



City of Westminster

Planning & City Development Committee

Date: 26 July 2023

Classification: General Release

Title: Update on Appeals Performance and Trends 2022/23

Report of: Director of Town Planning and Building Control

Financial Summary: None.

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1. Executive Summary

- 1.1 This report provides an overview of appeals process and update on planning appeals received during the last financial year, including an overview of success rate of planning appeals and analysis of any notable and allowed appeals and trends.

2. Recommendation

- 2.1 Members are asked to consider the contents of this report and to note the overall good performance of the Town Planning service in defending decisions to refuse permission at appeal.

3. Background

- 3.1 Following refusal of any planning decision (including listed building and advertisement consents), applicants have the right of appeal to the Secretary of State. This includes appeals made against the non-determination of an application that has passed the statutory time for determination or against the serving of a formal Notice including Planning or Listed Building Enforcement Notices, or a Discontinuance Notice. There is no right of appeal for objectors or other third parties, only the applicant.
- 3.2 An independent Planning Inspector is appointed by the Secretary of State to determine appeals. Where an appeal is dismissed, permission can be withheld for all, some, or different reasons to the original reasons for refusal cited by the council. If an appeal is allowed, planning permission or a related consent is granted, subject to conditions determined by the Planning Inspector. There are several grounds of appeal against enforcement notices, including where an appellant argues that permission/consent should be granted for the unauthorised works that are required to be removed or otherwise remedied by the notice – this is in effect the same as an appeal against a refusal of planning permission or listed building consent, and the policies used to justify the service of the notice are tested.

- 3.3 There are three types of appeal procedure: written representations, informal hearings, and public inquiries. Written representations are the most common, usually used for cases where the planning issues are straightforward and there is limited public interest. Informal hearings consist of a structured discussion, led by the Inspector. Public Inquiries are the most formal, with the parties having legal representation and cross examination of the planning and other expert witnesses.
- 3.4 Appeal decisions are important in monitoring quality of decision-making and testing effectiveness of policy. The Secretary of State uses the percentage of decisions overturned on appeal as an indicator of the quality of decisions made by planning authorities.
- 3.5 When an application is refused, reasons for refusal need to be clear, evidence based and linked to development plan policies, otherwise there is a risk that the decision could be overturned on appeal. The same is true for the various forms of enforcement notices. If the council is deemed to have acted unreasonably, there is a risk of an award of costs against the council irrespective of the appeal decision itself. A costs award can be the full or partial costs incurred by the appellant in making the appeal, and depend on the nature of the 'unreasonable behaviour' and extent to which this resulted in the appellant incurring unnecessary costs¹. Where an appellant has acted unreasonably during the appeal process the council can also seek a full or partial award of costs.
- 3.6 Appeal decisions are also an important part of the planning history of a site and a material planning consideration when determining any subsequent applications. An appeal decision can indicate how a development could be amended to make it acceptable. Appeal decisions can also be helpful in testing wording of current policies and indicating where future changes could be made. Understanding where Inspectors place weight on different policies, material planning considerations and their interpretation of policy can help improve future decision making.

4. Planning Appeals – overview of Performance

- 4.1 A small percentage of the total number applications determined by the council each year go to appeal. During the financial year between 1 April 2022 and 31 March 2023, the council received 124 appeal decisions from the Planning Inspectorate. Of these, 86 were dismissed or part dismissed, 38 appeals were allowed.
- 4.2 The headline figures therefore show that most council decisions which went to appeal were upheld in full or in part (**69%**). This is similar to previous financial years, as set out in Table 1 below. This exceeds the performance target set by the council for the percentage of appeal decisions we expect to win, which is 60%.

Table 1 – Appeal performance for 2022/23 and comparison data from previous years.

Year	Total No. of Appeals	No. of Appeals Allowed	No. of Appeals Dismissed or part dismissed	% of Appeals Dismissed or part dismissed	WCC Target for Appeal Success
2022/23	124	38	86	69%	60%
2021/22	119	41	78	66%	60%
2020/21	147	40	107	73%	60%
2019/20	433	101	332	77%	60%
2018/19	191	60	131	69%	60%

¹ Behaviour which has led directly to an unnecessary appeal to the Secretary of State might be considered unreasonable. For instance, the Local Planning Authority might be unable to produce evidence to support each of their reasons for refusing planning permission, or for imposing a condition on a grant of planning permission.

4.3 Of the appeal decisions received during 2021/22, the majority were decided through written representations. There were two decisions made following a public inquiry and ten appeal decisions made following informal hearings. The number of appeals determined via an informal hearing and public inquiry are therefore higher than in previous years and appeals determined in this way involve more significant workload for officers.

5. Performance against DLUHC Appeals Indicators

5.1 In addition to our own performance target on appeals, the Department for Levelling Up, Homes and Communities (DLUHC) collect data on appeals against planning decisions made by local planning authorities and use this as a metric by which to assess the quality of decision making. For this reason, the data has been included in Section 5 of the report title '*Annual Update on Planning Applications Performance – 2022/23*', which is also on the agenda for this committee.

5.2 For major applications, the DLUHC data identifies that in the 24-month period to the end of March 2022 (latest period published by the DLUHC) the council handled 62 major applications. Of these 62 decisions five were the subject of subsequent appeals and of these, 3 were allowed. The allowed appeals were at Townsend House (20/02361/FULL–appeal allowed 13 May 2021), 52-73 Wilton Road (19/06682/FULL–appeal allowed 29 December 2021) and Kilmuir House (20/01346/FULL – appeal allowed 3 February 2023). Whilst the decision to refuse permission for redevelopment of Townsend House was a delegated decision, the other two redevelopment schemes were refused at committee against officer recommendation to grant conditional permission. Consequently, the percentage of all major applications permitted via appeal has risen to 4.8% for the relevant 24-month period. However, this remains well below the DLUHC performance threshold of 10%.

