
Appeal Decisions

Site visit made on 10 July 2019

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

an Inspector appointed by the Secretary of State

Decision date: 17 September 2019

Appeal A - Ref: APP/X5210/W/19/3227621

5 Lyme Street, London NW1 0EH

- 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 Ms Lesley Adams against the decision of the Council of the London Borough of Camden.
 - The application Ref: 2018/4991/P, dated 16 October 2018, was refused by notice dated 5 February 2019.
 - The development proposed is single-storey rear extension and associated terrace, two-storey side extension and internal alterations.
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Appeal B - Ref: APP/X5210/Y/19/3227622

5 Lyme Street, London NW1 0EH

- 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 Ms Lesley Adams against the decision of the Council of the London Borough of Camden.
 - The application Ref: 2018/5482/L, dated 16 October 2018, was refused by notice dated 5 February 2019.
 - The works proposed are single-storey rear extension and associated terrace, two-storey side extension and internal alterations.
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Decision – Appeal A

1. The appeal is dismissed.

Decision – Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. An updated version of the National Planning Policy Framework (the Framework) was published in February 2019, just after the original applications were determined. However, the parties have had the opportunity to take account of any relevant changes during the course of the appeals.
4. As the appeals relate to a listed building 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). I have also taken account of the guidance within section 16 of the Framework.
5. The appellant submitted amended plans with the appeal documentation asking that they also be considered, along with, but as a possible alternative to, the

original scheme. Although the appeal process should not be used to evolve a scheme, the changes are relatively minor, and I do not find that considering them would prejudice any parties.¹ The Council has also provided comments on the amended version. Therefore, I have considered both schemes within this decision.

Main Issue

6. The main issue relating to the appeals is whether the proposal would preserve the special interest of the Grade II listed villas at 1-10 Lyme Street, of which the appeal property is one, and the effect of the proposal on the character and appearance of the Regent's Canal Conservation Area (RCCA).

Reasons – both appeals

7. The appeal property at 5 Lyme Street is a two-storey semi-detached dwelling (plus lower ground floor). The proposal is to erect a single storey rear extension with a terrace above, a two-storey side extension and to make some internal alterations.
8. No 5 is within a row of ten distinctive semi-detached mid-19th century villas, with stucco façades, side porch entrances, hipped slate roofs with projecting eaves, and semi-basements enclosed by black metal railings. The houses are enhanced by decorative detailing, with segmental pediments above ground floor windows and full height pilasters adorning the semi-detached pair at Nos 5 and 6. The properties were listed at Grade II in 1974 and, notwithstanding some variations, present as an attractive and largely consistent group, amidst trees and greenery, on the northern side of this part of Lyme Street.
9. The rear elevations, comprising London stock brick above the lower ground floor, are less ornate, which is itself reflective of the original design concept with the more impressive detailing and features reserved for the main front elevation. However, the simplicity of the rear elevations also forms part of the overall significance of the listed buildings. Whilst some houses in the row have been altered or extended over time, No 5 appears to largely retain its principal historic form, notwithstanding some debate between the parties about the age of a small single storey rear addition. The special interest of the appeal building and the group, therefore, derives mainly from the aspects detailed above.
10. As already mentioned, there is an existing small closet extension to the rear of No 5, which would be removed. However, the proposed new extension would be considerably larger, extending across almost the full width of the rear elevation. Although single storey, its bulk would be accentuated by the roof terrace, metal railings and two incongruous 1.7 metre high timber side screens. Whilst screening would be necessary for privacy and to prevent overlooking, timber fencing at this elevated level would be unsympathetic to the character of the existing building. The scale and design of the extension and terrace would, cumulatively, have a negative effect on the simple, modest rear elevation of the existing building.
11. Moreover, the current pattern of fenestration at ground and first floor levels to the main rear elevation is distinctive, comprising three larger windows and a smaller window. From what I saw on my site visit and from the evidence

¹ Annexe M.2 – The Planning Inspectorate's Procedural Guide: Planning appeal – England (19 March 2019)

submitted², that window configuration appears to be repeated at the adjoining semi in the pair, at No 6, and along the rear of other dwellings in the listed row. However, the proposal is to replace the large sash window and small box window at ground floor level with a pair of glazed double doors and a single door to access the new roof terrace. Therefore, the existing historic window pattern would be disrupted and the particular form of the rear elevation significantly re-fashioned, with new doors and openings at ground floor level, and the side elevation extended back to the rear. Those changes would harm the historic rear form of the host dwelling, which appears largely unaltered, involve the loss of historic fabric, create an imbalance with the adjoining semi and have a detrimental effect on the character and appearance of the group of listed villas.

