



Appeal Decisions

Site visit made on 8 April 2025

by **S Heywood BSc (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 April 2025

Appeal A Ref: APP/X5990/W/24/3348346

29 Knox Street, City of Westminster, London W1H 1FS

- 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 Jon Hudson against the decision of City of Westminster Council.
 - The application Ref is 24/01731/FULL.
 - The development proposed is the demolition of an existing single storey extension, and the erection of a single storey rear extension and a roof terrace with associated access.
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Appeal B Ref: APP/X5990/Y/24/3348344

29 Knox Street, City of Westminster, London W1H 1FS

- 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 Mr Jon Hudson against the decision of City of Westminster Council.
 - The application Ref is 24/01732/LBC.
 - The development proposed is the demolition of an existing single storey extension, and the erection of a single storey rear extension and a roof terrace with associated access.
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Decisions

Appeal A Ref: APP/X5990/W/24/3348346

1. The appeal is dismissed.

Appeal B Ref: APP/X5990/Y/24/3348344

2. The appeal is dismissed.

Main Issues

3. The main issues are as follows:

- The impact on the living conditions of nearby occupiers having regard to overlooking and privacy.
- Having regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), the effect of the proposal on the special interest of the Grade II listed building 29-31, Knox Street W1 and the character and appearance of the Portman Estate Conservation Area.

Reasons

Living conditions

4. The proposed roof terrace would allow those using the space to directly overlook windows in nearby residential properties from an elevated position. In particular, as the side balustrade would be immediately on the boundary with No. 28, anyone standing close to the balustrade could gain direct views into the bedroom of that property through their skylight. This would cause a significant loss of privacy to the occupants of that property.
5. To a lesser degree, it would also allow views towards bedroom windows in the properties opposite both on Knox Street and Upper Montagu Street to the rear. I appreciate that during the day it is likely to be difficult to see very far into the rooms opposite due to the oblique viewing angle and because the rooms would be darker than outside. However, the occupants of those properties would have the perception of being overlooked when using their internal spaces and would be likely to feel the need to close curtains during the day to ensure that users of the roof terrace would not be able to see in.
6. The appellant states that views towards properties opposite are available now from the existing bedroom windows of No. 29. However, mutual intervisibility between rooms in a similar use has a different nature to the overlooking which is likely to occur from occupants, and potentially visitors, using the rooftop amenity space for recreation. In the former, occupiers of properties tend to have transient and fleeting views as they are passing or briefly looking out of the window. In an outdoor amenity space, occupiers are likely to spend more time in the space looking outwards than they are likely to spend looking out of an existing bedroom window.
7. The appellant states that the roof terrace would only be used occasionally but this cannot be controlled, and even occasional use would result in overlooking and loss of privacy on those occasions. Whilst I accept that the occupants of the property may not regularly host large parties, it is not inconceivable that small groups of people could use the space on occasion. I note that the view is not exceptional from the roof terrace, but even modest elevated views can lead people to wish to stand and watch the world go by.
8. I appreciate that the majority of the time the occupants of No. 29 would be seated whilst using the amenity space and, when seated, the height of the balustrade would be likely to prevent any overlooking of nearby properties. However, there would be times when occupants would be standing up, moving around or looking out at the surroundings. At those times, the potential for overlooking of adjoining bedroom windows from an elevated position would result in an actual and perceived loss of privacy to the occupiers of surrounding properties.
9. I note that there is currently access to the roof and it could already be used for sitting out. However, the proposal would make access to the roof easier and its use safer, by installing the balustrade. The consequence would be that it would be likely to be used on a more regular basis and the balustrade would enable standing on the terrace to feel safer and therefore more comfortable.
10. The appellants have pointed to the existence of other rooftop spaces in the vicinity of the site and I accept that, in this respect, the proposal would not be unique in

the area. However, the Council has stated that it has no record of approvals for those on Upper Montagu Street. Whilst I have had regard to these, they do not justify approval of the appeals proposals which I have found to be harmful. The rooftop terraces at York House appear to have a different relationship with surrounding properties due to the significantly different design and height of that building. Those approved by the Council on nearby streets also appear to have different characteristics to the proposal before me and as noted in the appellant's statement, each proposal must be determined on the specific merits of that case.

11. For the above reasons, I conclude that the proposed roof terrace would result in overlooking and loss of privacy to occupiers of surrounding properties. This would be harmful to their living conditions and would be contrary to City Plan Policy 7, which seeks to protect privacy and prevent overlooking, and Policy 38C, which seeks to ensure a good standard of amenity.