5.3 In the same 24-month period to the end of March 2023, the council determined 5,097 non-major applications of which 115 subsequently went to appeal. Of those, 35 were allowed. For non-majors, as a percentage of the total number of applications handled in this period, this equates to 0.7% (an improvement of 0.2% on the previously reported 24-month period to the end of September 2020).

6. Appeal Decisions by Application Types

6.1 In terms of types of appeals, a breakdown of appeals won and lost, and the types of applications involved is set out below in Table 2. This demonstrates that success rate is high across all application types. A full summary of all appeals allowed and the reasons that the Planning Inspectorate gave for allowing the appeals is in Appendix 1.

Table 2 – Appeal Performance for 2022/23 by Application Type.

Type of Application	Appeals Decisions Received				
	Total	Allowed	Dismissed	Part Allowed/ Part Dismissed	% Dismissed/ Part dismissed
Full Planning	75	21	52	2	72%
Approval of Details	3	3	0	0	0%
Prior Approval	0	0	0	0	N/A
Listed Building Consents	20	7	13		65%
Telecoms	2	0	2	0	100%
Advertisements	18	6	12	0	67%
Enforcement	4	1	3	0	75%

Certificate of Lawfulness	1	0	1	0	100%
Tables and Chairs	1	0	1	0	100%
WCC Total	124	38	84	2	

Appeals following a Committee Decision

- 6.2 Almost all the above appeals relate to delegated decisions taken by officers. During 2022/23, there were two appeal decisions allowed which related to applications where the decision to refuse permission was taken by Planning Applications Sub-Committee. In these cases, the officer recommendation to grant conditional permission was overturned by committee, but the subsequent appeals were allowed by the Planning Inspectorate on behalf of the Secretary of State. There was also one allowed appeal that removed a condition that was imposed by Sub-Committee. The allowed appeal decisions are summarised below:

Table 3 – Allowed Appeals resulting from Committee Overturned Decisions

Reference No/ Site Address	Proposal and Appeal Outcome
<p>1. Kilmuir House, Ebury Street, London, SW1W 8TH</p> <p>(20/01346/FULL)</p> <p>Link to appeal documents</p>	<p><u>Proposal:</u> The appeal related to a proposal to demolish the existing buildings and erect a new building comprising basement, lower ground, ground and six upper floors, with plant at roof level. The new building would be used as residential units (Class C3) with flexible retail floorspace (Class A1/A2/A3/A4) at ground level.</p> <p><u>Sub-Committee Resolution:</u> The Sub-Committee 14 June 2022 resolved to refuse permission on the grounds of lack of on-site affordable housing, contrary to Policy 9 of the City Plan 2019 - 2040 (April 2021) and Policy H4 and H5 in the London Plan (March 2021)</p> <p><u>Outcome:</u> A public inquiry was held in November 2022. During the course of cross examination, the Council was forced to withdraw its ground for refusal as the viability evidence in this case did not support the position that insufficient on-site affordable housing would be provided, having regard to the viability of the scheme, which both parties had accepted had an £8m deficit. Notwithstanding this, the applicant offered 4 on-site affordable housing units and the Inspector noted that this is 4 more than currently exist on the site, and 4 more than policy can require, given the scheme shows a viability deficit. The Inspector identified the affordable housing units as a clear benefit of the scheme that carries significant weight, especially given the pressing need for affordable housing across London.</p> <p>He concluded the scheme would be of high quality, employing a varied and attractive palette of materials, and would preserve the character of the adjacent conservation area, as well as the setting of nearby listed buildings. He agreed with the findings of the committee report that the scheme would incorporate appropriate sustainable measures, would not unacceptably impact on the living conditions of neighbours and would more generally be compliant with other policies in the development plan. On this basis the appeal was allowed, subject to conditions and completion of a S106 agreement, including early and late-stage reviews of the affordable housing provision within the scheme.</p> <p>Whilst the withdrawal of the Council's reason for refusal represented unreasonable behaviour, the appellant in this case declined to seek an award of costs, with the reason for this decision recorded in the appeal decision, being to maintain a positive working relationship with the Council.</p>
<p>2. 13 – 17 Montpelier Street,</p>	<p><u>Proposal:</u> This appeal related to a proposal for Planning Permission and listed building consent for external and internal alterations at ground and lower ground floor level in connection with the existing restaurant use (Use</p>

