



PLANNING SERVICES

TOWN & COUNTRY PLANNING ACT 1990 (as amended)

APPEAL HEARING

STATEMENT OF CASE

APPEAL SITE 47 Great Russell Street, London WC1B 3PA

APPELLANT Mr Roger England

SUBJECT OF APPEAL

- Enforcement notice requiring removal of unauthorised trellis screens and hardwood decking from rear 1st floor flat roof area and the unauthorised railings from the associated access bridge, in connection with the creation of a roof terrace.

COUNCIL REFERENCE: EN16/0676

PLANNING INSPECTORATE REFERENCES: APP/X5210/C/18/3198458

(NB: There is a concurrent appeal, ref 3198346, regarding the Enforcement Notice for cessation of use of two front ground floor rooms as residential accommodation. This is subject of a separate statement and is to be heard at the same hearing).

1.0 SITE AND SURROUNDINGS



Photo above shows frontage of site

1.1 The site comprises a four-storey building with a basement level which is grade II listed and forms part of a significant row of terraced buildings (No's 43–48 Great Russell Street) dating from 1855-64, the properties in this section of terrace are all listed as are the adjacent terrace in Museum Street. The site is located on the southern side of Great Russell Street, close to the junction with Museum Street (to the east). Adjoining to the west are similar properties with ground floor retail, to the east are the rear of properties fronting Museum Street and to the north, beyond Great Russell Street, is the British Museum. The property is located within the Bloomsbury conservation area.

1.2 The upper floors and the ground floor rear and basement are in lawful residential use whilst the ground floor front authorised use is retail, although it has not been used as such in some time.

2.0 RELEVANT PLANNING HISTORY

- 2.1** N14/28/8/18582 - The change of use of the ground floor at 47, Great Russell Street, WC1 from shop to offices. Refused 14/06/1974.
- Reasons for refusal: 1. The proposed development involves an increase in office accommodation contrary to the Council's policy of restricting the growth of such space in Central London, as expressed in the Written Statement of the Initial Development Plan. 2. The proposed change of use involves the loss of a retail unit which the Council considers desirable in this location.
- 2.2** 2011/2850/P - Change of use and works of conversion from offices (Class B1) to dwelling house (Class C3) including removal of pitched roof to create roof terrace with stair enclosure, balcony at rear first floor level, removal of roof to rear extension to create walled garden and installation of railings to front lightwell. Withdrawn 12/09/2012.
- 2.3** 2011/2851/L - Internal and external alterations including removal of pitched roof to create roof terrace with stair enclosure, balcony at rear first floor level, removal of modern roof to rear extension to create walled garden and installation of railings to front lightwell in connection with change of use from offices (Class B1) to single dwelling house (Class C3). Withdrawn 12/09/2011.
- 2.4** 2011/5134/P - Change of use from office (Class B1) to residential (Class C3) at basement, first, second and third floor levels and change of use of the ground floor (rear proportion and hallway) from part shop (Class A1) and office (Class B1) to residential (Class C3) with the front proportion of the ground floor to remain as a shop use. The proposed C3 use would create a 2 bedroom residential dwelling and would incorporate alterations to the internal fabric and fenestration, a new rear terrace at first floor level, a rear terrace at roof level and removal of the roof to existing rear building to create walled garden. Granted following completion of S106 Legal Agreement 09/12/2011.
- 2.5** 2011/5135/L - Internal and external alterations including installation of a rear roof terrace at first floor level, installation of internal stair and removal of modern

roof to rear extension to create walled garden in connection with change of use from part offices (Class B1) and shop (Class A1) to single dwelling house (Class C3). Granted 07/12/2011.

- 2.6 2012/1356/P - Change of use of front portion of ground floor level from shop (Class A1) to additional residential accommodation (Class C3). Refused 24th April 2012. Appeal dismissed 15th March 2013.
- 2.7 2012/1360/NEW - Internal alterations to include the addition of a WC and sound proofing to the flooring in connection with the change of use from part shop (Class A1) to residential (Class C3) at ground floor (front proportion). Submitted 27/02/2012 withdrawn 06/03/2012.
- 2.8 2013/3219/NEW - Change of use of 34.5m2 of ground floor from art gallery (Class D1) to residential (Class C3). Appeal for non-determination dismissed 21/02/2014.
- 2.9 2013/3439/NEW - Change of use of 34.5m2 of ground floor from art gallery (Class D1) to residential (Class C3). Submitted 24/05/2013, withdrawn 11/06/2013.