Special interest and significance of the listed building and Conservation Area

12. No. 29 Knox Street is part of a terrace of properties at 29-31 which are included on the Statutory List as a Grade II listed building. The properties are described in the listing as "4th rate" houses constructed around 1810 to 1820 as part of the Portman Estate development. They comprise 3 storeys with basements, 2 windows wide, constructed of stock brick, although Nos. 29 and 30 are painted.
13. Nos. 29 and 30 are described in the listing as having concealed slate roofs, however these have since been altered. No. 30 appears to retain the original butterfly roof structure but is now finished with red tiles. No. 29 has a flat roof behind the parapet. No. 31 has a dormered mansard roof. Nos. 29 and 30 have stone coped parapets (noted in the listing) to the front elevations. The parapet on No. 29 is slightly higher than that at No. 30.
14. Insofar as is relevant to the appeals, the significance and special interest of the listed building derives from its architectural composition within a larger terrace of properties. The significance of No. 29 is enhanced by it being part of a larger listed building at Nos. 29-31, with each individual property having similar, although not identical, architectural features and proportions. These include the timber sash windows, arched front doorways and front lightwell to the basements enclosed by iron railings at street level.
15. The adjoining property at No. 28 is also listed Grade II as part of the listed building at 26-28 Knox Street. No. 28 has a similar parapet with concealed roof structure, although the parapet is set at a lower height to the property at No. 29. The similarities in the parapet roof design on the front elevations of the properties at 28, 29 and 30 creates an architectural and aesthetic connection between the listed building at 29-31 and that at 26-28. Furthermore, prominent chimney stacks with parapets to separate the individual roofs are features of Nos. 26, 27 and 31. These roof forms are part of the significance of the two listed buildings at 26-28 and 29-31.
16. To the rear of the building, lies a small open courtyard which is currently enclosed by the existing L-shaped kitchen and dining area, the rear wall of the property and the boundary wall between No. 29 and No. 28. I note that the buildings along Knox Street and Upper Montagu Street were originally constructed with varying amounts of outdoor space to the rear of the properties. These appear to have been small, private spaces enclosed by existing buildings and walls.

Consequently, some open space to the rear was part of the original floorplan of these properties. The small outdoor space to the rear of No. 29 allows an appreciation of the rear elevation of the building. Consequently, this space forms part of the setting of the building which contributes, to a small degree, to its significance.

17. The significance of the Portman Estate Conservation Area includes its residential streets with a grid layout lined with terraced dwellings with some larger Victorian mansion blocks punctuating the ends of the terraced streets. The Conservation Area Audit identifies the harmonious rhythm generated by coherent blocks of historic terraced buildings. The Audit notes the similarity in the scale of the terraced properties, plot sub-division, elevational treatment, solid and void patterns and use of materials. It notes that subtle variations exist which it identifies as adding richness to groups of properties within the uniform order of terraces.

Impact of the proposals on the special interest, significance and setting of the listed building and Conservation Area

18. The proposed roof terrace and access would involve the construction of a grey metal clad roof box with glazed roof hatch located on the rear edge of the roof, offset to one side. This would be a boxy and bulky structure which would be sited in a prominent location to the rear edge of the roof. It would project above the sloping parapet which separates the roof areas at No. 29 and No. 28 and would disrupt the horizontal parapet line to the front of the property when viewed from nearby properties.
19. A frosted glass balustrade is proposed to enclose the existing flat roof. Part of the balustrade would infill the space between the proposed roof box and the existing chimney stack sited to the opposite side of the rear roof elevation. The modern frosted glass materials of the balustrade would be at odds with the traditional materials and fenestration design on the listed building.
20. Together, the roof box and balustrade would result in a clutter of structures and materials on the roof of the building. The modern frosted glazing of the balustrade and the proportions and siting of the roof box would introduce architectural features and materials which are inconsistent with the architectural features, materials and proportions of surrounding properties.
21. The roof box would detract from the horizontal parapet lines to the front of Nos. 28, 29 and 30 and would also detract from the prominence of the chimney stacks and separating parapets on Nos. 26, 27 and 31. As a result the proposed roof alterations would appear visually obtrusive and discordant, detracting from the simple design of the existing roof structure and harming the group aesthetic of the two listed buildings at 29-31 and 26-28. The proposed alterations would therefore harm the significance of the listed building.
22. The balustrade would be set in from the front elevation of the property. Therefore, from Knox Street, visibility of the balustrade and rear roof box would be limited. In addition, there is no public access to the rear of the property and as such the rear elevation cannot be viewed from any public space.
23. Nonetheless, the proposed roof structures would be visible from the windows above ground level in the properties opposite, both on Knox Street and Upper Montagu Street to the rear. Furthermore, the duties in the Act to preserve a listed

building or its setting, the requirement to preserve or enhance the character or appearance of a conservation area and the requirement in the Framework to give great weight to a heritage asset's conservation are not dependent upon the existence of public views.

