
Appeal Decisions

Site visit made on 17 October 2017

by Roger Catchpole DipHort BSc(hons) PhD MCIEEM

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

Decision date: 7th November 2017

Appeal A: APP/X5210/W/17/3179165 **116 Drummond Street, London NW1 2HN**

- 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 Mr John Myers and Daniel Bartlett against the decision of the Council of the London Borough of Camden.
 - The application Ref: 2017/1260/P, dated 1 March 2017, was refused by notice dated 21 April 2017.
 - The development proposed is described as: 'increase the height of part of the approved glazed winter garden (Ref: 2015/6999/L and 2015/6950/P) to improve the natural daylight'.
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Appeal B: APP/X5210/Y/17/3179168 **116 Drummond Street, London NW1 2HN**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr John Myers and Daniel Bartlett against the decision of the Council of the London Borough of Camden.
 - The application Ref: 2017/1454/L, dated 1 March 2017, was refused by notice dated 21 April 2017.
 - The works proposed are described as: 'increase the height of part of the approved glazed winter garden (Ref: 2015/6999/L and 2015/6950/P) to improve the natural daylight'.
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Decision

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed and listed building consent is refused for works described as: 'increase the height of part of the approved glazed winter garden (Ref: 2015/6999/L and 2015/6950/P) to improve the natural daylight'.

Preliminary Matters

3. As the proposal relates to a listed building I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. The Camden Local Plan 2017 (LP) was adopted on 3 July 2017, after the Council made its decision on the applications that form the basis of these appeals. Nevertheless, policies in the LP were referred to in the Council's

reasons for refusal. Consequently, all parties have had the opportunity to comment on this change.

5. The appellants have an extant planning permission and listed building consent for a similar, single storey glazed structure (Refs: 2015/6950/P and 2015/6999/L) in addition to a single storey, rear infill extension at lower ground floor level (Refs: 2015/1107/P and 2015/1397/L). This is the basis upon which these appeals have been determined.

Main Issues

6. The main issues are the effect of the proposal on the:
 - character and appearance of the local area bearing in mind the special attention that should be paid to the desirability of preserving a Grade II listed building, 'Number 116 and Attached Railings', and any of the features of special architectural or historic interest that it possesses; and
 - the living conditions of existing and future occupants of No 118 Drummond Street with regard to outlook.

Reasons

7. The appeal property is a terraced house which has a first floor bridge section which over-sails a vehicular access to Charles Place from Drummond Street. The rear elevation faces onto the former which is a public yard, enclosed by a number of residential and commercial properties. Charles Place is one of three similar, enclosed yards on the north side of Drummond Street. The appeal property is part of a larger terrace that is not listed and has a small, enclosed courtyard to the rear. The appellants are seeking planning permission and listed building consent to modify an already approved plan for the enclosure of the courtyard with a glazed structure. The proposal would occupy the same footprint of the previously approved scheme but would increase the height of the structure from approximately 4 m to 6.5 m. This would place it just below the eaves of the appeal property.

Character and appearance

8. The appeal property was listed in 1999 and dates from between 1820-1825. It is constructed from yellow London stock brick with a channelled stucco ground floor and round-arched entrance at the front. It has three storeys over a lower ground floor with the latter extending into the enclosed courtyard which has two small, brick-arched cellars facing the rear elevation. The latter is characterised by a steep mansard roof with two shallow, projecting dormers, brick-arched openings and the enclosed courtyard. A number of historic sash windows are present as well as a double height, staircase window. A wide chimney stack extends above the ridge line, in between the host property and the adjoining property, No 118 Drummond Street. Given the above, I find that the special interest of the listed building, insofar as it relates to this appeal, to be primarily associated with the original materials and fenestration of its rear elevation and the enclosure of the main access to Charles Place by the first floor, bridge section.
9. I observe from the plans and my site visit that the proposal would lead to an over-dominant, incongruent addition that would fail to respect the traditional materials and proportions of the rear elevation. The massing of the structure

and use of alien materials would be visually distracting and would fail to retain the lightweight appearance of the previously approved scheme. It would no longer be a subservient enclosure of an outdoor space but rather a substantial and visually discordant, engineering structure. This would be detrimental to the historic integrity of the building's architecture and materials. As such, it would not be an example of good design in this particular context. In terms of wider impact, I observed that the proposed changes would be clearly visible from Charles Place which is in the public domain and thus capable of harming the character and appearance of the local area, despite the lack of any direct inter-visibility with Drummond Street. This is because the proposal would have a high degree of visual prominence to the residents and visitors of Charles Place.

