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## Appeal Decision

Hearing held on 3 December 2014

Site visit made on 3 December 2014

**by Anne Napier-Derere BA(Hons) MRTPI AIEMA**

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

**Decision date: 23 December 2014**

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**Appeal Ref: APP/X5990/E/14/2225884**  
**71 South Audley Street, London W1K 1JA**

- 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 Mr Johan Eliasch against the decision of City of Westminster Council.
  - The application Ref 14/01504/LBC, dated 13 February 2014, was refused by notice dated 28 April 2014.
  - The works proposed are described as 'creation of sub-basement level; minor alteration to basement level to create staircase to access sub-basement level'.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The submitted details confirm that the appellant's name was incorrectly given as Mr Jonah Eliasch on the application and appeal forms. I have corrected this clerical error in the heading above.
3. The description used above is that given on the joint application form for planning permission and listed building consent. The appeal form and covering letter confirm that the description was changed as part of the application process and the Council's decision notice describes the proposal as 'excavation of second basement level and installation of staircase from basement to second basement level all in association with the existing use as a single family dwelling (Class C3)'. However, the Statement of Common Ground clarifies that two staircases are proposed to be installed to serve the proposal. It was confirmed at the Hearing that the proposal was considered by the Council on this basis and I intend to consider the appeal accordingly.
4. The Council granted planning permission for the development proposed on 20 May 2014, Ref 14/01503/FULL, on the basis that the proposal is permitted development. That decision is not a matter that is before me as part of this appeal.
5. As part of the appeal submissions, revised drawings were submitted, Refs 2162-100 Rev A and 2162-200 Rev B. These correct discrepancies on the drawings as originally submitted and do not alter the scheme as proposed. Accordingly, I am satisfied that my intention to consider the appeal proposal on

the basis of these revised drawings will not cause prejudice to the material interests of others.

### **Main Issue**

6. The appeal dwelling is a grade II\* listed building, located in close proximity to a number of other listed buildings and situated within the Mayfair Conservation Area. These are designated heritage assets and I am mindful of my statutory duties in these regards. It is not a matter of contention between the parties that, due to their subterranean nature, the works proposed would have no effect on the character and appearance of the Conservation Area. From the evidence before me, there is nothing that would lead me to a contrary view in this regard and, as a result, I am satisfied that the proposal would preserve that heritage asset.
7. Therefore, the main issue in this appeal is whether or not the proposed works would preserve the listed building, any features of special architectural or historic interest that it possesses, its setting or the setting of other listed buildings nearby.

### **Reasons**

8. The appeal building is an end of terrace house, located on a corner site in the heart of central London. It is a building of five storeys, including a lower ground floor, or basement, that extends under the courtyard garden to the rear, adjacent to South Street. The house dates from the early part of the eighteenth century and it is not disputed that it is an important example of domestic architecture from that time. From the evidence before me, including the listing description, I consider that its significance is largely derived from its form, historic fabric and architectural features. Clear and convincing evidence has been presented about the importance of proportion and the hierarchy of spaces within the dwelling. These were key elements influencing its design, not only in terms of the size and scale of the rooms, but also in respect of the layout of the dwelling and the amount and type of accommodation provided.
9. Alterations have been made to the building over time, including during its use as offices and notably in relation to the staircase between the second and third floors. The relocation of the kitchen and the alteration in the position of the steps within the lower ground floor were also drawn to my attention. Nonetheless, from the evidence before me, the overall form and layout of the house, including the relative position, use, size and scale of its rooms, are reasonably well preserved. As such, notwithstanding the various changes that have occurred, I am satisfied that the overall hierarchy of spaces within the dwelling has not been significantly altered and that this continues to make a major contribution to the significance and historic character of the listed appeal building.
10. The details provided indicate that the provision of relatively plain ancillary accommodation above and below the ornate principal rooms on the ground and first floor of the house reflects the typical layout and plan form of this design of dwelling. However, there is nothing substantive before me to indicate that a further level of below-ground accommodation would be appropriate to its historic character. The proposed extension would markedly increase the overall amount of accommodation within the house and considerably increase the proportion of ancillary service space provided in relation to the remainder

of the property. As such, it would materially alter the overall layout and carefully considered form of the building and, as a result, upset its finely balanced hierarchy of spaces. Given the important contribution made by these elements to the special interest of the building, I consider that the impact of the proposal on its significance would be materially harmful.

