
Appeal Decision

Site visit made on 12 January 2015

By Paul Griffiths BSc(Hons) BArch IHBC

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

Decision date: 10 February 2015

Appeal Ref: APP/X5210/A/14/2228630

42 & 42A Bedford Square and 13 Bedford Avenue, London WC1B 3DP

- 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 Classic Design Investments Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref.2014/4633/P, dated 4 July 2014, was refused by notice dated 2 September 2014.
 - The development proposed is described as 'works of alteration to the existing building largely consisting of internal modification and reconfiguration; conversion into a single family dwelling (from six units); provision of roof-mounted plant external to the building; and limited extension of ground floor level at the rear'.
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Preliminary Matters

1. In their decision notice, the Council amended the description of development set out above to read 'conversion of the existing building containing 6 self-contained dwellings (1 x 1 bed flat, 4 x 2 bed flats and 1 x 4 bed maisonette) for use as a single family dwelling-house (Class C3); erection of two-storey infill extension at lower ground floor level to existing link between primary and mews buildings; erection of new flat roof to enclose existing third floor terrace including lift overrun; installation of balustrade around lantern at roof level; removal of existing roof-lights and vents; installation of hatch to roof; installation of 3 x air condensers to middle of existing roof; alterations to external steps; and alterations to fenestration'.
2. This more accurately describes the proposal at issue and I have adopted it in dealing with the appeal.

Decision

3. The appeal is allowed and planning permission is granted for conversion of the existing building containing 6 self-contained dwellings (1 x 1 bed flat, 4 x 2 bed flats and 1 x 4 bed maisonette) for use as a single family dwelling-house (Class C3); erection of two-storey infill extension at lower ground floor level to existing link between primary and mews buildings; erection of new flat roof to enclose existing third floor terrace including lift overrun; installation of balustrade around lantern at roof level; removal of existing roof-lights and vents; installation of hatch to roof; installation of 3 x air condensers to middle of existing roof; alterations to external steps; and alterations to fenestration at 42 & 42A Bedford Square and 13 Bedford Avenue, London WC1B 3DP in accordance with the terms of the application, Ref.2014/4633/P, dated 4 July 2014, subject to the conditions set out in Annex A to this decision.

Main Issue

4. Nos.40-54 Bedford Square with their attached railings and Nos.33 and 35 Bedford Avenue are included, as one entry, on the Statutory List of Buildings of Special Architectural and Historic Interest, at Grade I, and lie within the Bloomsbury Conservation Area. The Council acknowledges that the alterations and additions proposed as part of the scheme are acceptable and indeed, listed building consent has been granted for them¹.
5. However, having regard to the approach of the development plan, and the need expressed therein to maximise the delivery of housing units, the Council is concerned that the proposal will lead to what it terms 'the net loss of five self-contained residential units'.
6. In that context, the main issue to be considered is whether the loss of residential units is contrary to the development plan and if so, whether the harm that would flow from that loss is outweighed by any other material considerations, notably any benefits to the listed building, and/or the conservation area.

Reasons

7. CS² Policy CS1 sets out the overall approach of the Council to growth and development and how the best use of Camden's limited land will be promoted. CS Policy CS6 explains the aim to make full use of Camden's capacity for housing by, amongst other things, minimising the net loss of existing homes. All this chimes with the exhortation in paragraph 47 of the Framework³ to boost significantly the supply of housing.
8. At a more detailed level, CDP⁴ Policy DP2 deals with making full use of Camden's capacity for housing. The approach is two-pronged but of relevance to the proposal at issue, the Council seeks to minimise the loss of housing in the Borough by resisting developments that would involve the net loss of two or more homes, unless, amongst other things, they create large homes in a part of the Borough with a relatively low proportion of such dwellings.
9. The Council granted planning permission and listed building consent⁵ for change of use and works of conversion from office (Class B1) to residential (1 x 1 bed, 4 x 2 bed and 1 x 4 bed) self-contained flats (Class C3) at Nos.42 and 42A Bedford Square. I saw that this scheme has been implemented, and according to the Council, the 6 units formed have all been registered separately for Council Tax purposes. However, the works of conversion have not been completed. Further, I saw that No.13 Bedford Avenue, the mews building to the rear of Nos.42 and 42A, contains 4 self-contained flats.
10. In simple terms, the proposal seeks to bring Nos.42 and 42A Bedford Square, and No.13 Bedford Avenue, into use as one, relatively large, dwelling. The Council does not seek to resist the conversion of Nos.42 and 42A into one dwelling⁶. On that basis, the nub of the issue is the loss of the existing residential units in No.13 Bedford Avenue.