24. There is a variety of roof heights on Knox Street and the surrounding roofs are not uniform structures such as the butterfly roofs the appellant says can be seen on Upper Montagu Street, or Nos. 6-11 Knox Street, opposite No. 29. However, this variety would not justify the addition of obtrusive and discordant additions to the roof of No. 29.
25. I note that some of the properties have mansard roofs with box-like dormer windows. However, these sit within the sloping face of the mansard roofs rather than projecting above the roof as is proposed in these appeals. I also saw the existing skylight at No. 28 which projects above the roof of that property. That skylight is lower than the structure proposed in these appeals, it sits centrally within the roof and has a tapered design. As such, it is not as prominent or discordant as the proposed roof alterations before me.
26. For the above reasons, I find that the proposed roof alterations would harm the significance of the listed building and would harm the character and appearance of the Portman Estate Conservation Area.
27. Turning to the proposed rear extension, its scale, bulk, massing and design would sit comfortably to the rear of the property, and it would not dominate the original building. Nevertheless, it would enclose the remaining open courtyard to the rear of the existing building such that there would no longer be any private open space to the rear of the property. This would erode the original floorplan of the building and result in a small amount of harm to the setting and significance of the building.
28. I note that there are various sized rear extensions to the properties on Knox Street and Upper Montagu Street and these have a varied planning history according to the Council. Many of those I was able to see at my visit have retained an element of amenity space. Although some may have covered the whole of the outdoor areas with extensions, this does not justify the harm I have identified to this listed building.
29. Given the scale and nature of the proposals as a whole, I conclude that they would cause less than substantial harm to the significance of the listed building and to the character and appearance of the Conservation Area. Nevertheless, paragraph 212 of the Framework sets out that great weight should be given to a heritage asset's conservation irrespective of the level of harm to its significance. Paragraph 215 the Framework states that the harm should be weighed against the public benefits of a proposal.
30. The appellant states that the proposed kitchen extension would allow the optimal residential use of the building to continue. However, the size of the existing kitchen and dining area is not sub-standard by modern design standards. The refusal of permission would not therefore be likely to result in the building becoming unusable as a residential property.
31. The proposals would include the replacement of existing modern windows to the rear of the building with traditional wooden sash windows to match the original. This would be a public benefit of the proposal to which I give moderate weight.

However, this benefit would not be of sufficient weight to tip the overall planning balance in favour of the proposals when set against the great weight to be given to the asset's conservation.

32. The Council points to their Supplementary Planning Guidance (SPG) Development and Demolition in Conservation Areas which advises that railings, trellises and access stair enclosures, or other such structures at roof level will usually have an adverse impact upon the appearance of a building and conservation area and will be resisted. It also identifies the need to retain amenity space to the rear of properties and to avoid infilling lightwells where there is an L-shaped plan form. The proposal would conflict with this SPG.
33. Policy 38B of the City Plan requires development to positively contribute to the townscape and streetscape having regard to the character and appearance of the area, adjacent buildings and heritage assets. Policy 39 seeks to ensure heritage assets are conserved and enhanced as does Policy 40B. Whilst Policy 40E states that roof extensions will be supported in principle, citing three specific scenarios, this is with the caveat that they should not impact adversely on heritage assets.
34. For the above reasons, I conclude that the development would harm the special interest of the Grade II listed building 29-31, Knox Street W1 and the character and appearance of the Portman Estate Conservation Area. Accordingly, the proposals would fail to satisfy the requirements of the Act, the Framework and the policies of the Westminster City Plan and relevant SPG identified above.

Other Matters

35. Other concerns have been raised by nearby residents, in particular, the noise generated by the use of the terrace and the precedent the proposals would set. In terms of noise, I acknowledge that this would be greater from the use of a rooftop space than at ground level where the space is contained by surrounding buildings. However, this is unlikely to be to such levels that it would significantly harm the living conditions of surrounding occupiers. In relation to the precedent which could be set, each application must be considered on its own merits, therefore this matter has not influenced the conclusions I have reached.
36. The Georgian Society raised concerns that the historic internal floor plan would be harmed by the removal of the staircase into the basement. However, the Council state that this staircase was constructed in 2011. As I have no further information on this matter, and because the appeals are dismissed on other grounds, I have not factored this into the decisions.

Conclusion

37. For the reasons set out, the proposals would fail to comply with the development plan as a whole and the appeals are dismissed.

S Heywood

INSPECTOR