<p>London, SW7 1HQ</p> <p>(20/07400/FULL)</p> <p>Link to appeal documents</p>	<p>Class E) and for the creation of two new residential units (Use Class C3) at first and second floor.</p> <p><u>Sub-committee resolution:</u> The application was presented to the planning applications sub-committee on 22 June 2021 where Members considered that the conditions recommended by officers to control the restaurant use did not overcome concerns in relation to residential amenity. The sub-committee resolved that the applications should be refused on the grounds that the restaurant use would be intensified to the detriment of residential amenity, contrary to Policies 7 and 16 of the City Plan (April 2021) and KBR14 and 15 of the Knightsbridge Neighbourhood Plan.</p> <p><u>Reason to allow:</u> The Inspector did not agree and considered there would be no intensification of the restaurant use as it is an existing restaurant. As such, the effects on neighbour's amenity would be acceptable and comply with Policy 7 of the CP. The appeal was allowed, and the inspector refused to apply conditions previously recommended to control the restaurant operation given the existing restaurant was unrestricted. Costs were awarded to the applicant (see below).</p>
<p>3. 32 Gerrard Street, London, W1D 6JA</p> <p>(21/04145/FULL)</p> <p>Link to appeal documents</p>	<p><u>Proposal:</u> Use of basement and ground floors as Adult Gaming Centre (Sui Generis).</p> <p><u>Sub-committee resolution.</u> Permission was granted by the Sub-Committee on 25 January 2022 for change of use of the ground and basement floors from a betting shop to an adult gaming centre. The application originally sought 24-hour use. Officers recommended that the hours be limited to 08.00-03.00. In granting permission, the Sub-Committee resolved to amend the opening hours to 08.00-00.00 and to limit the capacity of the premises to 50.</p> <p><u>Appeal and Outcome.</u> Following the Sub-Committee's decision an appeal against the hours of opening condition was made, which sought to amend the hours to between 08.00-03.00. The appeal was determined via written representations on 21 October 2022. The inspector considered that there is clearly an active evening and night-time economy in the area comprising, bars, restaurants, hot food takeaways and other entertainment venues and activities which last late into the night. The Inspector noted that the proposal would not have any unduly adverse impacts on the living conditions of nearby residents in respect of noise and disturbance because of the extended operating hours. Consequently, it was concluded that there were no conflicts with City Plan Policies 7, 16 and 3 and the appeal was allowed, and the original planning permission was varied to allow the use to open between 08.00 and 03.00 daily.</p>

Awards of Costs

- 6.3 As set out in paragraph 3.5, costs can be awarded against the council if it has behaved unreasonably in a way that has resulted in the appellant incurring costs that could otherwise have been avoided.
- 6.4 In the last financial year there were costs awards against the council relating to two cases, as shown below. For context, Table 4 also sets out the costs awarded by the Planning Inspectorate, both for and against the council, since 2019.

Table 4 – Appeal Costs Awards between 2019 and 2023

Year	Costs Awarded Against the Council	Costs Awarded in Favour of the Council
2019	N/A	£42,500 (Maiden Lane)
2020	£51,364 (157 Edgware Road, 103 Eastbourne Mews and 1 Berkeley Street)	N/A

2021	£6,680 (74 Portland Place and 2 Barton Street)	£89,000 (Dolphin Square and 26 Leinster Square)
2022	£80,000 (191 Old Marylebone Road) £8,400 (9-10 Southwick Place)	N/A
2023	£95,000 (13-17 Montpelier Street)	N/A

Appeal Trends, Policy Implications and Notable Appeals

- 6.5 There have been no significant trends that have emerged in appeal decisions during 2022/23 that relate to the application of policies within the City Plan 2019-2040 that was adopted in April 2021. Numbers of appeals and performance remains broadly similar to previous years, with good performance across all application types. Whilst there are no definitive trends, the issues identified in the following paragraphs have been identified and will be kept under review by officers in future years.
- 6.6 While overall performance remains good in relation to advertisement appeals, there appears to be some inconsistency in different Inspectors' approaches on adverts for example in relation to shroud adverts and illumination and a lack of clear guidance on this issue may be a contributing factor. For both advertisements and small-scale works of alterations, some design guidance could be produced to provide a greater consistency of approach to assist the interpretation of design policies and guide Inspectors to make more consistent decisions on detailed design issues. Production of any Supplementary Planning Documents (SPD) is, however, subject to a programme within the Local Development Scheme² and other policy work is currently the priority. A Public Realm SPD is part of the work programme and is currently being drafted and, where appropriate, guidance on advertisements will be included within this. While there is no intention at this stage to produce other specific SPD on this topic, the possibility of more focused and detailed design guidance will also be explored with the policy team.
- 6.7 There has been a fall in the number of enforcement appeals. A fall in enforcement appeals was also noted last year but overall numbers fluctuate dependent upon the types of planning breaches that have occurred and been served with an enforcement notice. Therefore, this change is not considered to be representative of wider trends in planning enforcement activity.

7. Financial Implications

- 7.1 None. A contingency fund is already allocated within the Town Planning and Building Control budget to allow for costs awards at appeal and there is no requirement arising from this report for this to be increased.

8. Legal Implications

- 8.1 None.

9. Conclusion

- 9.1 As set out above, the success rate in defending decisions at appeal remains high across all appeal types and there is a good service in terms quality of planning outcomes delivered to applicants, communities, and other stakeholders.

² [Emerging policies and consultations | Westminster City Council](#)

If you have any questions about this report, or wish to inspect one of the background papers, please contact: Jane Hamilton (jhamilton@westminster.gov.uk) or Oliver Gibson (ogibson@westminster.gov.uk)

Appendices:

1. Allowed Appeal Decisions Summaries for 2022/23.

Background Papers:

None.

