
Appeal Decisions

Site visit made on 20 November 2019

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

an Inspector appointed by the Secretary of State

Decision date: 19 December 2019

Appeal A - Ref: APP/V5570/W/19/3235462

Flat 3, 15 Great Percy Street, Islington, London WC1X 9RD

- 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 Paul Gillooly against the decision of the Council of the London Borough of Islington.
 - The application Ref: P2019/1001/FUL, dated 29 March 2019, was refused by notice dated 24 May 2019.
 - The development proposed is internal refurbishment with minor layout reconfiguration. 2no. single storey extensions.
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Appeal B - Ref: APP/V5570/Y/19/3235464

Flat 3, 15 Great Percy Street, Islington, London WC1X 9RD

- 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 Gillooly against the decision of the Council of the London Borough of Islington.
 - The application Ref: P2019/1049/LBC, dated 29 March 2019, was refused by notice dated 24 May 2019.
 - The works proposed are internal refurbishment with minor layout reconfiguration. 2no. single storey extensions.
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Decision – Appeal A

1. The appeal is dismissed.

Decision – Appeal B

2. The appeal is dismissed.

Application for costs

3. An application for costs was made by Mr Paul Gillooly against the Council of the London Borough of Islington in relation to Appeal B. This application is the subject of a separate Decision.

Preliminary Matters

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 chapter 16 of the National Planning Policy Framework (the Framework).¹

¹ February 2019

5. The appellant refers, in relation to Appeal B which concerns the listed building consent application, to the wording of the reason for refusal in the Council's decision notice. It states: *'The proposed works by virtue of their unsympathetic design would adversely affect the character and special architectural and historic interest of the New River Conservation Area. The works would, therefore, cause harm to the significance of the heritage asset...'*. The appellant says that the reason for refusal does not state that the proposed works would harm the listed building and, referring to elements of the Council Officer's Report, submits that *'the Council has no objection to the proposed works in terms of the preservation of the listed building and that the only option open to the Council in relation to the application for listed building consent was to grant consent, either conditionally or unconditionally'*. The appellant's application for costs relates to that aspect.
6. However, the Council has since advised that there was an error within the reason for refusal given in the listed building consent decision notice in that *'the reference to the listed building was omitted and the effect on the conservation area was included in its place'*. It has expanded on its reasoning in that regard in its statement of case. The Council Officer's Report also advised, at paragraph 21, that *'the proposed works would adversely affect the special architectural and historic interest of the listed building'*. The relevant decision notice states that it is a *'Refusal of permission'* and Appeal B has been lodged on that basis. In any event, my role is to consider the listed building consent proposal taking account of relevant statute, national guidance, development plan policies where they are material, and the evidence presented. That is the approach which I have taken, as indicated in paragraph 1 above.
7. It is recognised that planning permission and listed building consent are two separate regimes,² but it is acceptable and usual to deal with such appeals together, as here, provided that the appropriate tests are applied to each and the relevant assessments made.
8. There is already planning permission and listed building consent (the approved scheme)³ for a single storey side extension of the same size and at the same location as that proposed as part of the appeal proposal. The parties advise that the main difference between that approved scheme and the similar element within the appeal proposal, is that the external wall material on the approved scheme is stock brick whereas in the appeal proposal it would be 'hit-and-miss' vertical timber cladding.

Main Issues

9. The main issues are:
 - Appeal A and B – the effect of the proposal on the special interest of the Grade II listed terrace at 15-19 Great Percy Street, of which the appeal property forms a part, and on the character and appearance of the New River Conservation Area (NRCA); and,
 - Appeal A – the effect of the proposed development on the living conditions of neighbouring occupiers, with particular regard to overlooking.