11. The new sub-basement level would be of a simple and plain ancillary character, without architectural embellishment and primarily used for storage. It would not be visible externally and would necessitate only relatively limited alterations to the fabric of the building, within the existing basement. Furthermore, given its location, the introduction of a second staircase at this level, would not fundamentally alter the circulation space within the remainder of the house. I note too that English Heritage did not object to the proposal. However, none of these matters, either individually or cumulatively, leads me to alter my findings above.
12. Concerns have been expressed that the construction of the proposal would have an adverse effect on the structural integrity of the appeal building, or lead to problems with ground conditions or flooding, potentially harming other listed buildings nearby. Similar problems with other buildings elsewhere have been drawn to my attention. However, whilst I have no reason to doubt that these have occurred, I have only relatively limited information about those schemes and the background to those issues. In this case, a number of detailed documents have been provided in support of the proposal, to demonstrate that the scheme could be constructed without having an adverse effect on these matters. I note too that no objection to the structural methodology statement was raised by the Council's building control team. Accordingly, overall and on the balance of the evidence before me, I am satisfied that the concerns raised in these respects should not count against the scheme. Nonetheless, this matter does not address the finding of harm above.
13. Consequently, overall and for the above reasons, I conclude that whilst the proposal would not have an adverse effect on the setting of the building, or the setting of other listed buildings nearby, the proposed alterations would not preserve the special architectural and historic interest of the listed appeal building. As such it would be contrary to the *Westminster City Plan: Strategic Policies 2013* Policies S25 and S28 and the *Westminster City Council Unitary Development Plan 2007* Policy DES10, where they seek to protect the historic environment. It would also not meet the underlying aims of the Council's recently adopted *Supplementary Planning Document on Basement Development in Westminster*, where it seeks to ensure that such alterations do not adversely affect the significance of listed buildings.
14. Reference has also been made to the Council's emerging policy CM28.7 on basement development. I understand that this is at a relatively early stage of the development plan process and, as such, it is liable to change. Accordingly, this considerably limits the weight that I give to it. Nonetheless, it also seeks to protect heritage assets and not unbalance the original hierarchy of spaces within a listed building, where this contributes to significance. As such, it does not lead me to alter my conclusions above.
15. I have found that the proposal would result in harm to the significance of the listed building, to which I give considerable importance and weight. However, the proposed alterations would not lead to the loss of the building or its

important architectural features. Consequently, whilst the harm to the heritage asset would be material, it would be less than substantial.

16. Paragraph 134 of the *National Planning Policy Framework* (the Framework) requires that, in the case of designated heritage assets, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The main public benefit resulting from the scheme would be the provision of additional accommodation within an existing dwelling that is located within easy reach of a range of local services and facilities. Given the encouragement in the Framework to deliver a wide choice of high quality homes, I give this benefit moderate weight.
17. It is not disputed that the current use of the appeal building as a dwelling is its optimum use. Nonetheless, whilst I acknowledge that the provision of additional accommodation would be beneficial to the appellant, there is nothing before me to indicate, nor do I consider, that the resulting increased space would be necessary in order to sustain the long-term viable residential use of the building. Paragraph 132 of the Framework advises that great weight should be given to the conservation of a heritage asset in considering the impact of a proposal on its significance. It goes on to advise that significance can be harmed or lost through alteration of a heritage asset and, as these assets are irreplaceable, any harm or loss should require clear and convincing justification.
18. In this case, for the above reasons, I conclude that such justification has not been demonstrated and the benefits of the proposal would not outweigh the harm identified to the significance of the heritage asset. The appeal scheme would not, therefore, meet the aims of section 12 of the Framework, or those of paragraph 17, to conserve heritage assets in a manner appropriate to their significance.

#### *Other matters*

19. The evidence suggests that the storage space currently available within the house does not meet the needs of the appellant. The location of the site and the special interest of the building are such that the provision of the amount of additional space proposed in another form may be difficult to achieve. Nonetheless, whilst the appeal building is a relatively modest example of this type of dwelling in this location, it is a sizeable property, with several rooms on each floor, providing some scope for flexibility of use. Although I have no doubt that the additional accommodation proposed would be desirable for the appellant, I am satisfied that it would not be essential in order to provide adequate living space. Moreover, I am mindful that the changes proposed would be permanent in their effect, whereas the needs of its occupier may change over time or from one occupant to the next. As such, overall, I consider that these benefits are not sufficient to outweigh the harm identified above.
20. My attention has been drawn to a previous proposal for a subterranean extension to the dwelling and, in addition to the Council's reasons for refusal of that scheme, to the informative comments provided in that decision notice. These comments are capable of different interpretation and it is a matter of dispute between the main parties whether or not the appeal scheme follows the advice provided. On the evidence before me, I am not persuaded that it would be appropriate to interpret the comments provided previously, on a materially

different scheme, as supportive of the approach taken with the current appeal proposal. However, even if they were to be interpreted in this way, this is not a compelling reason to allow a scheme that would cause harm.

21. Details of approvals of other basement extensions elsewhere have also been provided. I do not have full details of all those schemes or the background to all those decisions. Nonetheless, from the information available to me, there would appear to be material differences between those proposals and the current appeal scheme, in terms of the age, condition and significance of the buildings and the nature of the alterations proposed. As a result, I do not regard these other examples as directly comparable with the appeal before me, which I have considered on its merits and in light of all representations made.

### **Conclusions**

22. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Anne Napier-Derere*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

Mr Johan Eliasch	Appellant
Mr Edward Kitchen	Montagu Evans, Planning Consultant
Mr Paul Kessler-Lyne	Montagu Evans, Planning Consultant
Mr Rob Walker	Cranbrook Basements
Mr Kevin O'Connor	Cranbrook Basements
Mr Steve Masters	Structural Engineer

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr Matthew Pendleton	Area Design and Conservation Officer
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### **INTERESTED PERSONS:**

Mr Rob Jenkins	Senior Building Surveyor, Grosvenor Estates
Mr Nigel Hughes	Estates Surveyor, Grosvenor Estates

## **DOCUMENTS SUBMITTED AT THE HEARING**

1. Copy of previous application, Ref 08/02010/LBC
2. Signed copy of the Statement of Common Ground, dated 3 December 2014

If you require an alternative accessible version of this document (for instance in audio, Braille or large print) please contact our Customer Services Department:

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