Appendix 1 – Allowed Appeal Decisions Summaries for 2022/23

A summary of appeals allowed in 2022/23 is set out below:

<p>April 2022</p> <p>Site: 57-59 Beak Street, London, W1F 9SJ</p> <p>Description: Variation of Condition 1 and removal of Condition 13 of planning permission dated 21 December 2018 (RN: 18/08655/FULL) for: 'Use of basement and part ground as dual alternative shop (Class A1) or restaurant (Class A3) and installation of roof level kitchen extract.</p> <p>Reason to Allow: The proposal sought to vary the original application, extend the depth, rear projection of the property, and alter the form and profile of the existing elevation at these levels, which would increase the overall massing and bulk of Nos 57-59. Main issues are the effect of the proposed variation on i) the appearance of Nos 57-59 Beak Street; and ii) the character and appearance of the Soho Conservation Area. The Inspector considered the rear elevation of the host building is of minimal architectural quality and interest, having already been compromised by previous changes and the proposed amendments acceptable, noting he revised proposal would not be discordant on the rear elevation of the host building, would not harm the appearance of Nos 57-59 and cause no harm to the Soho Conservation Area.</p>
<p>Site: 19 Graham Terrace, London, SW1W 8JE</p> <p>Description: Variation of condition 1 of planning permission dated 23 April 2019 (RN: 19/01643/FULL) (as amended by non-material amendment dated 10 December 2020, RN: 20/07314/NMA) for the: Demolition of existing building, excluding front elevation and party walls, and construction of replacement building with mansard roof and rear extensions and altered front lightwell. NAMELY, to allow change of rear glazed facing wall to brick including altered form at ground floor level and alteration to black metal railing profile.</p> <p>Reason to Allow: The proposal subject to appeal sought to retain the development as constructed, the design of which is different from that approved. The Inspector considered the changes to design to be sensitive to the modern design approach of the ground and basement levels at the rear of the house and the traditional form and character is still evident in the higher levels of the building and noted that while the design of the black metal railings enclosing the ground floor roof terrace is different to that previously approved by the Council, it is an acceptable alteration to the house. The Inspector noted that the appeal property is enclosed to the south and west by tall boundary walls and views toward the proposal are either over the wall from higher levels of a neighbouring school building, which is some distance away, or obliquely from houses to the northeast in the terrace. The proposal is not therefore so prominent that it is harmful to the character and appearance of the CA. The Inspector concluded that the proposal does not have a harmful effect on the appearance of the host building and preserves the character and appearance of the Belgravia Conservation Area. This satisfies the requirements of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the design and heritage aims of Policies 38, 39, and 40 of the LP</p>
<p>Site: 18 - 20 Queensway, London, W2 3RX</p> <p>Description: Display of a wooden frame A board measuring 1.00m x 0.60m at the outside seating area.</p> <p>Reason to Allow: The Inspector considered the proposed advertisement would add little in terms of visual clutter, particularly if sited within a seating area and would be consistent with the signage associated with other commercial premises in the area. They also noted the proposed siting of the advertisement would leave several metres of unobstructed pavement for people to pass by safely and in the location shown on the submitted plan it would leave sufficient space around it for people to pass. Therefore, the Inspector considered the addition of the A frame board would not be harmful to the character and appearance of the conservation area or to the visual amenity of the area; it would not cause an obstruction of the highway would not affect pedestrian safety and would not harm public safety.</p>
<p>May 2022</p> <p>Site: Bridgefield House, 219 Queensway, London, W2 5HR</p> <p>Description: Installation of six antenna apertures across three steel support structures (approx. 29.75m AGL to top), four 600mm diameter dishes across four support structures and eight cabinets all at rooftop level, one Meter Cabinet at ground level plus ancillary works including works to the front elevation.</p> <p>Reason to Allow: The Inspector noted that the proposal would have an unacceptable effect on the character and appearance of the host building and surrounding area, while failing to preserve or enhance the character or appearance of nearby heritage designations. This harm was considered</p>

to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, paragraph 202 of the National Planning Policy Framework (2021) (the Framework) advises that this harm should be weighed against the public benefits of the proposal. Policy 19 of the City Plan supports investment in digital and telecommunications infrastructure and those public benefits will be weighed against impacts on local character, heritage, or the quality of the public realm. The Inspector noted that the scheme's benefit of providing replacement and improved digital communications networks attracts significant weight. The Inspector therefore concluded that the moderate level of less than substantial harm to designated heritage assets would be outweighed by the significant public benefits that would be achieved by the proposal.

Site: 18 Ennismore Gardens, London, SW7 1AA

Description: Installation of two new windows on the side wall at first and second floor levels and removal of redundant pipework to the rear side wall in connection with the amalgamation of a one bedroom first floor flat and two bedroom second floor flat to provide a three bedroom maisonette and associated internal alterations including changes to door openings, partitions, cornicing, new interior staircase and panelling between first and second floors, and new bathroom at second floor (First and Second Floor Flat).

Reason to Allow

The Inspector considered that the proposed works would result in an overall enhancement of the significance of the listed building, albeit this is in the context of accepting that there would be less than substantial harm caused by the insertion of the new stair and the fabric loss. The Inspector considered that harm would be outweighed by public benefits identified and overall, the works would satisfy section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990; the Framework; and accord with policy 39 of the CP insofar as it requires works to listed buildings to preserve the asset's special interest, relate sensitively to the period and architectural detail of the building and protect or, where appropriate, restore original or significant details and historic fabric.

June 2022

Site: 20 John Prince's Street, London, W1G 0BJ

Description: Display of an externally illuminated integrated LED screen, flush within the Portland Stone, with matching Portland Stone trim, measuring 2.8m X 5.8m and 2.8m X 4.5m at first floor level on the corner of Oxford Street and Holles Street.

Reason to Allow

The Inspector did not consider that the screens would be unduly large or incongruous and noted that they would sit flush to the corner splay of the parapet adding a new, distinct, and contemporary element to the Oxford Street scene. When seen against the backdrop of the large monolithic office block to the rear as well as the highly commercialised nature of Oxford Street, the screens would not appear inappropriate in their context. While there might be some effect on the setting of nearby listed buildings and conservation areas, the setting of these assets is already defined by the commercial nature of Oxford Street. The Inspector concluded that the erection of these screens would not materially harm one's enjoyment of the assets or the way in which they are currently experienced. And was satisfied the effect of the development would be neutral.