12. The appellant refers to other rear extensions along the street. I note, however, that those at Nos 7 and 8 were approved in 1959 which was some time before the properties were listed in 1974, whilst a more recent proposal for a rear extension at No 7 was refused on appeal.³ Whilst others are later and after the group was listed, according to the Council they are smaller than the appeal proposal. I do not have full details of those schemes or the circumstances that led to them being considered acceptable. However, it appears that the rear extension at No 6, the dwelling adjoining that appeal site, was to connect two existing extensions, for which there were no planning records. Furthermore, that extension is not topped by a roof terrace and does not appear to have involved changes to the established pattern of fenestration to the upper floors.
13. An existing timber privacy screen, cited by the appellant, which appears to separate the roof terraces between Nos 7 and 8 does not, according to the Council, benefit from planning permission or listed building consent and sits atop extensions approved prior to listing. The photograph of that existing high timber screening submitted by the appellant confirms my view that it harms the character of the area. Therefore, I give those precedent arguments limited weight. In any event, all proposals have their differing specific characteristics and I have considered the appeal on its own merits.
14. The existing side wing of the house comprises a slim porched entrance at ground floor level and widens below to provide a further side access, WC and storage area. The modest scale and design, confining the wider elements to lower ground floor level, ensures a visual break between the side wing and the equivalent similar porched entrance wing of No 4, the next villa to the east. That allows views between the buildings towards the greenery in the gardens behind which echoes the trees and planting to the front along the street.
15. The proposed side addition, whilst to the rear, would significantly extend the wing of the house backwards to the main rear elevation. It would alter the historic design, form and proportions of the building and appear discordant juxtaposed with No 4, which would be visible from the street, albeit in limited views. The increase in built form would also encroach, to an extent, on the gap between Nos 5 and 4, which currently provides a sense of space in a relatively dense urban environment. Those impacts would be detrimental to the host building and this listed row of Victorian villas.

² Including photographs

³ APP/X5210/A/14/2217363

16. The appellant refers to a similar side extension at No 6 and suggests that extending No 5 in a similar way would bring the pair back into symmetry. However, that ignores the effect of the proposed rear extension and terrace which would create dissonance between the two. Moreover, the Council advises that the side extension at No 6 was approved some 30 years ago, and I do not have full details of that scheme or the circumstances leading to its approval. The Council also advises that there does not appear to be planning permission or listed building consent for the porch side extension at No 1 and that there are no planning records for a lower ground floor level side extension at No 10. Therefore, I give limited weight to those various side extensions which I do not consider set desirable precedents and reiterate that I have considered the appeal proposal on its own particular merits.
17. The extent of visibility of the proposed changes is referred to frequently by the appellant. However, whilst that has some relevance, listed buildings are safeguarded for their inherent architectural and historic interest, irrespective of whether or not public views of the building can be gained. In any case, the side-extension would be visible in some views from the street and the rear extension, terrace and associated changes to fenestration would be visible from some adjacent properties or their gardens.
18. Given that the building appears to be largely historically intact both externally and in its plan form, some of the other proposed internal and external changes would also have adverse effects. For example, the opening out of the whole of the lower ground floor level and the removal of a significant part of the rear elevation to access the rear extension, would involve the loss of historic fabric and alter the original plan form, even taking account of the retention of nibs which has some mitigating effect. Nevertheless, when considered cumulatively with the other changes, they are detrimental. I have less concern about the ground floor window to the existing front room side elevation.
19. The listed villas are located within the RCCA and referred to in the 'RCCA Appraisal and Management Strategy' (AMS)⁴ which says: *'The special character of the area is largely derived from the almost hidden nature of the canal. The surrounding townscape largely turns its back on the canal creating a tranquil space distinct from the business of the surrounding city.'* The buildings in sub area 2, which include the early Victorian villas at 1-10 Lyme Street, enclose this part of the canal and make a positive contribution to the character and appearance of the RCCA.
20. The AMS also indicates, with regard to the townscape of sub area 2, that although less formal than the front elevations, many rear elevations of buildings have maintained their historic pattern of window openings, roof profiles and rear wings which gives an attractive architectural rhythm to the area and connects the canal to the wider urban grain. Those observations are largely in accordance with what I saw on my site visit in relation to this part of the RCCA.
21. Although the external changes would be to the side and rear of the building, there would be some public and private views from the street and adjacent properties. The combination of the side and rear extensions would disproportionately increase the bulk of this modest villa. Cumulatively, with other elements of the proposal, such as the roof terrace, privacy screens and

⁴ Adopted September 2008

changes in fenestration and openings, the scheme would negatively affect the character of the building, which would also be contrary to advice given in relation to rear extensions in the AMS. Overall therefore, the proposal would fail to preserve or enhance the character or appearance of this part of the RCCA and the conservation area as a whole.

