



Appeal Decisions

Hearing held on 30 April 2013

Site visit made on 30 April 2013

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 4 June 2013

Appeal A: APP/X5990/E/12/2184334

The Tea Clipper, 19 Montpelier Street, London SW7 1HF

- 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 Aldenberg Investments against the decision of City of Westminster Council.
 - The application Ref 11/11370/LBC, dated 22 November 2011, was refused by notice dated 31 May 2012.
 - The works proposed are the erection of a single storey extension at the rear first floor level with a terrace above; erection of a roof extension to provide third floor accommodation; associated internal alterations including the removal and addition of partitions.
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Appeal B: APP/X5990/A/12/2184336

The Tea Clipper, 19 Montpelier Street, London SW7 1HF

- 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 Aldenberg Investments against the decision of City of Westminster Council.
 - The application Ref 11/11369/FULL, dated 22 November 2011, was refused by notice dated 31 May 2012.
 - The development proposed is the use as a single family dwelling; erection of a single storey extension at the rear first floor level with a terrace above; erection of a roof extension to provide third floor accommodation; associated internal alterations including the removal and addition of partitions.
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Decisions

Appeal A

1. The appeal is allowed and listed building consent is granted for the erection of a single storey extension at the rear first floor level with a terrace above; erection of a roof extension to provide third floor accommodation; associated internal alterations including the removal and addition of partitions at The Tea Clipper, 19 Montpelier Street, London SW7 1HF in accordance with the terms of the application Ref 11/11370/LBC dated 22 November 2011 subject to the conditions set out in Schedule 1 of this decision.

Appeal B

2. The appeal is allowed and planning permission is granted for the use as a single family dwelling; erection of a single storey extension at the rear first

floor level with a terrace above; erection of a roof extension to provide third floor accommodation; associated internal alterations including the removal and addition of partitions at The Tea Clipper, 19 Montpelier Street, London SW7 1HF in accordance with the terms of the application, Ref 11/11369/FULL, dated 22 November 2011, subject to the conditions set out in schedule 1 of this decision.

Main Issues

3. The main issues in these appeals are as follows:

- The effects of the proposal on the Central Activities Zone (CAZ)
- The effects of the proposal on the special interest of the listed building and the character and appearance of the conservation area
- Consideration of the viability of a public house use

Reasons

The Effects of the proposal on the CAZ

4. As defined within the Council's Unitary Development Plan (UDP), the site is outside the CAZ. However, the boundary of the CAZ has been amended within the more recently adopted Core Strategy (CS), which conforms with the definition in The London Plan, and now includes the appeal site within it. In these circumstances I consider that the UDP is out of date in respect of this matter and the provisions of the more recently adopted London Plan and CS should be afforded more weight.
5. Policy CS1 of the CS relates to mixed uses within the CAZ and seeks to encourage development which manages its heritage and supports its living, working and visiting populations. The supporting text of Policy CS1 sets out that the Council wishes to accommodate the various economic functions that contribute to the world-class city status and to build sustainable residential communities. It adds that "the primary aim of the policy is to maintain and enhance the character and function of the CAZ in Westminster by increasing residential uses alongside increases in commercial uses".
6. Generally, the Council have recognised that there is a need for family sized residential accommodation within Westminster. The UDP identifies the area within which the appeal site sits as one where single family houses will be protected from conversion. Whilst I acknowledge that the appeal property is not a dwelling at present, the policy intention is to retain family dwellings and the proposal would be consistent with its aim in the broadest terms. It would also help to meet one of the aims of Policy CS1 by providing for a residential use within the CAZ, although I reason that a use such as that which currently exists would help to contribute to the character and function of the CAZ also.
7. The National Planning Policy Framework (the Framework) seeks, amongst other things, to promote healthy communities by guarding against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day to day needs. It is notable that the existing public house is one of a number of pubs within a relatively short walk of the area. In addition, other eating and drinking establishments are in abundance. Even taking the definition of 'community' to include all residents, workers and visitors within an area, the evidence submitted and my observations of the

area do not lead me to conclude that the appeal premises is so well used or highly prized that it would reduce the community's ability to meet its day to day needs.

8. Taking these points together, I consider that the proposal would not result in the unnecessary loss of a valued facility and it would provide a form of development for which there is a demonstrable need within Westminster and this locality and is consistent with the CAZ designation. Therefore, there is no conflict with the aims of the policies set out above. The Council have also referred to the draft City Management Plan but acknowledged that only limited weight should be attached to it. I agree with that conclusion and find nothing therein which outweighs my findings in relation to this issue.