Site: Ground Floor Flat, 71 Randolph Avenue, London, W9 1DW

Description: Replacement of existing chimney cowl (Retrospective application)

Reason to Allow

The Inspector noted that the cowl is integrated into a low wall on the flat roof at first floor level. Given its location to the rear of the building, there is no impact on the street scene and the works are only really visible from neighbouring flats and considered that the replacement cowl preserves the host building's features of special architectural or historic interest and does not undermine the public's enjoyment or the significance of the heritage asset. Accordingly, the Inspector considered there to be no conflict with Policies 38, 39 and 40 of the City Plan nor Section 66 or 72 of the 1990 Act.

Site: Flat 3, 39 Hereford Road, London, W2 4AB

Description: Erection of a roof extension to increase size of top floor flat together with associated terrace.

Reason to Allow

The Inspector considered that the proposal would preserve the character and appearance of the Conservation Area and would not, subject to a planning condition to add screening, harm the living conditions of occupants of the upper floor flat at Baynards House and Nos 113 and 115, with regards to noise and disturbance, privacy, and outlook. As such, the proposal would accord with City Plan Policies

Site: 28A Leicester Square, London, WC2H 7LE

Description: Display of two internally illuminated neon frontage signs measuring 0.51m x 1.71m and 0.14m x 0.70m and internally illuminated projecting sign measuring 0.60m x 0.60m.

Reason to Allow

The Inspector noted that the new adverts would be illuminated, which, in the context of the illuminated adverts in the Square that operate during the day and night, they considered would not be harmful. The location of the adverts would respond to the general position of adverts on commercial premises in the Square and the conservation area. As such, overall, the Inspector considered the adverts contribute to the vibrant nature of the appeal building and the conservation area.

Site: 28A Leicester Square, London, WC2H 7LE

Description: Installation of a new shopfront including new awning and menu board.

Reason to Allow

The Inspector considered the new shop front is modest in size and in the same location as the former shop front and follows the established layout and general design. The use of blue coloured metro tiles with white grouting does stand out next to the shop fronts either side of the appeal premises but the previous shop front was also of a stark colour, in contrast with the public house façade and the upper floors. Against this context, and that of other shop fronts in the Square and the area, the Inspector concluded that the character and appearance of the appeal building, and that of the conservation area would be preserved by the schemes.

Site: Eaton House School, 3-5 Eaton Gate, London, SW1W 9BA

Description: Replacement of rear lower ground floor and erection of single storey rear extension at 3 Eaton Gate (first floor to mews) and use of roof as external learning areas, erection of single storey rear extension at 5 Eaton Gate (first floor to mews) and use o

Reason to Allow: The Inspector considered that the public benefits arising in terms of the improved educational facilities and access for all within the school would outweigh the less than substantial harm arising from the proposal.

July 2022

Site: 20 Berkeley Street, London, W1J 8EE

Description: Variation of conditions 12 and 13 of planning permission dated 22 December 2020 (RN: 20/05970/FULL) for the: Variation of Condition 5 and 8 of planning permission dated 16 January 20 (RN 19/08031/FULL), for use of the basement, lower ground floor and ground floor as a restaurant (Class A3). Erection of full height extract duct, alterations to the front fenestration in Hay Hill to create a new shopfront, and alterations to the rear lower ground floor fenestration and lowering of the lower ground floor by 500mm. NAMELY; to extend opening hours of the restaurant, and the hours of use of the plant, to between 07.00 to 02.30 Monday to Saturdays and 08.00 to 02.00 on Sundays and Bank Holidays.

Reason to Allow

The application seeks to vary conditions attached to previous permissions and extend restaurant opening hours. The main issue relates to the effect of the proposed extended customer hours on the living conditions of nearby residents, with regards to noise and disturbance. The restaurant has been vacant for eight years and feedback from interested parties has pointed to the existing permitted opening / operational hours as being too restrictive. The Inspector considered that the proposed extension of customer hours would, on balance, having regard to the site's location and subject to planning conditions, minimise noise impacts and prevent noise intrusion to residential developments so that there would be no material additional adverse effects and would accord with Policies 7, 16, 33 and 36 of the City Plan 2019 – 2040 and Policy MRU1 of the Mayfair Neighbourhood Plan..

August 2022

Site: Apartment 24, Harcourt House, 19 Cavendish Square, London, W1G 0PL

Description: Installation of external awning at seventh floor level.

Reason to Allow

The main issues are whether or not the proposal would preserve the special interest of the listed building and linked to that, whether or not the proposal would preserve or enhance the character or appearance of the Harley Street Conservation Area. The awning would be located on a new part of the building and would not therefore affect any historic fabric. the top of the awning would be glimpsed from within the public realm around Cavendish Square but sited on the 7th floor and set back from the front façade of the building, it would not be readily visible or prominent feature in the street-scene and represents a very modest change to the building as a whole. The Inspector considered proposals would preserve the special interest of he listed building and would comply with Policies 38, 39 and 40 of the City Plan (2021) which in various ways seeks to ensure that new development is in keeping with its context and preserves heritage assets.