¹ Ref.2014/4634/L

² Camden Core Strategy 2010-2025 Local Development Framework

³ The National Planning Policy Framework

⁴ Camden Development Policies 2010-2025 Local Development Framework

⁵ Ref.2006/5534/P & 2007/0134/L

⁶ The net loss of one dwelling would not fall foul of CDP Policy DP2 in any event

11. The scheme proposes that No.13 Bedford Avenue would be used to provide a caretaker's flat and laundry on the lower ground floor, and what is termed 'guest accommodation' at ground, first and second floor levels, all ancillary to the main dwelling. There would then be a loss of the 4 residential units therein and on the face of it, the proposal falls contrary to the strategy set out in CS Policies CS1 and CS6.
12. However, CDP Policy DP2 operates at a more detailed level and, as set out above, accepts that there are circumstances when the net loss of homes will not be resisted. Paragraph 2.24 of the CDP explains that to achieve a more varied mix of housing, the Council will favourably consider proposals that create large homes out of smaller homes in parts of the Borough where there is a relatively low proportion of large dwellings (that is, the wards of Bloomsbury, Holborn and Covent Garden, King's Cross, Kilburn, Regent's Park and St Pancras and Somers Town).
13. Nos.42 and 42A Bedford Square and No.13 Bedford Avenue are in the ward of Bloomsbury. On that basis, the proposal does not fall foul of CDP Policy DP2.
14. However, as far as I can understand it, the concern of the Council rests on the existing separation of Nos.42 and 42A Bedford Square from No.13 Bedford Avenue, meaning that the 4 residential units in No.13 would be lost not to create a larger dwelling in itself, as it potentially could, but to provide accommodation ancillary to Nos.42 and 42A. Even if that argument is accepted, and the conclusion drawn that there is a resulting failure to accord with CS Policies CS1 and CS6, and CDP Policy DP2, that is not the end of the matter.
15. The Council suggests that there is no evidence of what the mews building was originally used for. However, it seems to me obvious that the historic purpose of the mews buildings in Bedford Avenue was to provide accommodation ancillary to the main houses fronting Bedford Square. The relationship between Nos.42 and 42A and No.13 clearly demonstrates that.
16. Moreover, in accepting that No.13 must be considered part of the listed building, by dint of Section 1(5) of the Act⁷, the Council has tacitly accepted that there was an ancillary relationship in place when Nos.40-54 Bedford Square with their attached railings and Nos.33 and 35 Bedford Avenue were added to the Statutory List.
17. Section 66(1) of the Act tells us that in considering whether to grant planning permission for a development which affects a listed building or its setting, the decision-maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses. Section 72(1) of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas in the exercise of planning functions.
18. The Courts have held that the terms 'special regard' and 'special attention' are synonymous and require the decision maker to treat the desirability of preserving a listed building, its setting, and any features of special architectural and historic interest it possesses, and preserving or enhancing the character or appearance of a conservation area, as matters of considerable importance and weight.

⁷ The Planning (Listed Buildings and Conservation Areas) Act 1990

19. Reflective of that, in part at least, CS Policy CS5 which sets out to manage the impact of growth and development talks of the need to protect and enhance Camden's heritage and CS Policy CS14 promotes heritage conservation and the need to preserve and enhance Camden's rich and diverse heritage assets and their settings, including listed buildings and conservation areas. CDP Policy DP25 deals with all this in more detail.
20. Moreover, paragraph 132 of the Framework is clear that in considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be.
21. Even if the overall benefit inherent in the internal and external works proposed to the listed building are set to one side, the reinstatement of the historic relationship between Nos.42 and 42A Bedford Square and No.13 Bedford Avenue, provides a significant degree of enhancement to both the listed building, which at Grade I is in the highest echelon, and the character, in particular, of the conservation area.
22. Bearing in mind the approach of the Act and the Framework, and the compliance with CS Policies CS5 and CS14 and CDP Policy DP25, the benefit inherent in that enhancement is more than sufficient to outweigh the loss of the residential units in No.13 Bedford Avenue, and any resulting departure from CS Policies CS1 and CS6, and CDP Policy DP2.