22. As advised above, the appellant has submitted a set of alternative plans with minor modifications to the proposal, which I was invited to consider. However, the various limited amendments, including setting the rear extension back from the side elevation by 200mm, lowering the terrace privacy screens to 1200mm and replacing the timber fencing with black louvred railings and fixed planters, removing the proposed side windows and minor increases in the nibs at lower ground floor level, would not sufficiently mitigate the harms already identified. Indeed, the lower privacy screens, notwithstanding the proposed planting, would be likely to result in increasing the prospects of overlooking of adjacent gardens from the terrace. Therefore, although I have considered the amended plans, they do not significantly alter my findings.
23. Given the above, I conclude that the proposal, including in its amended form, would fail to preserve the special interest of the Grade II listed villas, of which the appeal property is one, and would have an adverse effect on the character and appearance of the RCCA.
24. Paragraph 193 of the Framework indicates that when considering the impact of proposals on the significance of designated heritage assets, such as listed buildings and conservation areas, great weight should be given to their conservation. That is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm. Similarly, Framework paragraph 194 says that any harm to, or loss of, the significance of a designated heritage asset, including from its alteration, should require clear and convincing justification.
25. Taking into account that the main external alterations are towards or at the rear of the property, with limited public views, and that it is one building amongst 10 listed villas, within the wider RCCA, I consider that the overall level of harm caused to designated heritage assets would, in the language of the Framework be 'less than substantial'. I note that the appellant's Heritage Assessment (HA)⁵ makes a similar finding at paragraph 5.8, albeit it ultimately considers the harm to be outweighed by other benefits.
26. Turning to that aspect, paragraph 196 of the Framework says that where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal, which can include securing the optimum viable use of a listed building.
27. The appellant holds that the proposal would provide a high-quality, sensitively designed living environment to meet their needs and improve the existing living accommodation, making it more suitable for family use. A further supporting statement from the appellant's heritage advisor⁶ endorses that view and refers to variations in the existing villas in the row. It submits, amongst other things, that the '*small terrace ... compensates for the industrial unit which*

⁵ Prepared by DLG Architects LLP – dated: October 2018

⁶ Submission from DLG Architects LLP – dated: 26 April 2019

cuts into the garden area'. However, the existing garden is of a reasonable size, and the rear extension and terrace would itself partially reduce the size of the garden area. Historic England's 'Constructive Conservation in Practice' document which refers to recognising and reinforcing historic significance, while accommodating the changes necessary to ensure continued use and enjoyment, is also cited by the appellant.

28. Whilst I have considered those factors, I am not persuaded that the limited public benefits are sufficient to outweigh the harm identified, which although 'less than substantial' still attracts great weight. Similarly, I am not convinced that the changes are necessary to sustain the continued viable use of the building. The dwelling was occupied at the time of my site visit and there is no clear reason or evidence before me to suggest that its continued residential use is in jeopardy. In any case, it may be possible that, if necessary, the living accommodation could be improved or altered by some alternative scheme which did not occasion the harm associated with the appeal proposal.
29. Therefore, the proposal would conflict with the Act, paragraph 192 of the Framework and policies D1 and D2 of the Camden Local Plan 2017, which seek to secure high quality design and preserve and, where appropriate, enhance the area's rich and diverse heritage assets, including listed buildings and conservation areas.

Other Matters

30. The appellant refers to pre-application advice provided by the Council, alleged differences between that and the Council's subsequent reasons for refusal, which the Council has disputed. Ultimately, those are issues between the main parties. In any case, pre-application advice does not bind a Council in making its final determination on a submitted scheme, provided it gives reasonable grounds for its findings. I am aware of the various iterations and revisions to the scheme. Suffice to say that I have fully considered the appeal proposal and the minor amendments to it offered with the appeal. However, for the reasons detailed above, I have found that the proposal, even in its amended form, would be harmful.
31. In addition to the matters dealt with in the main issue above, a neighbouring occupier refers to effects on daylight/ sunlight, overlooking and potential noise. I note that the Council considered that any such effects would be limited. As I am dismissing the appeals on other substantive grounds, there would be no purpose in me considering those aspects further.

Conclusion

32. For the reasons given above, and having regard to all other matters raised, I conclude that both Appeal A and Appeal B should be dismissed.

JP Tudor

INSPECTOR