Site: Flat 4, 121 Sutherland Avenue, London, W9 2QJ

Description: Creation of a first-floor rear balcony with balustrade and enlargement of existing window opening to allow access via French doors

Reason to Allow

The application sought to enclose an existing bay window roof with a metal balustrade to form a balcony area at rear first floor level as well as alter the existing large sash window above the bay to create a doorway to the balcony. The inspector noted the modest alteration to the window, which would be replaced by French doors, utilises the same width of opening, but is extended to meet the roof of the bay, incorporates sensitively designed glazing and retains a vertical emphasis. The slope to the roof of the bay window roof is minimal and its replacement with a flat roof would not be significantly discernible. Moreover, he considered the scale of the balcony is modest and along with the proposed materials and detailing of the balustrade, reflects those found elsewhere in the conservation area, both on front and rear elevations. Consequently, the inspector concluded that the proposal would not be at odds with the vernacular form of the host building or harm the significance of the CA. Therefore, it would preserve the character and appearance of the CA. As such, the proposal would comply with Policies 38,39 or 40 of the City of Westminster City Plan 2019- 2040 (2021).

September 2022

Site: 68 Queensway

Description: Display of advertisements on railings (enforcement appeal)

Reason to Allow

The site is in the Queensway Conservation Area which the inspector noted is a very busy and vibrant commercial area with a great deal of activity at street level which is reflected in the variety of mainly commercial ground floor frontages which have different types of advertisements, including illuminated and non-illuminated fascia signs and projecting signs. The Inspector noted that because of their relatively small size, their simple non-illuminated design and the existing visual clutter and bustling ground floor activity along the street the advertisements in question are lost in their immediate visual context and are not visually prominent or intrusive. As such the Inspector considered that the special interest of the conservation area is not diminished by the advertisements and concluded that the continued use of the appeal site for the display of advertisements would not cause substantial injury to amenity and quashed the notice.

Site: 49 Cambridge Street, London, SW1V 4PR

Description: Amalgamation of the existing lower ground floor flat with the upper floors to form a single dwelling house

Reason to Allow

The Inspector noted that the proposal would conflict with CP Policy 8 as it would result in the loss of a residential unit and would not meet the stated exceptions. It would result in a dwelling of 218sqm and would therefore exceed the limit stated in the Policy. He also noted that the proposal would enhance the special interest of the listed building. However, the continued viable use of the appeal property as a residential dwelling is not dependent on the proposal as the building has an ongoing residential use that would not cease in its absence. As such the proposal is not necessary to protect a heritage asset and would not accord with CP Policy 8B the proposal would create a dwelling that would be only slightly greater in floor area than the limit set in the Policy and would certainly not create a 'super-sized' property. The Inspector considered that although the existing dwelling on the upper floors is capable of being a three-bedroom property in terms of size, the amalgamation of the two dwellings would result in a more attractive family home with three-bedroom two reception rooms and family bathroom. As such, the residential use would be reconfigured to better meet the needs of families and the harm that would result from the conflict with the CP Policy 8 would be limited.

October 2022

Site: 9-10 Southwick Place, London, W2 2TN

Description: Variation of condition 2 (approved plans) of appeal decision (APP/X5990/D/18/3192708 DATED 10 May 2018 (RN: 17/07044/FULL) for the: Formation of roof garden across existing roofs at second floor level of Nos.9-10 Southwick Place. Namely, to allow the rete

Reason to Allow: The Inspector considered the proposal would not harm the character or the appearance of the host building or the Bayswater CA, and found that it would accord with Policies 38, 39 and 40 of the city plan and allowed the appeal.

Site: 32 Gerrard Street, London, W1D 6JA

Description: Use of basement and ground floors as Adult Gaming Centre (Sui Generis).

Reason to Allow: This appeal was against a condition imposed by the Sub-Committee. The inspector considered that there is clearly an active evening and night-time economy in the area comprising, bars, restaurants, hot food takeaways and other entertainment venues and activities which last late into the night. He considered the proposal would not have any unduly adverse impacts on the living conditions of nearby residents in respect of noise and disturbance as a result of the extended operating hours of the premises, consequently, there are no conflicts with the City Plan Policies 7, 16 and 3 and the appeal was allowed and planning permission varied by deleting condition imposed by committee and substituting it with a condition allowing extended hours until 3am.

Site: 32 Gerrard Street, London, W1D 6JA

Description: various illuminated fascia signs and a projecting sign

Reason to Allow: The Inspector found that the proposed advertisements would preserve the significance of the conservation area and therefore would not harm the amenity of the area and complies with policy.

Site: 10 Ogle Street

Description: Installation of 3 air conditioning units surrounded by an acoustic enclosure at main roof level.

Reason to Allow The main issues in this case are the impact of the proposed development on the character or appearance of the East Marylebone Conservation Area and on the setting of the Grade II listed Church of St Charles Borromeo and St Charles Presbytery. The Inspector noted that the enclosure would add extra development to the roof, would not result in visual clutter due to its modest size and placement next to the chimney stack and would represent a small and unobtrusive feature in the context of the both the host building and wider Conservation Area. As such the proposal would preserve the character and appearance of the East Marylebone Conservation Area, have an acceptable effect on the setting of the Grade II listed buildings and there would be no conflict with Policies 38, 39 and 40 of the City Plan.

November 2022

Site: 13 - 17 Montpelier Street, London, SW7 1HQ

Description: Use of first and second floor level as two self-contained residential flats (Class C3), creation of terrace at rear first floor level, opening up blind windows to Montpelier Place and internal alterations in connection with new residential use.