Applications subject of this appeal

- 2.10 The following decisions regarding retrospective applications for work already under taken are subject of this appeal.
- 2.11 2016/3473/P - Creation of roof terrace on existing single-storey rear extension, including installation of perimeter trellis screens around terrace, glazed timber skylights on roof and railings on existing access bridge (retrospective). Refused & Enforcement Notices issued 12/10/2017.

- 2.12 2016/4570/L - Installation of perimeter trellis screens around roof of rear extension, glazed timber skylights on roof and railings on existing access bridge, in association with creation of roof terrace on existing single-storey rear extension (retrospective). Refused 02/10/2017
- 2.13 EN16/0676 – on 7/02/18 an Enforcement Notice was issued for the above works which are: the unauthorised installation of trellis screens and hardwood decking on the roof of the outbuildings at rear 1st floor level, and the unauthorised installation of railings on the access bridge, in connection with the creation of a roof terrace on following grounds:
- 1) It appears that the breach of planning control has occurred within the last 4 years and
 - 2) The use of the rear flat roof terrace with associated perimeter screens, decking and access railings, by reason of overlooking , noise and disturbance results in an unacceptable loss of amenity to neighbouring residential occupiers in Great Russell Street and Museum street. This is contrary to policy A1(Managing the impact of Development) of the London Borough of Camden Local Plan 2017 and
 - 3) The trellis screens, by virtue of size, location and detailed design, are considered to be incongruous additions to the rear of the property and have detrimental impact on the character and appearance of the host building, the setting of the host and adjacent listed buildings, and the character and appearance of the wider Bloomsbury Conservation Area. This is contrary to policies D1(Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.

The Enforcement Notice requires that within two months of the Notice taking effect:

- 1) Remove permanently the unauthorised trellis screens and hardwood decking from rear flat roof first floor area and the unauthorised railings

from the associated access bridge and make good any damage within 2 months of the date of this notice.

The Notice was to take effect on 21st March 2018 unless an appeal was made against it before hand.

3.0 PLANNING POLICY FRAMEWORK

3.1 The text of the policies has been submitted with the questionnaire. The merits of the case have been considered in detail and assessed in the officer's delegated report which was also submitted with the questionnaire.

3.2 The delegated report also covers the concurrent appeal regarding the use of the front of the ground floor for residential use instead of retail use. The relevant Local Plan policies that the subject appeal regarding the unauthorised terrace was assessed against in the delegated report are extracted below.

- A1 Managing the impact of development
- D1 Design
- D2 Heritage

Supplementary Planning Guidance

3.3 The following extracts the relevant CPGs that the works were assessed against in the delegated report:

- CPG6 – Amenity (2013)
- CPG1 (Design) 2015 – chapters 2 (Design excellence) and 3 (Heritage).

These Supplementary Planning Documents were adopted following extensive public consultation.

3.4 Conservation area guidance

- Hampstead Conservation Area Appraisal and Management Strategy (2011)

Other policy documents

- National Planning Policy Framework (2012)
- National Planning Policy Framework (2018)
- London Plan (2016)
- Draft New London Plan (2017/2018)

4.0 SUBMISSIONS

Grounds of appeal

- 4 There are two grounds of appeal: grounds (a) and (f). Ground (a) is that planning permission should be granted for what is alleged in the notice and Ground (f) is that the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.
- 4.1 The council submits that the trellis is unacceptable in historic building and conservation terms. In addition, the roof terrace created with the perimeter trellis screens, decking and access railings results unacceptable loss of amenity to nearby occupiers by reason of overlooking, noise and disturbance. It is thus considered that enforcement action should be taken to remove these features.
- 4.2 The delegated report sets out the council's case and is summarised as follows. The Council's case is further amplified in the section addressing the appellant's grounds of appeal.

Design

4.3 This is an important site, being a grade II listed building within a terrace of listed buildings located within the Bloomsbury Conservation area. The Council policies state that it will not permit the loss of or substantial harm to a designated heritage asset, including conservation areas and listed buildings.

