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## Appeal Decisions

Site visit made on 1 May 2019

**by JP Tudor BA (Hons), Solicitor (non-practising)**

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

**Decision date: 09 July 2019**

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### **Appeal A - Ref: APP/X5210/Y/19/3219949**

#### **35 Highgate High Street, London N6 5JT**

- 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 Paul Hoffman (Dexters London Ltd) against the decision of the Council of the London Borough of Camden.
  - The application Ref: 2018/1791/L, dated 13 April 2018, was refused by notice dated 12 November 2018.
  - The works proposed are installation of 1x externally illuminated fascia sign, 1x externally illuminated projecting sign, 2x non-illuminated awnings and painting of the ground floor façade.
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### **Appeal B - Ref: APP/X5210/H/19/3219945**

#### **35 Highgate High Street, London N6 5JT**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr Paul Hoffman (Dexters London Ltd) against the decision of the Council of the London Borough of Camden.
  - The application Ref: 2018/2045/A, dated 13 April 2018, was refused by notice dated 12 November 2018.
  - The advertisement proposed is display of 1x externally illuminated fascia sign, 1x externally illuminated projecting sign and 2x non-illuminated awnings.
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#### **Decision – Appeal A**

1. The appeal is dismissed.

#### **Decision – Appeal B**

2. The appeal is dismissed.

#### **Procedural Matters**

3. I have taken the descriptions of the works and advertisement proposed used in the banner headings above from the Council's decision notices, as they more fully and accurately describe the proposals than those contained in the application forms, although I have omitted the word 'retrospective' from each, as it is superfluous.
4. With regard to Appeal A, as the proposal relates to a listed building and is within a conservation area, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

5. With regard to Appeal B, the display of advertisements is subject to a separate consent process within the planning system. The governing Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) advise that the relevant powers are to be exercised in the interests of 'amenity' and 'public safety', whilst taking into account the provisions of the development plan, so far as they are material, and any other relevant factors.<sup>1</sup> The Council has not expressed concern regarding public safety and I have no reason to disagree with that assessment. Therefore, I have considered the proposal on the basis of amenity, which on the facts of this case turns on its effects on the visual amenity of the area.
6. Both appeals concern essentially the same proposal. Therefore, in the interests of clarity and conciseness, I will deal with some aspects of each appeal together in my reasoning.

### **Main Issue – Appeal A**

7. The main issue is whether the works preserve the Grade II listed terrace 31-35a Highgate High Street of which the appeal property forms a part, any features of special architectural and historic interest that it possesses, the effect on the settings of nearby listed buildings and the extent to which the proposal preserves or enhances the character or appearance of the Highgate Conservation Area (HCA).

### **Main Issue – Appeal B**

8. The main issue is the effect of the advertisement on the visual amenity of the area, including the Grade II listed terrace, of which 35 Highgate High Street forms a part, and the HCA.

### **Reasons**

9. The appeal property at 35 Highgate High Street, forms part of an 18<sup>th</sup> century terrace of four properties, which are Grade II listed. They are listed together as Nos 31, 33, 35 and 35A. Originally four individual houses, the ground floors became shops, probably in the 19<sup>th</sup> century, with residential accommodation retained above. No 35 comprises two of the Georgian houses (Nos 35 and 35A) and is a two-storey property, with a basement and an attic floor served by two dormers above a parapet. The ground floor has been punched through to form one commercial frontage, with the shopfronts having undergone changes in the 19<sup>th</sup> and 20<sup>th</sup> centuries, including following a planning permission and listed building consent given in 1996. Highgate High Street forms the boundary between the London Borough of Camden to the south, which includes the appeal site, and the London Borough of Haringey to the north.
10. The proposal is said to be to allow the retention of an externally illuminated fascia sign, a projecting sign and two awnings and to approve the redecoration of the ground floor façade. The decision notices also refer to the proposal as retrospective, but at the time of my site visit, whilst the illuminated fascia signage and awnings were in place and painting had been completed, there was no externally illuminated projecting sign. Nevertheless, to avoid over-complicated sentence structures, I will refer to the entire proposal in the present tense throughout this decision, as if it were all in place.

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<sup>1</sup> Regulation 3(1)