Reason to Allow: The main issue in this appeal was the impact of proposals on neighbour's amenity having particular regard to late night noise and disturbance. The Inspector considered there would be no intensification of the restaurant use as it is an existing restaurant. As such, the effects on neighbour's amenity would be acceptable and comply with Policy 7 of the CP.

Site: 13 - 17 Montpelier Street, London, SW7 1HQ 21/06229/ADLBC

Description: Approval of new windows and doors pursuant to condition No 7 of listed building consent Ref 20/07401/LBC granted on 20 July 2021 (appeal against non-determination)

Reason to Allow The inspector considered that the details submitted in clearance of the conditions in question are acceptable.

Site: 13 - 17 Montpelier Street, London, SW7 1HQ 21/06228/ADLBC

Description: Approval of new shopfronts pursuant to condition No 9 of listed building consent Ref 20/07401/LBC granted on 20 July 2021 appeal against non-determination)

Reason to Allow The inspector considered that the details submitted in clearance of the conditions in question are acceptable.

Site: 13 - 17 Montpelier Street, London, SW7 1HQ 21/06227/ADLBC

Description: approval of windows and doors pursuant to condition No 7 of listed building consent Ref 21/01234/LBC granted on 20 July 2021 appeal against non-determination)

Reason to Allow The inspector considered that the details submitted in clearance of the conditions in question are acceptable.

Site: 31 Charlwood Street, London, SW1V 2DU 21/08438/FULL

Description: Erection of a second and third floor rear extension to an existing hotel.

Reason to Allow: The main issues in considering this appeal were the effect of the proposed development on the character and appearance of the Pimlico Conservation Area and on the living conditions and outlook of neighbouring residents. The Inspector noted that he proposed two storey extension would be located above an existing Outrigger and would significantly increase its height. However, he considered that it would remain as a subservient feature of the host property, and concluded that given its subservient appearance, matching materials, and its relative consistency with the varied scale of surrounding outriggers, it would have neutral impact on the CA, thus preserving its character. The Inspector also considered that the proposed development would not increase any overbearing impacts on adjoining occupier and the objections can be overcome

through suitably worded planning conditions to ensure that the proposed windows are obscure glazed. It was noted that the appellant has provided technical evidence which demonstrates the proposal would not lead to a significant loss of light to neighbouring dwellings. As such the inspector concluded that the proposed development would not be harmful to the living conditions of the occupiers of neighbouring dwellings not to the conservation area and would comply with City Plan Policies.

Site: 43 Vauxhall Bridge Road, London, SW1V 2TA

Description:

Reason to Allow This enforcement appeal related to plant equipment on the rear of a public house. There are several grounds of appeal against listed building enforcement notices including: Ground (b) - That the matters alleged to constitute a contravention of section 9(1) or (2) of the Act have not occurred Ground (c) - That those matters (if they occurred) do not constitute such a contravention. Ground (e) - That listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted. There are other grounds too, but they were not pleaded in this case. In this case the Ground b appeal was dismissed. The Inspector concurred with WCC that the works subject of the notice had occurred as a matter of fact. The appeal failed. The Ground C appeal was also dismissed. The Inspector determined that the works enforced against had affected the character of the building as one of special or architectural interest. These works have not been authorised, and a contravention of section 9(1) of the Act has thus occurred. However, the Ground (e) appeal was allowed. Overall, the Inspector disagreed with Westminster City Council and considered that subject to a condition in respect of repainting in black the installation of the duct does not harm the special interest/significance of the listed building. Listed building consent was therefore granted.

Site: Basement Flat, 71 Randolph Avenue, London, W9 1DW 21/04806/LBC

Description: Replacement of existing chimney cowl (Retrospective application).

Reason to Allow: The Inspector concluded the cowl does not harm the special interest of the listed building and allowed the appeal.

December 2022

Site: College, 1 - 4 Suffolk Street, London, SW1Y 4HG 21/08017/LBC

Description: Installation of secondary glazing to three windows at first floor level on front elevation

Reason to Allow The main issue in this case was the impact of the proposed works on the special interest of the listed building. The inspector noted that the design would be compatible with existing window panelling and mouldings. The proposed works would be reversible and would not cause irrevocable harm to the heritage asset as would be the case from loss of historic windows and the installation of inappropriate window replacements.

Site: 36 Northumberland Place, London, W2 5AS

Description: Demolition of existing rear conservatory and construction of new rear extension with white brick and metal framed double glazed windows/doors. Lowering of existing garden and ground floor.

Reason to Allow. The Inspector considered the proposal would not harm the character or appearance of the rear of the building, the nearby listed building's settings and neither would it harm the character or appearance of the conservation area. It would also not harm living conditions of adjoining occupiers.

Site: 48 Carnaby Street, London, W1F 9PX

Description: Replacement shopfront.

Reason to Allow The main issue is the effect of the proposal on the character and appearance of the area including the effect on the Soho Conservation Area (CA). The inspector noted that most shopfronts in the vicinity are modern and brightly coloured. In the company of these and other shopfronts, all jostling for attention, the oversized and slightly projecting bright yellow portal around the entrance doors would not appear jarring, unduly prominent or out of place, and that as such the proposal would not significantly harm the character and appearance of the area, and would preserve the character and appearance of the Soho CA and comply with policy.