4.4 Local Plan Policy D1 (Design) establishes that careful consideration of the characteristics of a site, features of local distinctiveness and the wider context is needed in order to achieve high quality development in Camden which integrates into its surroundings. It advises that “all developments, including alterations and extensions to existing buildings, to be of the highest standard of design”, and expects all development to specifically consider:

- the character, setting, context and the form and scale of neighbouring buildings;
- the character and proportions of the existing building, where alterations and extensions are proposed;
- the prevailing pattern, density and scale of surrounding development;
- the impact on existing rhythms, symmetries and uniformities in the townscape;
- the composition of elevations.

4.5 Local Plan policy D2 (Heritage) establishes that the Council will not permit the loss of or substantial harm to a designated heritage asset and states that the council will;

(e) require that developments within conservation areas preserve or, where possible, enhance the character or appearance of the area; and

(j) resist proposals for change of use or alteration and extensions to a listed building where this would cause harm to the special architectural and historic interest of the building.

- 4.6 The new roof terrace is located at rear 1st floor level on the roof of a modern single storey extension. Planning permission and listed building consent were granted in 2011, para 2.4, to remove the roof of this extension to create a walled garden at ground floor level. The applicant however did not remove this roof and instead created amenity space at first floor level. To ensure privacy and safety he has erected large garden trellis screens around the boundary of the terrace. He has also replaced two asbestos skylights with glass and lead replica roof lanterns and improved a small iron bridge to the roof terrace through the installation of replica metal spindles and handrail. Timber decking has also been laid on the roof terrace although it did not specifically form part of the planning and listed building application.
- 4.7 The roof terrace is surrounded to the west by the rear of other properties in Great Russell Street and to the east by the rear of properties fronting Museum Street. Nearly the entire rear yard areas of these surrounding properties in Museum, Great Russell, Little Russell and Coptic Streets have been built over with single storey structures; they are all unsympathetic modern additions similar to the one at 47, many with prominent raised glass roofs. No. 47 however is the only one with a terrace at this level.
- 4.8 It is considered that these large garden-type trellis screens are an incongruous addition at this level and, in this built-up context, not found on any other rear extension here. They are considered to detract from the special character of the property and fail to enhance the surrounding Bloomsbury conservation area.
- 4.9 Although the rear yard area of these listed buildings has many modern additions that add nothing to the special architectural and historic character of the area, these are not however a justification for unsympathetic development especially as the rear of the properties mostly still contain their period portions and features like timber sash windows. Clearly the courtyards behind these houses do not retain their original character. Over the years, the area became commercial. The once grand houses lost their ground floors to shops and the yards were infilled

by tradesmen. This resulted in an essentially consistent roofscape of factory roofs and lanterns infilling the spaces behind.

4.10 It is considered the unauthorised highly visible and unsympathetic works disrupt the consistency of that historic development to the detriment of the setting of all the surrounding listed buildings. The large, modern, garden trellis panels that have been erected along the northern and western boundary of the roof terrace and the use of the terrace at this level with the associated garden furniture detract from the special architectural and historic character of this grade II listed building and the surrounding Bloomsbury conservation area.

4.11 Special regard has been attached to the desirability of preserving the listed building, its setting and its features of special architectural or historic interest, under s.16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013. Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area, under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

4.12 It is acknowledged that the unauthorised rooflights are considered to be acceptable, given the existence of numerous other larger glazed roofs to lanterns and conservatories on neighbouring properties. The timber and glass 'period' style rooflights are an improvement in design terms on the two glass-fibre domed skylights previously located there.

4.13 Likewise, the 'period' style spindles and handrail to the small bridge crossing to this 1st floor flat roof area from the main house are considered acceptable in design terms themselves and are an improvement on the crude type of handrail used before.

- 4.14 It is also acknowledged that the decking in itself does not cause any harm to the character and appearance of the host building and conservation area. However, the railings and decking are unacceptable in that they enable access to and the use of the roof for an amenity terrace which creates problems of loss of amenity-see amenity section below.