² Planning Practice Guidance: Paragraph: 042 Reference ID: 18a-042-20190723

³ Refs: P2018/4285/FUL and P2019/0057/LBC - both approved on 25 March 2019

Reasons

Listed Building

10. 15 Great Percy Street is a three-storey, plus basement, end-of-terrace residential property which has been divided into four flats. The appeal site, at Flat 3, lies within a two-storey rear extension to the main house.
11. The proposal relates to two single storey extensions, internal refurbishment and some minor layout changes. One extension would be to the west side of the building to create a new porch area. The other extension would be out onto part of a terrace above an internal lightwell between the main building and the rear addition.
12. No 15 forms part of a Grade II listed terrace of three houses running from No 15-19 which, according to the list description, date from circa 1839-1841 but with some alterations during the 20th century. The Council states that the two-storey rear extension at No 15 was built between 1915 and 1939 with the appellant variously referring to it as '*constructed in the inter-war period*'⁴ and '*constructed in the immediate post-war period*'.⁵ Whichever is correct, it appears clear and there is no dispute that the rear addition was in place when the terrace was first listed in 1978.
13. The terrace is constructed of yellow London stock brick with a banded stucco ground floor. The houses are two windows wide except for No 15 which has an additional portico main entrance to the side. Their design is informed by simple classical principles, with cast iron railings enclosing the basements and full-length sash windows at first floor level fronted by individual cast iron balconies. The houses resolve at a stucco cornice at the third storey with party wall chimneys.
14. No 15 is particularly prominent, as it is at the end of the terrace. Its stucco ground floor continues around its exposed flank elevation, with the two-storey rear addition visible from the public highway, from the direction of Percy Circus. Although the rear addition is later, it is constructed of matching stock brick, with its fenestration also largely sympathetic to the main building.
15. Given the above, I consider that the special interest of the listed terrace lies primarily in the high quality architecture, features and detailing of its external elevations. Similar qualities are reflected in the terrace opposite and, although with some variations in design, other listed terraces along Great Percy Street and in the area. While the rear addition is later and subordinate to the main street elevations, it evidences the historical evolution of the building and makes a contribution, albeit more modest, to its overall significance and special interest.
16. The proposed single storey side extension to the rear west elevation, intended as a porch area, would be about 4.6m long and 2m wide. Although the extension is relatively modest in size, the external elevations would mostly comprise 'hit-and-miss' vertical timber cladding consisting of untreated Iroko strips, with high-level clerestory glazing and a lightweight flat roof.

⁴ Page 4 - 'Design and Access and Heritage Statement' – prepared by: Architecture For London

⁵ Paragraph 4.2 – Appellant's Grounds of Appeal (P2019/1001/FUL)

17. It is submitted by the appellant that the principle of a side extension of this size and location was accepted in the approved scheme. However, the external elevations of the approved scheme are stock brick rather than timber. The use of such extensive timber cladding, as an intrinsic and dominant element of the design of the side addition, would appear wholly incongruous set against the London stock brick of the main building.
18. The appellant indicates that the design and choice of materials is informed by an existing 'hit-and-miss' timber fence located on the western boundary of the site, which separates it from the grounds of an adjacent post-war 4-storey block of flats at Holford House. However, no convincing rationale is provided for why the design of the extension should be based on the current presence of a discrete, timber boundary fence, rather than on the more substantive form and materials of the listed building to which it would be attached.
19. While the proximity of the timber fence is noted, it is not close boarded, with gaps between its vertical panels allowing the existing elevation to remain perceptible, to some extent. Moreover, the new timber elevations of the side addition would appear solid and, notwithstanding the glazed elements, extend higher up the side of the building. Furthermore, the extension would be an essentially permanent, solid adjunct, physically attached to the side elevation of No 15. Notwithstanding the presence of the existing fence, the proposed extension would jar with and appear unsympathetic to the main elevations of the building. Consequently, although towards the rear, it would have an adverse effect on the high quality architecture of the listed terrace, of which the appeal building forms a part.
20. The Council says that the timber design of the other proposed extension above an internal lightwell, between the original building and the later rear addition, is '*considered to cause less harm to the significance of the listed building*', as it would not be visible from public vantage points, and '*is largely obscured from surrounding private views*'. However, listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the building can be gained.
21. Although it would have sizeable glazed doors, the east terrace extension would be of timber construction, including its mono-pitched roof. The use of timber would, like the more prominent side extension, still be out-of-keeping with the stock brick construction of the existing building. While it would not be publicly prominent, there would be private views from some neighbouring rear windows of the main part of the terrace. In my view, it would cause some harm to the significance of the listed building, although to a lesser extent than the more public side elevation.
22. Overall therefore, I conclude that the proposed works would harm the special interest of the Grade II listed terrace at 15-19 Great Percy Street, of which the appeal property forms a part. It follows that the proposal would fail to satisfy the requirements of the Act and paragraph 192 of the Framework.
23. Although listed building consent appeals are not subject to s38(6) of the Planning and Compulsory Purchase Act 2004, and do not need to be determined in accordance with the development plan, development plan policies can still be material. In this case, there would be conflict with

policy 7.8 of The London Plan(LP)⁶, policy CS9 of Islington's Core Strategy (CS)⁷ and policy DM2.3 of Islington's Local Plan: Development Management Policies (DMP).⁸ Collectively, those policies seek, amongst other things, to ensure that development conserves heritage assets, is sympathetic in form and materials and exhibits high quality contextual design.

