



Appeal Decisions

Site visit made on 8 April 2025

by Susan Heywood BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 May 2025

Appeal A Ref: APP/X5990/W/24/3351379

2 Cleveland Gardens, London W2 6HA

- 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 H Khan against the decision of City of Westminster Council.
 - The application Ref is 23/05541/FULL.
 - The development proposed is the change of use from storage building to residential dwelling (Use Class C3) creating a new studio dwelling, with associated internal and external works including fenestration changes.
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Appeal B Ref: APP/X5990/Y/24/3351378

2 Cleveland Gardens, London W2 6HA

- 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 H Khan against the decision of City of Westminster Council.
 - The application Ref is 23/05542/LBC.
 - The works proposed are the change of use from storage building to residential dwelling (Use Class C3) creating a new studio dwelling, with associated internal and external works including fenestration changes.
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Decisions

Appeal A Ref: APP/X5990/W/24/3351379

1. The appeal is dismissed.

Appeal B Ref: APP/X5990/Y/24/3351378

2. The appeal is dismissed.

Preliminary Matters

3. The appellants have submitted amended plans with the appeals which alter the proposed window design to remove the ventilation grilles and replace with obscure glazing. Two small vents are also proposed in the roof. These amendments do not significantly alter the proposals and the Council and interested parties have had an opportunity to comment upon these. I do not therefore consider that it would prejudice any party if I take these revisions into account in my decisions. I have therefore determined the appeals on the basis of these amended plans.
4. The appellants have also submitted a Daylight and Sunlight Assessment. This provides technical information which was not submitted at application stage, despite inadequate daylight being an issue in a previous appeal decision for a

similar proposal on the appeal site¹. I consider that this information could have necessitated additional consultation had it been submitted at application stage, potentially with the Council's Environmental Health Officers. As this information was not available to them at the time, the Council will not have had the opportunity to properly consider and consult upon it. I note that the Council have provided no comments upon it in the appeals, nevertheless I consider that it would result in procedural unfairness, which could prejudice the Council's case, if I were to consider this information. I have not therefore had regard to the Daylight and Sunlight Assessment in these appeals.

Main Issues

5. One of the Council's reasons for refusal relates to the living conditions of future occupiers having regard to outlook, natural light and natural ventilation. Existing occupiers of adjoining properties have also raised concerns regarding the impact upon their living conditions. Thus, whilst noting that the Council raise no objections regarding the impact on existing occupiers, I will deal with this matter as part of the living conditions issue. The main issues therefore are as follows:
 - whether the proposal would provide satisfactory living conditions for future occupiers with regard to outlook, natural light and natural ventilation and the impact on the living conditions of occupiers of adjoining properties with particular regard to privacy and the proximity of the accommodation to existing private courtyards.
 - Having regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), whether the proposal would preserve the Grade II listed building at 1-8 Cleveland Gardens W2 and whether it would preserve or enhance the character or appearance of the Bayswater Conservation Area.

Reasons

Living conditions

6. No. 2 Cleveland Gardens is part of a terrace of properties which is split into separate flats. The works propose the conversion of existing storage space at the rear of the property into a self-contained dwelling. The ground floor would be accessed through the main entrance door to the property from Cleveland Gardens and would provide a kitchen, dining and bike storage area. The larger lower ground floor would provide a living area, bedroom, shower room and separate toilet through which would be an escape route into the adjoining courtyard.
7. The proposed ground floor kitchen area would have two windows facing towards windows in the adjoining property at No. 1. The Inspector in the previous appeal noted that the kitchen windows, which were not proposed to be obscure glazed, would result in overlooking of the windows in No. 1 and a significant reduction in privacy for the occupiers of that property.
8. To overcome this concern, the current proposals show that the windows in the proposed dwelling are to be provided with graduated obscure glazing which would prevent occupiers being able to directly look into facing windows in No. 1 or

¹ APP/X5990/W/21/3289036

overlook the courtyard below. As such, overlooking and mutual lack of privacy between the occupiers of both properties would be avoided.

