



Appeal Decisions

Site visit made on 23 January 2018

by Mrs H M Higenbottam BA (Hons) MRTPI

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

Decision date: 16 April 2018

Appeal A: APP/X5990/W/17/3189913

22 Upper Maisonette Clarendon Gardens, London W9 1AZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Marie-Louise Neill against the decision of City of Westminster Council.
 - The application Ref 17/03127/FUL, dated 10 April 2017¹, was refused by notice dated 5 June 2017.
 - The development proposed is a proposed terrace to the existing flat roof of the closet wing.
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Appeal B: APP/X5990/Y/17/3189294

22 Upper Maisonette Clarendon Gardens, London W9 1AZ

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Ms Marie-Louise Neill against the decision of City of Westminster Council.
 - The application Ref 17/03128/LBC, dated 10 April 2017², was refused by notice dated 5 June 2017.
 - The works proposed are a proposed terrace to the existing flat roof of the closet wing.
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Decisions

1. Both Appeal A and Appeal B are dismissed.

Main Issues

2. The main issues common to both appeals are whether the proposal would;
 - (i) Preserve the grade II listed building described as Nos 18 - 34 Clarendon Gardens of which No 22 forms a part and;
 - (ii) Preserve or enhance the character or appearance of Maida Vale Conservation Area.
3. In Appeal A there is an additional main issue which is the effect of the proposed roof terrace on the living conditions of the occupiers of neighbouring properties, particularly in relation to privacy and noise and disturbance.

¹ The declaration is dated 10 April 2017 on the application form and certificate B is dated 15 April 2017.

² The declaration is dated 10 April 2017 and the application form and certificate B is dated 15 April 2017.

Reasons

Special Interest and Significance

4. The appeal site is located within the Maida Vale Conservation Area which is predominantly residential in use with some local shops. The development, up to the 1860's, is principally in brick and stucco with later areas in red stock brick. The Grand Union Canal and Regents Canal are a key element in the area's townscape and the layout of avenues and streets nearby relate to the geometry of the canals. To the north of this area is development by the Bishop of London and the Church Commissioners. This is set out in architecturally significant avenues and crescents with secondary streets infilling between them. The grandeur of the front elevations of many of the buildings is often in contrast to the simple form and utilitarian character of the rear elevations.
5. The tree lined streets, vistas and private amenity spaces give the area a leafy character. To the northern boundary of the Conservation Area is the Paddington Recreation Ground which was initially laid out in 1893. This open space adds to the Conservation Area's verdant character. That character, street pattern and consequent placement of buildings, and use of materials help to establish the character, appearance and significance of the Maida Vale Conservation Area.
6. The listed building, Nos 18 - 34 Clarendon Gardens, is a terrace of three storey houses with basement and attic levels to part of it, with stucco a finish on the front elevation. It is a balanced composition with a central element flanked by wings. A continuous wrought iron balcony and balustrade is at the first floor on the front elevation of the terrace. Also to the front elevation are Ionic porches and first floor windows with decorative friezes. The rear elevation of the listed building is simple and utilitarian with fair faced brick, minimal additions and simple forms. Many properties in the terrace have a rear closet wing. There are some existing additions and alterations at various levels to the rear, including conservatories and some terraces/balconies.
7. The rear closet wing at No 22 rises to first floor and then steps back with a shallower projection at second floor level. In the space between the closet wing at No 22 and that at No 23 is a conservatory which has been inserted at basement and ground floor levels. No 22 has been converted into three flats.
8. The factors which contribute to the significance of the listed building comprise the grandeur of its front elevation and embellishments contrasting with the simpler utilitarian form of its rear elevation and its relationship to the plan form/layout of properties within the terrace. In addition the high quality design and the quality of materials used in construction all contribute to its significance and special interest.

The Proposal

9. The proposal is to create a terrace on the existing flat roof of the closet wing. The parapet wall would be raised and a terrace platform formed with a 1.1m high balustrade affixed on top of the raised wall. The existing sash window, on the landing between the second and third floors, would be removed and a pair of timber framed doors inserted in the opening to allow access onto the terrace.