Conditions and Obligations

23. I have considered the suggested conditions and the Obligation in the light of advice in the Framework. A condition is required to deal with commencement, clearly, as is another to set out the approved plans. It is necessary to apply a condition to govern the nature of works, and any making good. Similarly, the Lifetime Homes features included within the proposal need to be secured and the same goes for cycle storage facilities. Given the inclusion of roof-top plant, a condition is necessary to deal with noise, and thereby protect the living conditions of adjoining residents. Finally, bearing in mind the importance attached to the reinstatement of the relationship between the main building and No.13 Bedford Avenue, it is necessary to apply a condition to ensure the service accommodation is used for purposes ancillary to the main dwelling.
24. The appellant has submitted a completed Unilateral Undertaking that deals satisfactorily with the necessity for a Construction Management Plan and the need to ensure the development is 'car free'. One of the Council's original reasons for refusal referred to the absence of an Obligation designed to secure sustainability measures. I agree with the appellant that given the limitations inherent in dealing with a Grade I listed building, such an Obligation is not necessary to make the proposal acceptable in planning terms.

Final Conclusion

25. For the reasons given above I conclude that the appeal should be allowed.

Paul Griffiths

INSPECTOR

Annex A: Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: (15)AP001 Revision A: Location Plan; (15)AP021 Revision D: Lower Ground Floor Plan As Proposed; (15)AP022 Revision D: Ground Floor Plan As Proposed; (15)AP023 Revision D: First Floor Plan As Proposed; (15)AP024 Revision C: First Mezzanine Floor Plan As Proposed; (15)AP025 Revision D: Second Floor Plan As Proposed; (15)AP026 Revision D: Third Floor Plan As Proposed; (15)AP027 Revision C: Fourth Floor Plan As Proposed; (15)AP028 Revision C: Roof Plan As Proposed; (15)AS031 Revision C: Section A-A As Proposed; (15)AS032 Revision C: Section B-B As Proposed; (15)AS033 Revision A: Sections C-C and D-D As Proposed; (15)AS034 Revision C: Sections E-E and F-F As Proposed; (15)AE041 Revision C: Elevations 1 and 2 As Proposed; (18)A021 Revision A: Lower Ground Plan and Ground Floor Plan Alterations; (18)A022 Revision A: Ground Mezzanine Plan and First Floor Plan Alterations; (18)A023 Revision A: First Mezzanine Plan and Second Floor Plan Alterations; (18)A024 Revision A: Third Floor Plan and Roof Plan Alterations; (18)A031 Revision A: Section A-A Alterations; (18)A032 Revision A: Section B-B Alterations; (18)A033: Sections C-C and D-D Alterations; (18)A042 Revision A: Elevations 3, 4 and 5 Alterations; (31)AD011: Secondary Glazing Details Cill, Head and Jamb Conditions Large Windows; and (31)AD012: Secondary Glazing Details Cill, Head and Jamb Conditions Standard Windows.
- 3) All new external and internal works and finishes, and works of making good to the retained fabric, shall match the existing adjacent work with regard to the methods used, material, colour, texture and profile, unless shown otherwise on the approved plans and/or documentation.
- 4) The Lifetime Homes features and facilities as indicated on the approved plans and/or documentation shall be provided in their entirety before first occupation of the dwelling and retained as such thereafter.
- 5) Noise levels at a point 1 metre external to sensitive façades shall be at least 5dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all plant/equipment (or any part of it) is in operation unless the plant/equipment hereby permitted will make a noise that has a distinguishable, discrete, continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps) when the noise levels from that piece of plant/equipment at any sensitive façade shall be at least 10dB(A) below the LA90, expressed in dB(A).
- 6) No development shall take place until details of a cycle storage area have been submitted to and approved in writing by the local planning authority. The cycle storage area shall be provided in accordance with the approved details before first occupation and retained thereafter.
- 7) The caretaker's flat, staff, and guest accommodation approved herein shall not be occupied at any time other than for purposes ancillary to the residential use of the main dwelling.

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