
Appeal Decision

Site visit made on 3 February 2014

by Peter Rose BA MRTPI DMS MCM1

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 February 2014

Appeal Ref: APP/X5990/W/13/2209047 12 Henrietta Street, London WC2

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Royal London Asset Management Limited against the decision of the City of Westminster Council.
 - The application Ref 13/06363/FULL, dated 2 July 2013, was refused by notice dated 16 October 2013.
 - The application sought planning permission for redevelopment behind retained Henrietta Street and Maiden Lane frontages to provide a new building of basement, ground and four upper floors with roof level plant for use as offices with a Class A3 restaurant on part basement and part ground floor of the Maiden Lane frontage (Option 2) without complying with a condition attached to planning permission Ref 98/5777, dated 2 September 1999.
 - The condition in dispute is No 23 which states that: *The internal walls to create sub-divided spaces at ground and first floor levels behind the Henrietta Street façade shall be provided with in the scheme and thereafter retained, unless otherwise given prior approval in writing by the City Council as local planning authority.*
 - The reason given for the condition is: *To ensure that the external appearance of the building is satisfactory and that it contributes to the character and appearance of this part of the Covent Garden Conservation Area.*
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment behind retained Henrietta Street and Maiden Lane frontages to provide a new building of basement, ground and four upper floors with roof level plant for use as offices with a Class A3 restaurant on part basement and part ground floor of the Maiden Lane frontage (Option 2) at 12-13 Henrietta Street/31-32 Maiden Lane, WC2 in accordance with the application Ref 13/06363/FULL, dated 2 July 2013, without compliance with condition No 23 previously imposed on planning permission Ref 98/5777, dated 2 September 1999, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

Procedural Matters

2. The site address stated on the application form is different to that set out in planning permission Ref 98/5777. I am satisfied that both descriptions refer to the same site, and my formal decision refers to the site as formally described in the planning permission to be varied.

3. At the time of my visit, the internal layout of the ground and first floors of the host building behind its Henrietta Street frontage did not correspond with the layout shown on the approved drawings accompanying application Ref 98/5777. In particular, the internal walls shown as dividing the internal space at first floor level behind the Henrietta Street frontage had been removed, and the first floor was fully open plan. The ground floor also had a different layout at the front to that shown on the original drawings.
4. The Council has clarified the references to drawing numbers set out in its decision notice. The Council has confirmed that the references to 'Survey Drawings' and to 'As Proposed Drawings' are not part of the application, and that the application was accompanied by drawings referenced 1059-D00-Rev P2, 1059-D02-00 Rev P1, and 1059-D02-10 Rev P1.
5. The Council's decision notice also refers to policies in its Westminster's City Plan: Strategic Policies which had yet to be adopted, and I note from its subsequent statement that adoption has since taken place.

Main Issue

6. The main issue is the effect of the proposed development upon the character and appearance of the host building, and whether the proposed development would fail to preserve or enhance the character or appearance of the Covent Garden Conservation Area.

Reasons

7. The appeal site includes the retained frontage of a large mid-terrace nineteenth century building. The building is not listed but forms part of Covent Garden Conservation Area. The site lies on the south side of Henrietta Street in a busy setting, and the building extends south to a rear frontage in Maiden Lane. The main elevation forms a significant and fairly prominent part of the Henrietta Street terrace, and faces a row of other buildings on the opposite side of Henrietta Street to the north. The planning permission granted for redevelopment in 1999 required each of the original Henrietta Street and Maiden Lane frontages to be retained and authorised new development between.
8. Condition 23 of the permission granted for the redevelopment sought to retain internal walls at ground and first floor levels in the Henrietta Street frontage. The Council explains that its purpose was to maintain the original cellular appearance of the building rather than presenting an open plan layout and thereby to retain the original visual relationship between the internal scale of the rooms and the external façade. This aim is broadly consistent with the Council's relevant development plan policies. These seek, amongst other matters, to conserve Westminster's historic assets and to ensure that development is of the highest standards of architectural quality, that it respects local distinctiveness and traditional features, and preserves the integrity and appearance of buildings.
9. Although the host frontage is a prominent part of Henrietta Street, the orientation of the host building and the height and position of its windows restrict the depth of views available at first floor level, and these offer a relatively a short range of visibility. Views into the first floor would be mainly evident from higher level windows of buildings opposite rather than from wider

public vantage points at street level. The reflective qualities of the windows at both first and ground floor levels during daylight further restrict inward views. I also note that the internal walls running perpendicular to the frontage are shown positioned behind the built elements of the elevation between the windows and this would further limit their exposure.

10. Whilst the ground floor windows offer more direct views from street level, such views are relatively constrained as the two main windows either side of the doors appear to have slightly opaque glazing when viewed from the outside and the Council acknowledges that views through one have been concealed by blinds. As with the first floor, the available views are part of a modern building and not part of any original cellular structure. I have also noted the Council's clarification of the permission granted for replacement doors serving the main ground floor entrance and the Council's comments regarding the planning status of the various internal alterations undertaken.
11. I accept that views at both levels would be more apparent when illuminated once it becomes dark outside. The Council raises concern about possibly greater levels of light being exuded by an open plan layout, and I have no technical evidence before me substantiating the specific circumstances of the host site. Nevertheless, I am not persuaded that the difference in that regard would be such as to materially harm the external character and appearance of the host building or of the wider terrace of which it forms a part. The Council also raises concerns about the effect of strip lighting, but that is also a feature of modern buildings and not regulated by the planning permission.
12. Whilst the Council distinguishes between the different uses of adjacent buildings, I also note that other buildings in the vicinity appear to have open plan arrangements within their frontage.
13. The stated reason for Condition 23 is to ensure that the external appearance of the building is satisfactory and that it contributes to the character and appearance of this part of the Covent Garden Conservation Area. In all these circumstances, I do not consider that the internal walls are so significant to the character and appearance of the building or the Conservation Area such that their removal would harm these stated purposes.
14. I therefore conclude that the development would not be harmful to the character and appearance of the host building and would not fail to preserve or enhance the character or appearance of the Covent Garden Conservation Area. Accordingly, the scheme would not be contrary to Policies CS25 and CS28 of Westminster's City Plan: Strategic Policies, 2013, or to Policies DES 1 and DES 9 of the City of Westminster Unitary Development Plan, 2007. The development would also be consistent with the National Planning Policy Framework (the Framework) which recognises that heritage assets such as Conservation Areas are an irreplaceable resource and requires them to be conserved in a manner appropriate to their significance.

Other Matters

15. I have considered all other matters raised, including the appellant's references to the development being market driven, and to the expectations of the Framework for the planning system to support economic growth.

16. None of the other matters raised are of such significance, either individually or collectively, that they would outweigh the considerations that have led to my conclusions on the main issue.

Conditions

17. I have considered the conditions suggested by the Council having regard to Circular 11/95. This application seeks permission for the redevelopment granted in 1999 but without complying with Condition 23. I do not consider any further conditions are required, but my decision is still subject to the other conditions contained in that decision, so far as the same are still subsisting and capable of taking effect, and these are further identified in the Council's submission.

Conclusion

18. For the above reasons, and with regard to all other matters raised, I conclude that the appeal should succeed. I shall vary the planning permission by removing the disputed condition.

Peter Rose

INSPECTOR

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