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## Appeal Decision

Site visit made on 24 September 2018

**by Joanna Reid BA(Hons) BArch(Hons) RIBA**

**an Inspector appointed by the Secretary of State**

**Decision date: 1 November 2018**

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### **Appeal Ref: APP/X5210/W/18/3198243**

### **Cyclone House, 27-29 Whitfield Street, London W1T 2AE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Vincent Grebelius of 27-29 Whitfield Property Limited against the Council of the London Borough of Camden.
  - The application Ref 2017/6922/P is dated 15 December 2017.
  - The development proposed is "Change of use of basement, ground and first floor to flexible uses, second floor to B1 office, and a new single-storey roof extension to create additional B1 office space, roof top plant enclosure, façade alterations including new front entrance, replacement windows, and infill of light-well at basement level".
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### **Decision**

1. The appeal is allowed and planning permission is granted for "Change of use of basement, ground and first floor to flexible uses, second floor to B1 office, and a new single-storey roof extension to create additional B1 office space, roof top plant enclosure, façade alterations including new front entrance, replacement windows, and infill of light-well at basement level" at Cyclone House, 27-29 Whitfield Street, London W1T 2AE in accordance with the terms of the application, Ref 2017/6922/P, dated 15 December 2017, subject to the conditions set out in Schedule A at the end of this Decision.

### **Preliminary matters and main issues**

2. The appeal building adjoins 1 Colville Place (the listed building), which is listed in Grade II, and it is situated within the Charlotte Street Conservation Area. As the proposal would be within the setting of the listed building, and within the Conservation Area, I am required to exercise my statutory duties, which attract considerable importance and weight.
3. The Council says that had the Council had the power to determine the application, planning permission would have been granted subject to conditions and a s106 legal agreement. A certified copy of the relevant s106 legal agreement has been submitted during the appeal process.
4. With this in mind, the main issues are:
  - whether the proposed development would preserve the setting of the listed building, and
  - whether the proposal would preserve or enhance the character or appearance of the Conservation Area.

## Reasons

### *Listed building*

5. The mainly 3-storey plus basement mostly flat roofed appeal building is on the south west side of Whitfield Street, near its junction with Goodge Street and by its junction with Colville Place, beyond which is Crabtree Fields. It was formerly a sui generis courier hub and taxi control centre. The appeal building adjoins the 3-storey plus upper floor with roof terrace and basement listed building to the south west, and the 4 and 5-storey building at 19 Goodge Street to the north west. The proposal would include a single storey roof extension with a plant enclosure on its roof. The extension would extend from the front of the upper floor of the listed building to the 5-storey wall of 19 Goodge Street, and the plant enclosure would be sited towards its west corner.
6. The listed building includes a 3 storey maisonette over a gallery at ground floor and in the basement, and it also adjoins 2 Colville Place. The list description explains that the listed building is 'included as an immaculately detailed, minimal house, a rare example of a modernist infill scheme of sophistication and careful taste.' The list description identifies features of the listed building that have led to its inclusion in the statutory list, including its brick exterior with concrete beams, interior layout, fittings and finishes, and its 'infill plot, fifteen feet wide'. These features are important to its special architectural interest and to its significance as a modern infill dwelling and gallery.
7. The listed building respects the width of its plot and the scale and alignment of the nearby historic buildings in Colville Place, but its upper floor, which is set back to provide the roof terrace at the front, is a little taller than those at the 3 nearby buildings to the south west. Because the floor levels in the appeal building broadly relate to those at 19 Goodge Street in Whitfield Street, there is a vertically staggered relationship between the listed building and the appeal building, which can be seen from the different alignment of their windows in the views from Crabtree Fields and the south eastern part of Whitfield Street. This difference is emphasised because the roof of the appeal building is lower than the roof of the top floor of the listed building, so part of the listed building projects above its flat roof.
8. The extension would be a little taller than the listed building but it would not be seen in views out from the top floor of the listed building, and the remaining flat roof area would not become a roof terrace. However, looking back from the front part of the roof terrace at the listed building, part of the extension and the plant enclosure would be seen. Because the proposal would erode some of the present openness at the side of the listed building, its setting would change. Even so, national policy and relevant guidance explain that the setting of a heritage asset is the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
9. Because of its modest scale, and the presence of other roof terraces close by, noise and activity associated with the proposed roof terrace, if controlled by condition, would not materially alter the way that the heritage asset is experienced. Moreover, the changes within the immediate setting of the listed building that the proposal would cause would alter some views from the front

of its roof terrace and from the back of the listed building that its occupiers may enjoy, but they would not affect the appreciation of its significance. The proposal would also alter some of the views of the heritage asset from nearby buildings and spaces, but this would not harm its significance. So, because the proposal would conserve the special architectural interest of the listed building and its significance as a modern infill dwelling and gallery, it would have a neutral effect on, and thus, it would not harm, the setting of the listed building.