9. The appellants state that the precise height at which the transition of the glazing would occur, from obscure in the lower panes to clear in the upper frames, and the opacity of the glazing could be secured by condition. However, to avoid the overlooking issues a substantial proportion of the lower areas of the windows would need to be obscure glazed. At my site visit the whole of the lower panes of glass and approximately half of the upper panes of glass were obscured to demonstrate the likely effect.
10. The result of the extent of obscure glazing required to avoid overlooking and privacy issues would leave only a small section of the upper panes having clear glazing. The outlook through this gap from within the proposed kitchen / dining area would be towards a blank brick wall above the windows at No. 1 in close proximity. When closer to the windows the occupiers of the property would be able to see the sky when looking towards the north east, but this would only be for a very small section of the view. When looking towards the south west, the outlook would be towards the tall rear walls and windows in the rear elevations of the adjoining properties in the terrace. The result would be a very poor outlook for future residents of the unit when using the ground floor living accommodation.
11. The proposed lower ground floor would contain the main living area and bedroom. The living area would have one window facing the courtyard at No. 1 and the bedroom would have a window facing the courtyard at No. 3. Both windows would also contain graduated glazing.
12. The previous Inspector noted that the obscured glass openings (which were doors in the previous appeal) would not provide occupiers with a meaningful outlook from the lower level rooms and, particularly in the living room, users would feel hemmed in. In the proposal before me partial views through the upper parts of these windows would be gained due to the graduated glazing. However, the outlook through the clear glazed gaps would be towards high walls surrounding the courtyards. The graduation in the obscure glazing would not give any meaningful outlook to the occupiers of the property and, in line with the previous Inspector's conclusions, I consider that future occupiers would feel hemmed in when using the lower ground floor accommodation.
13. In terms of natural light, I note that a large rooflight is proposed which would provide adequate daylight to the ground floor. A void within the ground floor would allow light to travel down to the lower ground floor. Thus, the living room and bedroom may have adequate lighting when the sun is at its highest, but on cloudier days, or during the winter months, I consider that a large part of the lower ground floor would appear gloomy.
14. The proposal has been amended to provide mechanical ventilation and I am satisfied that this would provide adequate air flow through the property. However, the system details provided by the appellant refer to heat recovery providing warmed air. The details do not demonstrate that the ventilation system would also provide cool air in the summer months.
15. The Addendum to the Design and Access Statement (DAS) states that the "existing arrangement protects from direct solar gains". However, the large rooflight in the property could result in the property heating up to an uncomfortable

level when the sun is at its highest. I note that the rooflight would be openable which would allow for some ventilation. However, none of the other windows in the dwelling would be openable. Therefore, the property would not benefit from cross ventilation which provides more effective cooling in hot weather than a single opening.

16. Whilst mechanical ventilation systems can provide cooling, the information provided does not demonstrate that this would be adequate having regard to the design of the dwelling as proposed. I therefore consider that the proposed ventilation system would not be an adequate substitute to being able to open the windows on hot days and nights to allow fresh air to flow through. This would provide poor living conditions for occupiers of the property.
17. Bringing together the above matters, I conclude that the poor outlook from all windows in the property, the low levels of daylight at certain times of the day / year and the lack of natural ventilation, would result in the proposal providing a poor standard of accommodation for future occupiers.
18. I turn now to consider the living conditions of adjoining occupiers. I have set out above that the obscure glazing in the ground floor windows would overcome the issues of loss of privacy to the occupiers of No. 1. However, the introduction of graduated glazing in the lower ground floor windows would result in the occupiers of the proposed dwelling being able to look upwards towards the windows opposite in No. 1. These windows are to a bedroom and bathroom.
19. Occupiers of the proposed dwelling would be unlikely to be able to see very far into the rooms opposite due to the oblique viewing angle. However, because of the close proximity of No. 1 to the proposed dwelling, the occupiers of No. 1 would have the perception of being overlooked when using their bedroom and bathroom and would be likely to feel the need to close curtains or blinds to ensure privacy is maintained.
20. In addition, the lower ground floor windows would be immediately adjacent to the two courtyards at Nos. 1 and 3. Even if the obscure glazing was the highest level of opacity, shapes and shadows within the rooms would be visible, particularly when those rooms are lit. Occupiers of Nos. 1 and 3 would therefore be aware of the presence of the occupiers of the proposed dwelling in very close proximity to their private courtyard areas. This would be intrusive for existing residents and would be likely to make them feel less relaxed and more reluctant to use these private spaces.
21. In relation to other potential impacts on living conditions, occupiers of the dwelling would be able to look into the courtyard and windows in No. 1 from the window near the lift lobby at ground floor level. However, the use of this area would be transient as future occupiers enter and leave the premises. I do not consider that this would lead to significant overlooking of the courtyard or windows at No. 1.
22. Existing residents have also referred to noise and cooking smells from the unit. However, in a densely built-up residential area such as this I do not consider that additional noise or cooking smells from a small residential unit would significantly harm the living conditions of nearby occupiers.
23. Nonetheless, for the above reasons I conclude that the proposals would result in harm to the living conditions of future occupiers due to poor outlook and

inadequate natural light and natural ventilation. It would also harm the living conditions of surrounding occupiers due to its impact on privacy and the proximity of the accommodation to existing private courtyards.