New River Conservation Area

24. According to Islington's Conservation Area Design Guidelines (CADG)⁹, the NRCA is predominantly residential, with some of the finest terraces and squares in the Borough. The CADG also says that: *'The area has a rare quality and consistency of scale, materials, design and detailing....'* That is largely in accordance with what I saw on my site visit. However, the area also suffered considerable damage during World War II bombing, and post-war development includes blocks of flats at Holford House, adjacent to the appeal site, and Bevin Court nearby, a listed building.
25. Given the above, the significance of the NRCA, insofar as it relates to these appeals, derives from the architectural quality and historic interest of its 18th and 19th century residential terraces, including those along Great Percy Street, while some 20th century buildings also contribute positively to its significance and character and appearance.
26. The CADG advises that for new development, materials should be sympathetic to the character of the area, in terms of form, colour and texture.¹⁰ It also indicates that on all redevelopment, extension and refurbishment schemes the use of appropriate materials, such as brick, stone, render, timber windows and slate roofs, which blend with and reinforce the existing appearance and character of the area, will be expected.
27. Although towards the rear of No 15, the proposed side extension would be visible in the street scene, as there is a wide gap between the flank of the end-of-terrace building and the adjacent Holford House. The timber structure, rising above the existing fence, and attached to the stock brick listed building would appear an incongruous addition within the NRCA. I did not see any similar timber clad extensions in the immediate area, and none have been cited by the appellant.
28. While the presence of the timber fence is noted, it does not appear to be typical of most of the boundary treatments or materials visible from the street. In the immediate vicinity, iron railings appear prevalent to the front of terraced houses, post-war flats and around the central green space on Percy Circus. Therefore, the proximity of an existing timber boundary fence, albeit erected by the Council according to the appellant, does not justify a permanent, higher more prominent timber side extension, which would appear out-of-keeping in the area and be likely to draw the eye.
29. Given the above, I conclude that the proposed side extension would have an adverse effect on the character and appearance of the NRCA. Consequently, it would conflict with policies 7.8 of the LP, policy CS9 of the CS and policy DM2.3

⁶ March 2016

⁷ February 2011

⁸ June 2013

⁹ January 2002

¹⁰ Paragraph 2.10

of the DMP. Those policies seek to ensure that development conserves Islington's heritage assets, including conservation areas, and that buildings fit into their existing context.

30. That element of the proposal would also conflict with similar guidance within the CADG and the Framework, including paragraph 127, which requires development to be sympathetic to local character and history, including the surrounding built environment, while not preventing appropriate innovation or change. In this case, the proposed design, whilst innovative, would not be appropriate in its context.
31. Unlike listed buildings the significance of a conservation area is dependent on how it is more widely experienced. Given that the other proposed extension onto the east terrace would not be visible in the public domain and would have only limited prominence in private views, it would not harm the significance of the NRCA, considered as a whole.

Living Conditions

32. The existing east terrace is adjacent to a lightwell which separates the original historic part of the main building at No 15 from the 20th century two-storey rear addition. The terrace is about 2.2m deep and the proposed extension would occupy about half of it. The Council has expressed concern about the resulting effect on the living conditions of neighbouring occupiers.
33. As I saw on my site visit, the existing elevation of flat 3 next to the terrace is already close to the rear elevation of the main building. The proposed addition, extending out onto the terrace, would bring the internal living space within flat 3 even closer to the neighbouring residential units in the main building. The principal elevation of the extension would consist mostly of large sliding glazed doors and be only about 3.4m away from the back of the main part of the house. That would allow angled views from the new extension down towards a set of French doors in the lightwell, belonging to Flat 1.
34. The appellant maintains that the existing east terrace is already used as an outdoor living space and provides the potential for overlooking of the lightwell and adjacent windows. Although the outdoor terrace may be in use, it is more likely to be used during clement weather and in the warmer spring and summer months, whereas internal living space offers the potential for use throughout the year. Therefore, physically extending that internal living space towards the lightwell and windows of the adjacent property, would increase the likely potential for overlooking and the perception of being overlooked.
35. It is submitted by the appellant that it is important to note that the occupier of Flat 1 has not objected to the proposal. However, that could be for a variety of reasons and it is still necessary for decision makers to consider the effect on current or future occupiers of neighbouring residential units.
36. On balance, therefore, while the extension is modest in size, I conclude that it would harm the living conditions of neighbouring occupiers, with particular regard to privacy. Consequently, it would be contrary to policy DM2.1 of the DMP which, among other things, indicates that to be acceptable, development should ensure a good level of amenity, which includes consideration of overlooking and effects on privacy.

Planning Balance and Conclusion

37. Framework paragraph 193 advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm. Consistent with that approach, Framework paragraph 194 advises that any harm to, or loss of, the significance of a designated heritage asset, including from its alteration, should require clear and convincing justification.
38. I have identified harm to the special interest of the listed building. However, the proposed single-storey side extension is modest in size and towards the rear of a later addition to the principal listed terrace. Therefore, in the language of the Framework, I consider the level of harm to be 'less than substantial'.
39. While there would be harm to the character and appearance of the NRCA, it would be confined to the effect of a single storey side extension to one property. Similarly, therefore, the degree of harm would be 'less than substantial'.
40. In such circumstances, paragraph 196 of the Framework advises that the harm should be weighed against the public benefits of the proposal. In this case, the additional living space provided would essentially be a private benefit for the occupiers rather than for the public at large. Whilst public benefits can include securing the optimum viable use of a listed building, there is no prospect that its residential use could not continue in its current form. Moreover, there is an approved scheme for the side extension, albeit in more sympathetic form, which could be implemented.
41. Furthermore, in relation to appeal A, the extension onto the east terrace would harm the living conditions of neighbouring occupiers, in conflict with the development plan.
42. 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