10. Therefore, I consider that the proposed development would preserve the setting of the listed building. It would satisfy Policy D2 of the London Borough of Camden *Local Plan* (LP) which reflects the thrust of the statutory duties in respect of heritage assets, and the *National Planning Policy Framework* (Framework) which aims for heritage assets to be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

### *Conservation Area*

11. The London Borough of Camden *Charlotte Street Conservation Area Appraisal and Management Plan* (CAA) explains that the Conservation Area is mainly characterised by its densely developed grid pattern of streets, with few street trees and little open space. The mix of residential and business uses, including small-scale independent shops, cafés, restaurants and public houses, generates a vibrant and lively atmosphere, which is important to its character. The mainly historic architectural styles, forms and features, and the changes that have been made to buildings and spaces over time are important to the appearance of the Conservation Area and to its significance as an area of historic townscape.
12. The CAA describes Whitfield Street as long and relatively narrow with a notable sense of enclosure, continuous frontages of generally 4 to 5 storeys and a largely consistent, strong parapet line, and it notes the greater sense of openness about Crabtree Fields. Whilst almost all of the Colville Place buildings are listed or identified as positive contributors, the CAA does not refer specifically to the appeal building. Due to its present utilitarian post-war character and appearance, it has a neutral effect on the Conservation Area.
13. As the mainly 4-storey proposal would step up towards the taller 19 Goodge Street, it would respect the mostly 4 to 5-storey scale in Whitfield Street, and its form would partly screen the obtrusive brick wall at 19 Goodge Street. As the roof extension would be a little taller than the upper floors of the buildings in Colville Place, it would also reflect the 'book end' effect of the tall parapet at 38 Charlotte Street by 13 Colville Place, at the other end of the terrace.
14. The extension would be seen from the upper floors of many of the nearby buildings but it would be in keeping with the scale of much of the nearby development in Whitfield Street and Goodge Street, and it would not disrupt the mainly historic character in Colville Place. The plant enclosure would be set well back from Colville Place and set back from the Whitfield Street frontage. Because it would be seen in the context of the tall building at 19 Goodge Street, and in the same views as the various roof top additions in Colville Place from Crabtree Fields and the south eastern part of Whitfield Street, it would harmonise with its surroundings, irrespective of the intermittent partial screening effect of the nearby trees. The plant enclosure would also be

glimpsed in upward views from the opposite side of Whitfield Street close by, but its scale, form and low-key appearance would respect its surroundings.

15. Because most of the window openings would be enlarged, the new windows would reflect better the hierarchy in the many C18 and C19 buildings in the Conservation Area. The deeper ground floor windows would allow views into the building from the streets, so the present 'dead' frontages would be enlivened, which would be in character with the mainly glazed frontage of the gallery at the listed building. Whilst the CAA aims to resist the enclosure of light wells, the replacement of the pitched plastic roof with pavement lights would improve its appearance. The brickwork would be cleaned, and its render would be renewed in a more sympathetic colour, so the character and the appearance of the proposal would enhance its surroundings. In consequence, the proposed changes to the appeal building would contribute positively to the significance of the heritage asset as an area of historic townscape.
16. Thus, I consider that the proposed development would enhance the character and the appearance of the Conservation Area. It would satisfy LP Policy D2 and the Framework.

#### *Other matters*

17. Turning to the s106 legal agreement, the site is within a controlled parking zone and it has excellent access to shops, services and public transport. No car parking spaces would be provided, and the proposal would be 'car free'. So, the agreement includes a covenant under s16 of the *Greater London Council (General Powers) Act 1974* and other local authority powers to achieve this aim. The obligation would ensure that, amongst other things, future occupiers would not be entitled (unless they hold a disabled persons' badge) to be granted a business parking permit, or to buy a contract to park within any car park owned, controlled or licensed by the Council, in line with LP Policy T2 which aims for development to be car free.
18. Due to the constraints of the site and its surroundings, servicing and other operations during construction, including deliveries and despatches, could endanger safety and unacceptably disrupt traffic in the nearby pavements and roads. So, the agreement includes obligations for a construction management plan and an associated implementation support contribution to reduce, as far as possible, impacts on and disturbance to the highway network and the surroundings in accordance with the aims of LP Policy A1 to mitigate construction phase impacts, LP Policy T1 to promote sustainable transport, and LP Policy T4 to promote the sustainable movement of goods and materials. As the construction of the scheme would also be likely to result in damage to the public highway by the appeal building, the agreement also includes an obligation for a financial contribution for the Council to undertake public highway works, in accordance with LP Policy A1 and LP paragraph 6.11.
19. The obligations would be necessary to make the development car free and acceptable for highway users during and after the construction phase, and they would be directly related to the development. From the evidence put to me, they would also be fairly and reasonably related in scale and kind to the development. As the s106 legal agreement would meet all 3 statutory tests in Regulation 122(2) of *The Community Infrastructure Levy Regulations 2010* as amended, and Framework paragraph 56, I shall take it into account.

20. The concern raised about the need for office space in the area is not supported by substantive evidence so it attracts little weight. None of the other matters raised outweigh the heritage and planning considerations that have led to my conclusions. Thus, as the proposal would be acceptable, and it would satisfy the Development Plan as a whole, planning permission should be granted subject to the imposition of suitable planning conditions.