Site: 4 Lauderdale Parade, Lauderdale Road, London, W9 1LU

Description: Replacement shopfront and advert applications

Reason to Allow The main issues in relation to the shopfront were the impact on the character or appearance of the Maida Vale Conservation Area, and the effect of the proposed development on the living conditions of adjoining occupiers. The Inspector considered the shopfront therefore does not look out of place in its surroundings and does not detract from the character and appearance of the parade within which it is situated and that it is unlikely that noise associated with the operation of the premises as a restaurant when the bi-folds are open would be readily distinguishable from

the existing noise character of the premises during the restaurant opening times. The inspector therefore concluded that the development does not cause harm to the character and appearance of the appeal site or its surroundings, with regard to the character and appearance of the MVCA, nor would it adversely impact on the living conditions of neighbouring occupier. In addition, the signage was not considered incongruous, or unduly prominent and is of a size and design appropriate to the host building. Accordingly, it has not caused any significant harm to the visual amenity of the area. Consequently, neither application was considered to conflict with WCP policies.

February 2023

Site: Kilmuir House

Description: Demolition of existing buildings and erection of a new building of basement, lower ground, ground and six upper floors and plant at rooftop level to provide residential floorspace (Class C3), flexible retail floorspace (Class A1/A2/A3/A4), disabled car parking and associated landscaping works.

Reason to Allow. The Inspector Noted that the scheme includes 4 affordable units. This is 4 more than currently exist on the site, and 4 more than policy can require, given the scheme shows a deficit. The provision of these affordable units is clearly a benefit of the scheme, and carries significant weight, especially given the pressing need for affordable housing across London. The scheme would be of high quality and employ a varied and attractive palette of materials. It would preserve the character of the adjacent Conservation Area, as well as the setting of nearby listed buildings. It would incorporate sustainable measures through construction, minimising energy use and carbon emissions, including the use of air source heat pumps and photovoltaic panels. There would be no unacceptable impacts on living conditions at neighbouring properties. the proposal would accord with the development plan. In these circumstances, the Framework is clear that development should be approved without delay. Accordingly, I conclude that the appeal should be allowed subject to conditions

Site: 65 Bayswater Road, London, W2 3PH

Description: Use of ground and basement levels as restaurant (Class E); amalgamation of 2 x 1 bed units at first and second floors to form 1 x 2 bed unit (Class C3); Installation of openable shopfront to Bayswater Road; Formation of two doors to Elms Mews; and installation of kitchen extract duct to roof.

Reason to Allow The main issues in considering this appeal was the effect of the proposed Class E unit frontage on the character and appearance of the host building and whether it would preserve or enhance the character or appearance of the CA, and the living conditions of nearby residents regarding noise and disturbance; and whether the proposed development would affect housing stock having regard to relevant local policies. The Inspector noted that the previously proposed openable shop front had now been removed from proposals. As such he considered the proposal would improve the character and appearance of the host building and enhance the character and appearance of the CA, as the openable frontage no longer forms part of the proposal the reuse of the unit would not cause more noise and disturbance to nearby residents than if the current frontage were retained. However, The Inspector noted that the proposal would constitute the loss of a singular dwelling and as such so fail to comply with CP Policy 8 (C). However, it was noted that the basement portion of the flat has been damaged by flooding and there is a likelihood of further flood damage from surface water, and the potential for harmful effects from stopping up the basement windows, to prevent or reduce future flooding, on the living conditions of potential future occupants in terms of light, ventilation, and outlook. In comparison the Class E unit, constitutes a singular room with no storage or staff welfare facilities. This along with its small size is a limiting factor when seeking to bring the unit back into use. The proposal would provide additional floor space for the Class E unit creating a more viable and flexible space for a mix of perspective future uses including that proposed, a restaurant and would positively impact on the character of the appeal building and the proposed new frontage would improve its appearance. The proposal would therefore, in turn, enhance the CA's character and appearance and, in compliance with Paragraph 199 of the Framework. Consequently, the benefits the proposed development would provide would outweigh the harm identified. Therefore, there are material considerations, specific to the appeal site's situation and circumstances, and the Framework, which indicate a decision other than in accordance with the development plan is appropriate.

March 2023

Site: 85-89 Belgrave Road, London, SW1V 2BQ

Description: Retention of grey paint to front rendered facades.

Reason to Allow The main issues were the impact on the special interest of the listed buildings and character and appearance of the conservation area. Inspector accepted the grey paint is it different in tone to the beige/ivory and cream colours found in the terrace but considered the grey

used is very pale and is a neutral colour which, in its setting, compliments the wider palette. The overall effect when viewing the terrace in the street scene along Belgrave Road is one of a complimentary colour. Because of its paleness and neutrality, in the middle-distance and longer views along the highway, the change in Colour it is barely noticeable. There is simply no disassociation of these 3 properties from the wider terrace, instead the composition and harmony of the Grade II listed terrace remains intact, as does the character and appearance of the PCA. Overall, the works would preserve the special architectural or historic interest of the Grade II listed building.

Site: 334 - 348 Oxford Street, London, W1C 1JG

Description: Scaffold shroud with 1:1 scale printed image of the proposed building and 2x areas of inset advertising measuring 12m x 5m each

Reason to allow: The Inspector noted that the main consideration is how the proposed advertisements would relate to the building and the wider townscape. In relation to the scale of the building, the proposed advertisements would take up a small proportion of the scaffolding wrap and the building. In this context the size, height, and design of the advertisements, including the fact that they would be illuminated, would sit comfortably in the busy streetscene and cause no harm to the conservation areas or other heritage assets. Although there are a limited number of upper level of advertisements along this part of Oxford Street, they are by no means entirely absent. There are also some obviously retail uses at first floor level and the number of passing buses with advertisements at a high level all combine to generate interest and activity above street level. As such the inspector concluded the proposal would not dominate the heritage assets in the area and would cause no harm and complies with policy.