11. Dexters Estate Agents now operate from the site and the signage forms part of its corporate branding. I have been provided with photographs and plans of the previous shopfront which have informed my decision. The Council has not objected to the main fascia signage and trough light or the painting of the shopfront and I see no reason to take a different view. It is understood that the trough light has been in place for a number of years, when the business was under different ownership, and is beyond the relevant enforcement period from a planning perspective, although that would not apply to the listed building consent aspect. Moreover, the Council considers the illumination of fascias to be generally acceptable. However, it finds that the additional illuminated projecting sign and two awnings have negative effects.
12. Although there have been changes over time, the building exhibits a recognisably 18<sup>th</sup> century architectural style, with its mixed stock brick façade and regular fenestration at first floor level, resolving at a parapet and tiled roof. Those distinctive facets are augmented by its similarity in form and materials to the rest of the listed terrace, and to other listed buildings, with commercial frontages at ground floor level, along the same side of the street. Therein, lies the main special architectural and historic interest of the listed building, insofar as it relates to the appeal proposals.
13. The site also lies within 'Sub-area 1: Highgate Village', which forms the core of the HCA according to the HCA Appraisal (HCAA).<sup>2</sup> It describes Highgate High Street as reflecting its history as an important thoroughfare out of London by boasting a rich collection of 18<sup>th</sup> and 19<sup>th</sup> century architecture, consisting of tightly grouped rows of buildings, with many of the properties containing shops at ground-floor level. The street includes late Georgian and Victorian terraced properties which conform to a regular plot size, typical of speculative development of the period. The HCAA further advises that the High Street has an outstanding collection of historic shopfronts from both the 19<sup>th</sup> and 20<sup>th</sup> centuries. Although the wider HCA has other aspects, such as its open spaces and grand houses, it seems to me that it is the particular characteristics of its high street, referred to above, which are most relevant to the appeal proposal and contribute to the overall significance of the HCA.
14. It is submitted by the appellant that the current shopfront already contrasts unfavourably with the remaining form of the 18<sup>th</sup> century houses. However, the later ground floor conversion to a shop forms part of the evolution of the building and the terrace, which contributes to its historic interest and reflects similar changes in adjacent listed properties. Moreover, although the shopfront has undergone different iterations, as evidenced by the changes since the 1945 photograph provided by the appellant, it has a traditional basic form with timber stallrisers, panelling, mullions, timber doors and fascias, beneath a projecting cornice. Indeed, the appellant's Heritage Statement<sup>3</sup>, whilst suggesting that the shopfront is of little interest, accepts that '*its traditional form is in keeping with the streetscene and the character of the listed building.*' In my view, the shopfront's understated features are sympathetic to the architectural integrity and appearance of the listed terrace and to the settings of other listed buildings further along this side of the street. The shop frontage also reflects the commercial ethos and history of this part of the HCA. Therefore, the shopfront has value in that context.

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<sup>2</sup> Highgate Conservation Area Appraisal and Management Proposals (October 2007)

<sup>3</sup> Prepared by Heritage Collective (April 2018)

15. There are only a limited number of projecting signs on the southern side of this part of the street. Furthermore, although the dark blue awnings are small extending out about 0.3 metres, there are no awnings on the other shopfronts along the listed terrace, or on the shopfronts of listed buildings at Nos 25 and 27 or indeed on shops towards the junction with Bisham Gardens. Therefore, taking account of the relatively simple, modest features of the previous shopfront, the projecting sign and awnings add visual clutter to the façade of the building, to the detriment of the listed terrace. That combination is also out of keeping with the other buildings within the listed terrace, nearby listed buildings and much of the rest of this side of the street. Cumulatively, therefore, the changes would have a negative effect on the character and appearance of the area.
16. Moreover, where there are projecting signs on this part of the street, such as on 'The Angel' public house (No 37) and on the listed terrace at No 33, they generally appear to be wooden signs 'hanging' below horizontal brackets, whereas the proposed sign would be aluminium with its short side attached to a vertical wall bracket. As it would be illuminated by trough lights on each side, it would also add a further light source to the listed façade, in addition to the existing long trough light illuminating the fascia signs. The Council suggests that, whilst its preference is for such signage to be unlit, if lighting is necessary its preference is for more discreet forms, such as small spot lights. Given the above factors, I find that the combined effect of the design, material and method of illumination of the projecting sign would be unsympathetic to the special interest of the listed terrace, the setting of other listed buildings and the character and appearance of the HCA.
17. The appellant submits that the introduction of the awnings enables the two different shopfronts to be read as a single unit. Although the width and fenestration of the respective shopfronts differ and each has an entrance door, the fascia signage with a trough light spanning the whole frontage and the uniform paint colour are sufficient to achieve a visual unity for commercial purposes. Moreover, the remaining differences between the shopfronts provide some sense of the history of the building and its origins as two Georgian cottages.
18. There is dispute between the parties about the consistency of the Council's approach in relation to other planning, advertisement and listed building consents. The existence of other signage and awnings in the area is also referred to by the appellant. However, Highgate High Street is a long thoroughfare and whilst there are awnings on some buildings, they may not be listed or as in at least one case, No 57, they are, according to the Council, unauthorised.
19. Furthermore, the other awnings that I saw were of sufficient size to enable people to shelter beneath them in inclement weather or to provide shade. In contrast, those at the appeal premises have limited functional use, as they only project 0.3 metres and are essentially corporate brand appendages, the main purpose of which appears to be to display the 'Dexters' logo and corporate colours. In any event, whilst awnings are prevalent in retail areas and high streets, all proposals must ultimately be judged on their individual merits and circumstances. The presence of truncated, modern awnings or similar signage in conservation areas or on listed buildings for whatever historic reasons, where having a harmful effect, would not justify causing further harm.