Amenity

- 4.15 The Council's policies seek to protect the amenity of its population. The site lies within close proximity of many residential properties. This is shown in the photographs in the appendix below.
- 4.14 Local Plan policy A1 (Managing the impact of development) seeks to ensure the amenity of neighbours is protected and factors to consider include overlooking and noise. In addition, CPG6-Amenity recognises that roof terraces need to be carefully designed to avoid overlooking.
- 4.15 The rear 1st floor terrace is surrounded by and in close proximity of the rear elevations of many other properties, many of which at this level are residential. Overlooking to all surrounding properties is unavoidable with a terrace in this location, although properties further south and west are too far away to be directly affected. In particular direct overlooking is possible to rear upper floor windows of nos. 29-34 Museum St and more angled views are possible back into rear windows of no.45-47 Gt Russell St. Although privacy trellis screens have been erected, they do not mitigate the harm caused because upwards views to upper level windows are still possible. The terrace area is also very large and able to accommodate large gatherings and parties of people and thus could cause disturbance through noise to neighbouring residential occupiers. The decking and bridge access is considered to facilitate this use of the flat roof as a terrace and as such is not acceptable and an enforcement notice should be issued to have these elements removed.

4.16 It is considered that this outdoor amenity space directly outside neighbouring residential properties has the potential to reduce amenity for these neighbours from noise pollution and loss of privacy from the use of the terrace, contrary to policy A1.

4.17 The use of the terrace can unacceptably reduce the amenity of directly adjoining residential neighbours through overlooking and disturbance through noise. This harm cannot be completely alleviated by the use of privacy screens, which are in themselves unacceptable in heritage terms. The use of the terrace (enabled by decking and access bridge) is not acceptable.

5. **Grounds of appeal (a)**

5.1 The appellant's grounds of appeal on ground (a) are structured under four sections: visual effect of the trellis, effect on neighbour's amenity and use of the roof as a terrace and conditions. Points which clearly need to be addressed, and not discussed elsewhere, are identified and assessed below under relevant headings.

Design: Visual effect of the trellis

5.2 At 4.14, the appellant states that his neighbours do not object to his trellises. However, protecting the historic environment is fundamental to town and county planning and, notwithstanding the opinion of the appellant's neighbours, the Council considers that the trellises cause harm both to the surrounding listed buildings and to the conservation area.

5.3 At 4.22, the appellant states that other trellis exists in the area. However, the first-floor trellis consented at 31 Museum Street in 2011 was associated with a small, pre-existing amenity area at first-floor level. This small terrace is shown in photograph 1 in the appendix below. It is clearly different from the appeal terrace. This trellis is tucked in tightly to the building and is considerably more hemmed

in, particularly by a large wall to the south. This is in contrast to the appellant's trellis, which projects deep beyond the rear of the building into the central open area – almost the full size of the plot - and winds around neighbouring structures in an obtrusive way. As the appellant notes at 4.24, his trellis is “detached from the main body of the building”, making it more prominent and more of a significant visual element in the roofscape.

There are two reasons why this is inappropriate: firstly, the trellis is uncompromisingly modern in its design and so jars with its surroundings. However, trellis of any design, with or without ivy, would be incongruous in this location; this is not a suburban garden.

5.4 The appellant notes at 4.25 that the courtyards have been infilled. Clearly the courtyards behind these houses do not retain their original character. Over the years, the area's fortunes changed and it became commercial. The once grand houses lost their ground floors to shops and the yards were infilled by tradesmen. This resulted in an essentially consistent roofscape of factory roofs and lanterns infilling the spaces behind. And this was the long-established condition when the houses were listed – maps of 1875 show the yards as infilled. The appellant's highly visible and unsympathetic works disrupt the consistency of that historic development to the detriment of the setting of all the surrounding listed buildings.

5.5 Nor should it be imagined that the original character of the rear spaces before they were infilled was that of a suburban garden, with ivy-clad trellises and decking, such as maybe envisioned at para 4.28. In fact, as the list description explains (referring to “former service areas”), they would have been mere yards, utilitarian areas where the outdoor work of the house would have been carried out - polishing saddlery, drying washing, blacking boots. The spaces were not amenity spaces. The later roofscape of parapets, asphalt and lanterns is true to that origin and, above all, remains consistent. What the appellant wishes to install would never have been appropriate to the site, even at ground-floor level, and is especially inappropriate at first-floor level.