Considerations

Effect of the proposals on the listed building

10. In relation to the terraces/balconies on other properties forming the listed building the Council state that these appear to have been built without permission or pre-date the current development plan and there is no evidence before me to the contrary. The Council state that the existing terraces/balconies harm the building and they seek to avoid further harm.
11. The proposed balustrade would introduce visual clutter to the simple architecture of the rear closet wing. This would detract from its inherent character and form which is simple and utilitarian with minimal embellishments. Furthermore, it would result in the removal of what appears to be an original sash window and its replacement with double doors, resulting in the loss of historic fabric of the wall and probably the sash window. The proposal would therefore harm the architectural form and historic fabric which form part of the significance of the listed building. As such, there would be a failure to preserve the listed building. Turning to the Framework, these harms represent less than substantial harm to the listed building as a whole.

Effect of the Proposal on the Maida Vale Conservation Area

12. The proposal would be at the rear of the property but, due to the proximity of other residential properties, it would be clearly viewed from neighbouring buildings. It would add visual clutter to the rear elevation of the property which would detract from the simple utilitarian form of the building. This would harm both the character and appearance of the building and thus the Conservation Area.
13. While this harm is less than substantial in the Conservation Area as a whole it would nevertheless fail to preserve it and would thus be in conflict with the requirements of section 72 of the Act. These modest harms, in the terms of the Framework, represent less than substantial harm to the Maida Vale Conservation Area.

Appeal A only Effect on living conditions of nearby residential occupiers

14. The appeal property is within a tight knit urban setting, with residential flats opposite and to either side. The proposed terrace would create a terrace of 4.4m². While this is a small area it would allow the opportunity for people to stand out on the terrace, otherwise there would be no practical function of the terrace for the appellant.
15. The balcony would enable oblique views to the second floor window in the adjacent property, 21 Clarendon Gardens. This would result in an unacceptable loss of privacy particularly to the occupiers of No 21. While the size of the balcony area is small, it would allow for people to congregate and any conversation or music would be a potential source of noise and disturbance particularly to the occupiers of No 21 and would harm their living conditions.
16. I conclude on this issue that the proposal would result in material loss of privacy and be likely to result in noise and disturbance to nearby residential occupiers, particularly those at No 21. This would be contrary to Policy S29 of the Westminster City Plan (November 2016) (CP) and Policy ENV 13 of City of Westminster Unitary Development Plan (adopted January 2007) (UDP) which

aim to improve the residential environment and resist proposals that result in an unacceptable material loss of residential amenity.

Planning Balance

17. In accordance with paragraphs 133 and 134 of the Framework, having identified harm to the designated heritage assets, it is necessary to consider the magnitude of that harm. In this case I conclude this should be considered as less than substantial to both the listed building and the Maida Vale Conservation Area when considered in the context of the assets as a whole. In such circumstances the Framework requires that any identified harm is weighed against any public benefits the works might secure.
18. The Framework requires that where less than substantial harm is identified I need to consider the public benefits arising from the proposal. The appellant does not specify any particular public benefits of the proposals and I have been unable to identify any particular public benefits of the proposal. In these circumstances there are no public benefits to outweigh the harm I have identified to the designated heritage assets.

Conclusions

19. I conclude that the development and works would fail to preserve the special architectural and historic interest of this Grade II listed building and would fail to preserve or enhance the character and appearance of the Maida Vale Conservation Area.
20. In the absence of sufficient public benefits to outweigh identified harms I conclude the development proposed by Appeal A would be contrary to UDP Policies DES 1, DES 5, DES 9 and DES 10 (A) which require development to be to a high standard of design which successfully integrates with its surroundings, and respects a listed buildings character and appearance and serve to preserve, restore or complement its features of special architectural or historic interest; and preserves or enhances the character or appearance of a conservation area. It would also fail to comply with CP Policies S25 and S28 which require upgrades to be sensitive and improve environmental performance and make them easily accessible and that development must incorporate exemplary standards of sustainable and inclusive urban design and architecture. Furthermore, it would harm living conditions of nearby residential occupiers, particularly those at No 21 and be contrary to CP Policy S29 and UDP Policy ENV 13 for the reasons set out above.
21. The works the subject of Appeal B would be contrary to UDP Policies DES 9 and DES 10 (A) and CP Policies S25 and S28. Both Appeal A and Appeal B would also conflict with the Framework.
22. For the reasons set out above I conclude that both Appeal A and Appeal B should fail.

Hilda Higenbottam

Inspector