The effects of the proposal on the special interest of the listed building and the character and appearance of the conservation area

9. The property dates from the early 19th Century and is an original building within this area. The property is grade II listed and falls within the Knightsbridge Conservation Area. It is said to have been constructed around 1839 and is of London Stock bricks with stucco dressings. At the ground floor the elevation is faced with a timber framing structure. The interior of the building appears to have undergone much alteration; the ground floor is largely open and provides the bar and public area for the pub. The first floor has been unsympathetically divided and altered, including the insertion of partitions and significant works to accommodate a commercial kitchen. At second floor level alterations have formed a rather awkward bathroom and there is some evidence of non-original divisions; however, 2 fire surrounds remain, which are probably original. The stairs leading from the first to the second floor appear to contain some vestiges of the original stairs. I noted that, in general terms, the property is in need of significant refurbishment, particularly of the non-public areas, and many of the windows are in a deteriorated state. Notwithstanding, the form of the exterior, its handsome design and its contribution to the area constitute its special interest. I consider that only traces of the interior are of any interest. The bar area and fittings are reported to be modern, although no date is estimated, and of plywood and do not contribute positively to the special interest of the building.
10. Although there is some degree of dispute, I consider that the evidence suggests that the property was constructed as a public house or tavern, and has been in that use for a significant amount of time. The proposed internal works would result in a significant alteration to the internal layout, but would seek to establish large rooms on the ground and first floors. The existing staircase would be removed and the position of the new one would be on the opposite side of the property. Whether in its original position or not, the existing staircase running across a window appears awkward from inside and outside the building. Given that only traces of the stairs are suggested to be original, I do not consider that the removal and repositioning would compromise the building.
11. At the Hearing the appellant accepted that one of the second floor fire surrounds could be retained in situ and the other could be re-used elsewhere within the building. The proposed replacement of the windows would result in a unified appearance with the same design throughout; a much needed improvement over the existing variety of deteriorating windows. It would also include the removal of obscure glazing to main windows and the extraction unit

which is placed adjacent to one window. The machinery associated with the air-conditioning would also be removed from the roof of the single storey element, which is currently a negative feature of the building.

12. These matters, added to the overall refurbishment of the building that would result, would represent a significant improvement to the existing rather run-down and inappropriately divided building. I see these matters as significant and welcome improvements to the building, which far outweigh any negative aspects associated with the loss of the remains of the stairs and the relocation of one fireplace. In addition, I consider that the proposed roof extension is of an appropriate and unobtrusive design and would help to break up the rather stark appearance of the party wall with the neighbouring property. On balance, the special interest of the building and its contribution to the conservation area would be improved by the proposed physical works.
13. In relation to the character of the use of the building, it is accepted that the cessation of the public house use would bring about a different pattern of use. The character of the conservation area would still retain a degree of vibrancy and vitality brought about by the other eating and drinking establishments and retail and associated uses. This does not rely on the activity generated by the existing use of the building and its loss from this location where the commercial uses give way to largely residential uses would not unacceptably affect the character of the area. The evidence presented at the appeal supports the view that the public house does not form a community focus and so its loss would not deprive the local community of a valued asset.
14. In relation to this issue it is concluded that the proposal would preserve (at least) the special interest of the listed building and would preserve, and in some respects enhance, the character and appearance of the conservation area. Therefore, the proposal is consistent with the aims of Policies CS24 and CS27 of the CS and Policies DES1, DES5, DES6, DES9 and DES10 of the UDP and with the advice in the Council's Supplementary Planning Guidance documents 'Repairs and Alterations to Listed Buildings' and 'Roofs; A Guide to Alterations and Extensions on Domestic Buildings'.

Consideration of the viability of the public house use

15. The only reference to a requirement for non-viability and a marketing exercise for such proposals is within the draft City Management Plan. I consider that very little weight can be attached to the requirements of this document, given the initial stages in its preparation. A point accepted by the Council and added to by the appellant.
16. Notwithstanding the above, evidence is submitted in relation to viability and marketing. There is disagreement in relation to the information submitted; at the least, the Council states that the current business is operating at the lower end of the range of what most operators would be prepared to accept. The appellant offers a more damning assessment of the prospects of the business. Evidence of marketing has been submitted which indicates that efforts have been made to attract other public house operators.
17. Given that there is no absolute policy requirement for tests to be met in relation to these points I see this as a secondary matter. However, the evidence indicates that efforts to sell the property to other operators have been

made and that it is trading, at the very least, on the margins of acceptable returns. In these circumstances, this adds support to the proposal.