24. Even if I had considered the Daylight and Sunlight Assessment and concluded that its contents satisfied me on the issue of natural light, this would not have overcome the other concerns regarding outlook, natural ventilation and the impact on the living conditions of nearby occupiers. My conclusions on this issue would not therefore have changed.
25. The proposal would fail to comply with Policy 12 of the City Plan, which seeks to ensure that new dwellings provide a well-designed and high-quality living environment; Policy 38, which seeks to ensure a good standard of amenity for new and existing occupiers; and Policy 7, which seeks to ensure that proposals prevent unacceptable impacts on privacy.

Impact on the Conservation Area and listed building

26. No. 2 Cleveland Gardens is part of a mid 19th century terrace of properties at Nos. 1-8 which are included on the Statutory List as a Grade II listed building. The property also lies within the Bayswater Conservation Area.
27. The properties in the terrace, including No. 2, are 5 storeys with basements. In so far as is relevant to this appeal, the significance and special interest of the listed building derives primarily from the architectural composition and detailing of the front elevations. The significance of No. 2 is enhanced by it being part of a larger listed building at Nos. 1-8. The stuccoed front elevation, together with the side elevation at the end of the terrace, are the most architecturally important, displaying features such as rusticated quoins, Doric porches, balustraded balconies and prominent architraves and cornices. To the rear, the properties are less decorative. The rear elevations are constructed in simple plain brick with wooden sash windows and many appear to have two storey outriggers to the rear.
28. The amended plans remove the ventilation louvres proposed on the windows, which were the Council's main concern. Whilst the windows would be obscure glazed, their proportions and design detailing (as amended) would be appropriate and would preserve the listed building.
29. The Council also expressed concern regarding the size of the rooflight opening. I agree that this would create a large opening which would be disproportionate to the surface area of the roof. I note that there are other rooflights in the area, however, none of these are on the listed building and none appear to be as large as proposed in this appeal. Nonetheless, I am satisfied, as were the Council, that this could be overcome by the imposition of a condition requiring the details of rooflights to be submitted to the Council if the appeal was allowed.
30. The two-storey outrigger is likely to be an original feature of the building, however, it has been altered internally by the installation of a lift and partitioning. At ground floor level, the room to be converted to the proposed kitchen and dining area does not contain any original decorative features. The lower ground floor storage space has previously been altered by the construction of the lift shaft and erection of blockwork walls. Whilst some partitioning would be lost as a result of the proposal, these are not integral to the significance of the building. The proposed alterations would therefore retain the significance and special interest of the building.

31. The Bayswater Conservation Area is characterised by grand 19th century residential terraces some set around squares and open spaces. The proposed alterations would not be extensive externally and the building is enclosed at the rear. The proposal would therefore preserve the character and appearance of the Bayswater Conservation Area.
32. Having regard to sections 16(2), 66(1) and 72(1) of the Act, I conclude that the proposal would preserve the Grade II listed building at 1-8 Cleveland Gardens W2 and would preserve the character and appearance of the Bayswater Conservation Area. The proposal would therefore comply with Policies 39 and 40 of the City Plan, which, amongst other things, require the conservation of heritage assets.

Other Matters

33. The Local Lead Flood Authority (LLFA) has raised concerns regarding the lack of a detailed site-specific flood risk assessment. This is on the basis that they say the site lies within an area at low risk of surface water flooding having regard to the Environment Agency's flood risk map. The LLFA are particularly concerned about the location of a bedroom at lower ground floor level.
34. The appellant has provided a more detailed flood risk map which is claimed to show that the proposed dwelling would be located outside the flood risk area. However, this map appears to show the flood risk area immediately adjoining the proposed dwelling to its north-west. As the proposed bedroom would be located to the north-western side of the lower ground floor level, I am not satisfied that the information clearly demonstrates that the proposal would be acceptable in flood risk terms. I note that the Council did not refuse the applications for this reason, however, if the appeals were to be allowed, I would have required further information on this matter.
35. There is nothing to require the storage area to be available for use by existing residents of the building therefore its loss is not a matter which weighs against the appeal. Representations have been made on the basis of the lack of access to the courtyard and therefore inability to satisfy fire regulations. The appellant refutes this. Access to the courtyard is a matter between the appellant and owner of the courtyard and is not a matter which weighs against this appeal. If I were to allow the appeal, the proposals would need to satisfy the Building Regulations, including in respect of fire safety and accessibility.
36. The provision of an additional dwelling would boost housing supply and therefore weigh in favour of the appeal, but the limited benefit from one small residential unit would not be sufficient to outweigh the harm I have identified above.

Conclusion

37. For the reasons given above, the proposal would conflict with the development plan and there are no material considerations which outweigh this conflict. The appeals should therefore be dismissed.

Susan Heywood

INSPECTOR