5.6 At 4.29, the appellant asserts that the special interest of the buildings does not lie in their rear parts. But, by adding the accoutrements of a garden to this otherwise utilitarian and consistent historic environment, the appellant has harmed the special interest of the listed building and its setting and that of those around it.

The logical implication of his alteration is that all the surrounding houses should be allowed to benefit from extensive first-floor gardens and this would completely obscure the original form of the houses and their relationships with the ground floor yards.

5.7 Contrary to the appellant's statement at para 4.30, the conservation area is appreciated from within the houses as much as from outside them. In this regard, as pointed out above, the addition of the trellises alters the character of the area when viewed from the surrounding houses, from an austere semi-industrial one to the kind of view one might see from a completely different type of house in a very different area.

Impact on amenity

5.8 In paras 4.2 - 4:11 it is argued that the existing roof prior to the unauthorised works could have been used as a terrace. It is noted however, that no details or evidence has been submitted regarding the previous state of the roof and its suitability for use as a terrace. Furthermore, it is unlikely that the roof without the addition of improved design, raised flooring, access and safety measures would be appealing for use as a terrace. The unauthorised works results in a space that is specifically designed and focused for leisure use, as opposed to a roof with access for maintenance purposes.

5.9 At paras 4.12- 4.17 it is argued that as the roof could be used without the decking or improved stair access and the trellis is an effective screening method. The

Council contend however that the trellis is ineffective in preventing overlooking. See photos in the attached appendix. As will be evident from the appeal site visit, there are numerous windows in surrounding properties that can be overlooked, especially windows situated higher above and given the extreme close proximity. In addition the unauthorised works create real potential for noise and disturbance from occupiers of the terrace both day and night time. There are no other opportunities for such potential disturbance at the rear in proximity. The existing quiet and private nature at the rear of the area could be affected for the residents.

6 **Conditions**

- 6.1 It is suggested at paras 4.31- 4.32 that it would be possible to apply conditions to an approval. The works have already been carried out. Conditions cannot be attached which would control the development or mitigate the harm that has been caused. The Council is unable to suggest any enforceable conditions that would mitigate the impact of the development.

7 **Grounds of appeal (f)**

- 7.1 It is argued at paras 5.1 to 5.14 that it is unnecessary to remove the decking or access railings to comply with the enforcement notice. The Council however maintain that the unauthorised decking and railings both result in promoting the use of the roof as a terrace in this quiet private rear area resulting in harm to local amenity. This is apparent in the photographs in the appendix.
- 7.2 At para 5:15 (1) it is suggested that it would be possible to add a condition requiring planting or to amend the screen to approve its appearance whilst protecting amenity. The Council disagree. Any planting to the trellis would result in further harm to the listed building and conservation area, introducing a garden at first floor level, totally alien to its historic surroundings. Such a condition would also be difficult to enforce.

7.3 At para 5:15 (2) and (3) it is suggested that partial removal of the terrace or partial lowering of the terrace to improve views of the development from individual properties. The council do not consider that this would improve the impact on the listed building or conservation area and that the trellis should be removed in its entirety.

8. **Conclusion.**

8.1 For the above reasons the inspector is asked to dismiss the appeal.

Gary Bakall: 19th September 2018

Appendix of photos attached below.

Appendix: Photographs

Photo 1: showing view from the rear elevation of 47 Great Russell Street, looking directly out to the rear. This shows the new decking on the roof and access bridge (front right), the trellis and access bridge railings. It shows comparison of the new terrace with the existing small terrace 31 Museum Street (to the back left), referred to in para 5.3 above.



Photo 2

This shows the existing small terrace attached at the back of the building, constructed pursuant to permission granted in 2011. See para 2.4 and 2.5 above. NB: it is nestled between the buildings rear closet wings. The two persons also show the capacity for use of the new larger terrace.



Photo 3. This shows the existing small rear terrace nestled between the building's two wings and that there are no amenity implications.



Photo 4. Again this shows the extent of the flat roof and its ability for accommodating persons.



Photo 5. This is taken from the appeal terrace and shows proximity of residential properties that would be effected.



Photo 6. This again is taken from the appeal terrace and shows residential properties in close proximity that would be effected.

