. Given these attributes, and in the absence of substantive evidence to the contrary, the unit would not be visually prominent in either public or private views. The unit would appear as a subordinate addition which would not detract from the existing roof form including its more contemporary alterations which have recently been approved. Given its scale and location, it would also preserve the more intimate residential character of the mews.
9. Overall, the proposal would respect the character and appearance of the roof form, the group of properties of which it forms a part, and the characteristics which contribute to the significance of the CA as set out. It would preserve the character and appearance of the CA and would comply with policies 38, 39 and 40 of the City Plan adopted 2021, which require development to have regard to the character and appearance of the site's context and heritage assets.

Other Matters

10. The Council's second reason for refusal relates to works shown on the plans which it considers do not have planning permission. The appellant considers that the existing roof layout plan closely reflects the approved non-material amendment². However, any matters relating to other works to the roof and potential enforcement investigations, would be a matter for the Council. As above, the considerations of this appeal are limited to the works set out in the description of development.
11. I have had regard to the issues raised by third parties. Even if there were a discrepancy between the height of the unit shown on the plans and described

¹ 24/01663/NMA

² 24/01663/NMA

in the noise report, the planning permission would relate to the submitted drawings. Any potential breach of conditions, including non-compliance with the approved drawings, would be a matter for the Council should it arise. Based on the evidence I see no strong reason why the unit shown on the submitted drawings would not be capable of adhering to the required noise levels set out below. Similarly, I have no strong reason to doubt the findings of the Council's Environmental Health Officer regarding the effects of the proposal on noise levels experienced by nearby properties. Concerns have been raised for the public consultation undertaken by the Council, however I have no reason to believe that this was not adequate for the purposes of the application and the appeal.

12. Boscobel Place forms part of the setting within which the Grade II* listed buildings of Eaton Square are appreciated. The contribution of the Boscobel Place properties to that setting is derived from their lesser scale and simple design, which contributes to the appreciation of the street hierarchy and the opulence of Eaton Square. While the air condenser unit may be visible from windows of Eaton Square, given the scale and location of the proposal, it would preserve the setting of the Eaton Square properties and the way in which they are experienced and appreciated.

Conditions

13. The Council have indicated conditions which it considers would be appropriate in the event that the appeal were to be allowed. In addition to the standard time limit condition, a condition is also necessary to specify the approved drawings to provide certainty. Given the concerns detailed above, it should be clear that the approval relates only to the air condenser unit shown on those drawings.
14. Conditions are imposed in line with the recommendations of the Environmental Health Officer to protect the living conditions of nearby occupiers. The first relates to noise and covers the eventuality of the equipment being intermittent. I have, however, removed the final section of the recommended noise condition which allows for a greater maximum noise level to be established, since the noise report submitted sets out the noise impacts and it is not apparent that that part of the condition is necessary to make the development acceptable. A restriction on vibration is also necessary to preserve living conditions.
15. Given further alterations to the building are not proposed, it is not necessary to condition materials to match the existing building. Neither is a restriction on hours of building work necessary.

Conclusion

16. For the reasons given, the proposal would comply with the development plan and the appeal is allowed.

C Shearing

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted, being installation of one air condenser unit at roof level, shall be carried out in accordance with drawing nos: Existing drawings: LP1, 201, 202, 203, 204, 205, 206.
- 3) (A) Where noise emitted from the proposed plant and machinery will not contain tones or will 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. 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.

(B) Where noise emitted from the proposed plant and machinery will contain tones or will 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 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property. 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.
- 4) 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.

End of Schedule