20. The Council has provided a list of various permissions and refusals in the immediate area and beyond, which it says demonstrate its consistent support for non-illuminated signage and resistance to proposals for retractable awnings. Where those cases went to appeal, the Council says that its position was supported.
21. In response, the appellant submits that the '*key point is the Council gave permission for a similar proposal at Café Rouge, which is a listed building and within two minutes walking distance.*' It appears that the appellant is referring to consents dating from 2015, which included awnings, at 6-7 South Grove<sup>4</sup>, which is just around the corner from the appeal site. Whilst the Council suggests that the building is not listed, the appellant refers to it as listed and the CAA says that Nos 2-11 South Grove, which form the south side of Pond Square, are Grade II listed buildings. However, although I have limited details of those approvals, I note that the relevant consents refer to the 'replacement' of fixed awnings, indicating that there were already awnings *in situ*, which is likely to have been considered a relevant factor in those decisions. Moreover, that site is not on the same street frontage as the appeal site and the awnings have a functional use in facilitating outdoor dining at a café and restaurant business.
22. Overall therefore, the proposal fails to preserve the special historic interest of the Grade II listed building and harms the settings of adjacent listed buildings. In addition, it fails to preserve the character and appearance of this part of the HCA and, thereby, the conservation area as a whole. It also adversely affects the visual amenity of the area.

#### *Conclusion – Appeal A*

23. Given the above, there is conflict with section 16 of the National Planning Policy Framework (the Framework)<sup>5</sup>, which advises at paragraph 193 that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to its conservation. Moreover, at paragraph 194, that any harm or loss of significance should require clear and convincing justification.
24. However, given that the changes are limited in scale and relate to a ground floor shopfront of apparently relatively recent lineage, I consider the overall harm to the listed buildings and the HCA to be less than substantial. In such circumstances, paragraph 196 of the Framework indicates that the 'less than substantial harm' should be weighed against the public benefits of the proposal, including securing the optimum viable use of listed buildings.
25. The appellant suggests that the proximity of a set of traffic lights to the premises necessitated the size of the awnings to be limited, to avoid any distraction to highway users and possible negative effects on public safety. However, whilst that may be and although I note the appellant's contrary view, the 0.3 metre projection would provide very little protection for the general public, or employees within the estate agents, from rain or sun.
26. It is submitted by the appellant that the proposal would aid the efficient use of the property as an estate agency, thus further securing the optimum viable use of the heritage asset and that it would, therefore, '*deliver 'public benefits' of an*

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<sup>4</sup> 2015/2907/P & 2015/3349/L

<sup>5</sup> February 2019

*economic, social and environmental nature*'. It is generally recognised that it is reasonable for a commercial business to be able to display its corporate branding to assist in its successful operation. However, in this case, alternative or more sensitively designed signage could deliver similar benefits, without necessarily causing harm to heritage assets.

27. In that regard, it is relevant that the Council advises that the appellant subsequently submitted revised proposals for the retention of the externally illuminated fascia sign, the provision of a non-illuminated timber hanging sign and the redecoration of the shopfront, which were approved on 7 March 2019.<sup>6</sup> Although I am given to understand that those consents do not permit the two awnings, it seems to me that they provide similar benefits to those suggested by the appellant and secure a legible corporate presence in the high street, whilst displaying greater sensitivity to the listed buildings and the HCA.
28. The appellant also makes wider points, including the need for 'the high street' to evolve to meet the challenges presented by the growth of online shopping and competition from out-of-centre retail developments. Whilst those general observations are acknowledged, as already stated, there are more modest options which could equally go towards meeting those considerable challenges, without compromising nationally designated heritage assets.
29. Given the above, I find the public benefits of the proposal to be very limited and insufficient to outweigh the harm identified to designated heritage assets. Therefore, I conclude that the proposal, particularly with regard to the externally illuminated projecting sign and the two awnings, fails to preserve the special architectural and historic interest of the Grade II listed terrace, the settings of nearby listed buildings and the character or appearance of the HCA. Consequently, it fails to satisfy the requirements of the Act and paragraph 196 of the Framework. It also conflicts with policy D2 of the Camden Local Plan 2017 (CLP), which is a material consideration and seeks to ensure that proposals preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings.

### *Conclusion – Appeal B*

30. In Appeal B, the listed status of the appeal building and its location within the HCA are material factors. Overall, for the reasons already given, I consider that the proposal has a harmful effect on the amenity of the area. Therefore, it is contrary to the Regulations and policy D2 of the CLP, which is material in, amongst other things, seeking to preserve the character and appearance of conservation areas and to protect listed buildings.

### **Overall Conclusion**

31. The Council had no substantive objection to the fascia sign, existing trough light or the repainting of the shopfront. However, it has not been suggested by the appellant that I should consider issuing a split decision allowing those aspects. Moreover, given the subsequent consents referred to above, there would be no clear purpose in me doing so.

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<sup>6</sup> 2018/6029/L & 2017/6030/A

32. For the reasons set out above and having regard to all other matters raised, I conclude that both appeals should be dismissed.

*JP Tudor*

INSPECTOR