#### *Conditions*

21. The Council's suggested conditions have been considered and re-worded in the light of Framework paragraph 55 and Planning Practice Guidance. The condition identifying the approved drawings and documents is necessary for certainty. Conditions for matching materials, and to control external finishes including a sample panel, windows, external doors, balustrades, railings, canopies and light well glazing, are necessary because the site is next to a listed building and within a conservation area. The condition for the green roofs is reasonable in the interests of biodiversity and to control surface water run-off. Conditions to control plant, machinery and equipment related noise and vibration, entertainment and patron noise, amplified music and sound on the roof terrace, use of the roof terrace, use of other flat roofed areas, to control the height of the Juliet balconies, to prevent specific uses, and for some fixed shut obscured glazing and some fixed shut windows, are necessary to protect nearby occupiers' living conditions. The condition for cycle storage is necessary to promote the use of sustainable transport modes, and this pre-commencement condition is necessary so that adequate provision is made before the development starts. All of the Council's suggested conditions have been imposed.

#### **Conclusion**

22. For the reasons given above and having regard to all other matters raised, the appeal succeeds.

*Joanna Reid*

INSPECTOR

## **Schedule A**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the development hereby approved.
- 3) The development hereby permitted shall be carried out in accordance with the following approved drawings and documents:  
51517-P-01 rev D, 51517-P-10 rev C, 51517-P-11 rev C,  
51517-P-12 rev C, 51517-P-13 rev C, 51517-P-14 rev E,  
51517-P-20 rev D, 51517-P-21 rev C, 51517-P-22 rev E,  
51517-P-23 rev H, 51517-P-24 rev I, 51517-P-25 rev L,  
51517-P-26 rev I, 51517-P-30 rev D, 51517-P-31 rev C,  
51517-P-40 rev G, 51517-P-41 rev I, 51517-P-50 rev D,  
51517-P-51 rev F, 51517-P-60 rev K, 51517-P-61 rev L, Heritage and Townscape Report dated October 2017, Design and Access Statement dated 15 December 2017, Planning Statement dated December 2017, letter ref OBS/RJA/DP4142 dated 15 December 2017, Noise and Vibration Assessment ref 14907.NVA.01.Rev A dated 22 November 2016, Planning Compliance Report ref 14907.PCR.01.Rev B dated 10 March 2017 and Daylight and Sunlight Study dated 28 October 2016.
- 4) Before the relevant part of the work is begun, detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority: a) manufacturer's specification details and a sample panel (of no less than 1m x 1m) of the proposed new and replacement facing materials demonstrating the proposed composition, colour, texture and finish of render, b) Details including sections at 1:10 of all windows (including jambs, head and cill), external doors, balustrades, railings, canopy and light well glazing. The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.
- 5) The external noise level emitted from plant, machinery or equipment at the development hereby approved shall be lower than the lowest existing background noise level by at least 10dBA (15dB if tonal components are present) as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity.
- 6) Prior to use, plant or equipment and ducting at the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced and maintained as such.
- 7) No entertainment noise or patron noise emanating from the development shall be audible within any noise sensitive premises between 2300 hours and 0700 hours.
- 8) No amplified music or sound shall be played on the terrace at any time.
- 9) Details of the green roof in the areas indicated on the approved roof plans (rear 1st floor and front 3rd floor) shall be submitted to and approved in writing by the local planning authority before the relevant

part of the development commences. Details of the green roof provided shall include: species, planting density, substrate and a section at scale 1:20 showing that adequate depth is available in terms of the construction and long term viability of the green roof, as well as details of the maintenance programme for the green roofs. The building shall not be occupied until the approved details have been implemented and these works shall be permanently retained and maintained thereafter.

- 10) The use of the 4th (top) floor roof terrace hereby permitted shall be restricted to the following times: 0800 hours to 1800 hours Mondays to Fridays. The terrace shall not be used on Saturdays, Sundays and Bank Holidays.
- 11) The rear 1st and 2nd floor roofs and the front 3rd floor roof area shall not be used other than for maintenance and emergency, and shall be maintained and retained as such.
- 12) Notwithstanding the details shown on Drawing 51517-P-61 rev L hereby approved, the lower part of the 4 x windows facing the rear of Colville Place and rear of Goodge Street shall be obscurely glazed, permanently fixed shut and non-openable in perpetuity to a height of 1.1 m from internal finished floor level.
- 13) Notwithstanding the provisions of Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification, the premises shall not be used as an educational institution or place of worship.
- 14) Notwithstanding the details shown on Drawing 51517-P-61 rev L hereby approved, the railings to the 2 x sets of French doors facing Colville Place at 3rd floor level shall be installed to a height of 1.1 m from internal finished floor level and retained and maintained as such in perpetuity.
- 15) The 2 x ground floor windows facing Colville Place shall be permanently fixed shut.
- 16) Before the development commences, details of the secure and covered cycle storage area for 5 cycles as indicated within the lower ground floor shall be submitted to and approved in writing by the local planning authority. The approved cycle storage area shall thereafter be provided in its entirety prior to the first occupation of any of the new units, and shall be retained as approved for use as such thereafter.

End of Schedule A