Conditions

18. I have considered the conditions suggested by the parties having regard to the advice in Circular 11/95 *'The Use of Conditions in Planning Permissions'*. In order that the proposal has an acceptable appearance and effect on the listed building and conservation area, it is necessary to ensure that the materials and finishes match the existing building or are approved by the local planning authority. In order to preserve the original fire surrounds, as set out above, I shall include an appropriate condition on the listed building consent.
19. Details of cycle storage and the storage of refuse and recycling material should be at an agreed place and in accordance with agreed details in order that these matters have an acceptable effect on the area and building. Taking account of the proximity of other residential properties I agree that a condition which limits the hours of construction works is necessary and reasonable. In the interests of proper planning and for the avoidance of doubt conditions which require the proposal to be implemented in accordance with the approved drawings are necessary, although I shall exclude drawing 470-B-26 as it was agreed at the Hearing that it mistakenly shows existing third floor accommodation, where in fact there is none.
20. The Council have asked that conditions should be included which require that the proposed extension is set back to align with the neighbouring property at No 21 Montpelier Street and that the proposed roof terrace is set further away from the common boundary with No 21. In relation to the extension, it would project only a small distance beyond the rear of No 21 and this would not be sufficient to adversely affect the living conditions of the neighbouring residents. Given the variety of built form at the rear of these buildings, the failure of the building to align with its neighbour would not give rise to any visually disruptive effects. Therefore, such a condition is not necessary.
21. In relation to the roof terrace, it would be possible for residents of the appeal site to stand on the proposed roof terrace and see the upper parts of the conservatory at No 21. However, from my observations on site and the representations made, it would seem that such a view would be very limited and would be insufficient to give rise to harmful overlooking and so I shall not include the suggested condition.

Conclusion

22. Account has been taken of all other matters raised, including the written views of local residents and for the reasons set out above, it is concluded that the proposal would have no unacceptable effects on the building, the area or the local community. Therefore, the appeals are both allowed.

S T Wood

INSPECTOR

Schedule 1: Conditions

Appeal A

- 1) The works hereby authorised shall begin not later than 3 years from the date of this consent.
- 2) All new works inside and outside the building shall match the existing original adjacent work in terms of the choice of materials, method of construction and finished appearance, unless otherwise shown on the approved drawings or agreed under other conditions attached hereto.
- 3) Details and samples (where appropriate) of the following items should be submitted to and approved in writing by the local planning authority prior to the commencement of works; the proposed roof slates; the new replacement windows (including elevation and detail drawings); the enclosure for the roof terrace; the door onto the roof terrace; the replacement rear gate/door onto Montpelier Place. The works shall be undertaken in accordance with the approved details.
- 4) The existing fire-surround on the second floor in the room proposed as 'bedroom three' shall be retained in its current position within the proposal. The existing fire-surround which is to be removed from the second floor rear room shall be re-used within the proposed conversion of the building in a location to be first agreed in writing by the local planning authority.
- 5) The works hereby permitted shall be carried out in accordance with the following approved plans: 470-P-01; 470-P-02; 470-P-03; 470-P-04; 470-P-05; 470-B-06; 470-P-07; 470-P-08; 470-P-09; 470-P-10; 470-P-22; 470-B-23; 470-B-24; 470-B-25; 470-P-27; 470-P-28 and 470-P-29, unless otherwise required by details approved in respect of other conditions attached to this consent.
- 6) Demolition or construction works shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays nor at any time on Sundays or Bank Holidays.

Appeal B

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) All new works inside and outside the building shall match the existing original adjacent work in terms of the choice of materials, method of construction and finished appearance, unless otherwise shown on the approved drawings or agreed under other conditions attached hereto.
- 3) Details and samples (where appropriate) of the following items should be submitted to and approved in writing by the local planning authority prior to the commencement of the development; the proposed roof slates; the new replacement windows (including elevation and detail drawings); the enclosure for the roof terrace; the door onto the roof terrace; the replacement rear gate/door onto Montpelier Place. The development shall be undertaken in accordance with the approved details.
- 4) The development hereby approved shall be carried out in accordance with the following approved plans: 470-P-01; 470-P-02; 470-P-03; 470-

P-04; 470-P-05; 470-B-06; 470-P-07; 470-P-08; 470-P-09; 470-P-10; 470-P-22; 470-B-23; 470-B-24; 470-B-25; 470-P-27; 470-P-28 and 470-P-29, unless otherwise required by details approved in respect of other conditions attached to this permission.

- 5) Demolition or construction works shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays nor at any time on Sundays or Bank Holidays.
- 6) No development shall take place until details of cycle storage have been submitted to and approved in writing by the local planning authority. The cycle storage shall be provided in accordance with the approved details before the building is first occupied and shall thereafter be retained in the approved form.
- 7) No development shall take place until details of the storage of refuse and recycling materials have been submitted to and approved in writing by the local planning authority. The storage shall be provided in accordance with the approved details before the building is first occupied and shall thereafter be retained in the approved form.

APPEARANCES

FOR THE APPELLANT:

S Wallis	Savills
K Anthony	Savills
R Ground	Barrister
K Gumbrell	Convivial London Pubs plc
P Crisp	Turley Associates
T Watson	Davis Coffey Lyons

FOR THE LOCAL PLANNING AUTHORITY:

R Handley	Senior Planning Officer
T Burke	Area Design and Conservation Officer
W Cuthbert	Fleurets

DOCUMENTS

- 1 Compilation of relevant policies
- 2 Plan extract from UDP
- 3 Policy H5 of UDP
- 4 Extracts from Conservation Area Audit; Knightsbridge
- 5 Schedule of works