10. Given the changes that have occurred elsewhere along the terrace, the value of the appeal property, in terms of its unaltered design and materials is significant as an example of the historic architectural form of the original terrace. Furthermore, the sensitivity of the appeal property to such changes is much greater than No 118 due to its largely unmodified nature and the fact that an existing extension is not already present. Whilst I accept that opportunities to view the original elevation would still be present, this would be through a highly reflective surface which, whilst not determinative, adds to my concerns. I acknowledge that the increase in height is a response to a permission that has been granted for a rear extension at No 118. However, as it has not been implemented, this consideration only carries limited weight.
11. The appellants are of the opinion that the rear elevation of the building is unimportant because its features are not included in the list description. However, listings are primarily for identification purposes and do not provide an exhaustive or complete description of the special interest. Furthermore, a listed building includes any structure that is within its curtilage which has existed since before 1st July 1948. Since the enclosed courtyard and cellars meet this definition and have a principal and accessory relationship to the main building, they are also listed and of clear evidential value.
12. Whilst I accept that the front elevation contributes to the architectural cohesion of the wider terrace, this does not mean that other features, including those associated with the rear elevation are without merit. Moreover, listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not any public views of the building can be gained. Given the above, I find that the proposal would fail to preserve the special interest of the listed building. Consequently, I give this harm considerable importance and weight in the planning balance of this appeal.
13. Paragraph 132 of the National Planning Policy Framework 2012 (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets. Given the limited loss of historic fabric and nature of the structure, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
14. Under such circumstances, paragraph 134 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which

includes the securing of optimal viable use of listed buildings. The appellants are of the opinion that the proposal would be beneficial because it would bring the courtyard back into active use. 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. Furthermore, the use of this area is essentially a private benefit that can, in any event, be secured through one of the two extant permissions which are less harmful.

15. Given the above and in the absence of any defined public benefit, I conclude that the proposal would fail to preserve the special historic interest of the Grade II listed building and the character or appearance of the local area. This would fail to satisfy the requirements of the Act, paragraph 134 of the Framework and conflict with policies D1 and D2 of the LP that seek, among other things, to ensure that all development respects local context and character, preserves heritage assets and that public benefits convincingly outweigh any less than substantial harm when the special interest of a heritage asset cannot be preserved. As a result, the proposal would not be in accordance with the development plan.

Living conditions

16. In their second reason for refusal, the Council have concluded that the structure would be overbearing to the existing and future occupants of No 118 and acknowledge that this harm would not be present if the extant permission for the rear extension to this property was implemented. I acknowledge that planning permissions are not always implemented for a variety of reasons and that any determination of impact should be based on existing circumstances.
17. However, the Planning Practice Guidance 2014 (as amended) advises that planning conditions can enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of a scheme. In this particular instance I am satisfied that a condition precedent preventing the construction of the proposed structure until the neighbouring extension is completed could have been used to avoid the identified impacts.
18. Given the above, I conclude that the proposal would not cause significant harm to the living conditions of existing or future occupants of No 118 with regard to outlook. Subject to condition, the proposal would not conflict with policy A1 of the LP that seeks, among other things, to protect the quality of life of occupiers and neighbours. This would be in accordance with the development plan.

Other Matters

19. The appellant has suggested that permitted development rights establish a general principle that the rear elevations of buildings are of lesser importance. I find this a contrived argument of little relevance given that each case must be judged on its individual merits and the absence of any such rights in this particular instance.
20. I accept that there were no objections to the proposal either from neighbours or internal consultees. However, the absence of an objection does not indicate an absence of harm, merely that it has not been identified. Similarly, a lack of a response from a Conservation Officer or similar professional cannot be

interpreted in this manner. Consequently, a lack of objection cannot be relied upon to imply that a proposal is acceptable. Furthermore, paragraph 17 of the Framework requires that decision-makers should consider all existing and future occupants of land and buildings. Even if existing occupants find something acceptable, as indicated by the letters of support, this may not be the case for future occupants.

21. The appellants are of the opinion that the proposal would amount to sustainable development. Paragraph 7 of the Framework advises that there are three dimensions to sustainable development: economic, social and environmental. Whilst it may be possible to deliver positive gains to one of these, this should not be to the detriment of another. In order to achieve sustainable development, the Framework advises that the planning system should ensure that economic, social and environmental gains are sought jointly and simultaneously. This involves not only seeking positive improvements to the quality of people's lives but also the built, natural and historic environments. Given the harm that would be caused to the listed building and considering the Framework as a whole, I conclude that the proposal would not constitute sustainable development.
22. The appellants have questioned the professional competence of the case officer by suggesting that the evaluation of the proposal is based upon subjective opinion. However, the consideration of planning issues often involves matters of judgement which inevitably involve differences of opinion. Each case must be argued on its individual merits and the facts without resorting to questioning the competency of individual officers. Consequently, I give this matter little weight.

Conclusion

23. For the above reasons and having regard to all other matters raised I conclude that, on balance, the appeals should be dismissed.

Roger Catchpole

INSPECTOR