
Appeal Decisions

Site visit made on 21 November 2019

by Brendan Lyons BArch MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 27TH January 2020

Appeal A: APP/N5090/W/19/3229873

Southernhay, 49 Totteridge Village, Whetstone, London N20 8PP

- 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 Babs Anand against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/0476/HSE, dated 28 January 2019, was refused by notice dated 26 March 2019.
 - The development proposed is described as extension of existing lower ground floor cellar.
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Appeal B: APP/N5090/W/19/3229874

Southernhay, 49 Totteridge Village, Whetstone, London N20 8PP

- 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 Babs Anand against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/0477/LBC, dated 28 January 2019, was refused by notice dated 26 March 2019.
 - The works proposed are described as extension of existing lower ground floor cellar.
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Decisions

1. Appeal A is allowed and planning permission is granted for the extension of existing lower ground floor cellar at Southernhay, 49 Totteridge Village, Whetstone, London N20 8PP, in accordance with the terms of the application Ref 19/0476/HSE, dated 28 January 2019, subject to the conditions set out in the Schedule in Annex A to this decision.
2. Appeal B is allowed and listed building consent is granted for the extension of existing lower ground floor cellar at Southernhay, 49 Totteridge Village, Whetstone, London N20 8PP, in accordance with the terms of the application Ref 19/0477/LBC, dated 28 January 2019, subject to the conditions set out in the Schedule in Annex B to this decision.

Main Issue

3. The main issue in both appeals is whether the special interest of the listed building would be preserved.

Reasons

4. Southernhay is a large detached house that stands within a village now absorbed by the expansion of Outer London. The house dates from the early nineteenth century and is listed Grade II. The surrounding area has been designated as a conservation area and forms part of the Green Belt.
5. The house has two main storeys, with stuccoed elevations and large sash windows. It was originally of double-pile form with two bays expressed by gable-ended roofs separated by a valley. In the 1980s a third matching bay was added to the western side of the house, and more recently a lower southern wing was also extended to the west.
6. A cellar runs under the original part of the house, the front bay of which has very restricted headroom. It is now proposed to lower the floor in the second bay by some 400mm, to achieve a ceiling height of 2.3m, and to remove some internal partition walls to allow the space to be used as a playroom. At the same time, a large new cellar space would be excavated under the house's newer third bay, with access gained by enlarging existing openings in the original cellar's rear wall.

Special interest of the listed building

7. In considering proposals for alteration to a listed building, statutory duty¹ requires that special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. A similar duty applies in respect of the preservation or enhancement of the character or appearance of a conservation area². National policy set out in the National Planning Policy Framework ('NPPF') confirms the great weight in favour of the conservation of 'designated heritage assets' such as listed buildings and conservation areas³. The particular significance of any element of the historic environment likely to be affected by a proposal should be identified and assessed⁴. Any harm should require clear and convincing justification⁵.
8. In this case, the list entry gives little information on the reasons for listing. The house's historic interest appears to lie in its illustration of the form of comfortable high-status residential development of a village near London in the early nineteenth century. Its architectural interest is as an example of a substantial well-proportioned villa of its period. The character and appearance of the conservation area are strongly influenced by the presence of other such large houses, built from the seventeenth century onwards.
9. The list entry makes no reference to the 1980s extension, although the appellant states that this had been approved some time previously. But the extension has had a considerable impact on the building. Externally, the third bay has been added as a matching gable-ended module, so that it is no longer possible to readily distinguish the original house. Internally the ground floor rooms have been opened without interruption to the new space to the rear,

¹ Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, dealing respectively with applications for proposed works and proposed development

² Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

³ NPPF paragraph 193

⁴ NPPF paragraphs 189, 190

⁵ NPPF paragraph 194

making an appreciation of the original proportions quite difficult. In my view the house's special interest has been eroded as a result of the extension.

10. The cellar has also been subject to some alteration, with a modern floor and some relatively modern brick partitions in the rear bay. Its contribution to the house's special interest is modest, mainly by illustrating the hierarchy of service spaces used to support a house of this age and status. The very low headroom in the spaces under the front of the house is notable, but this would not be affected by the appeal proposal. The most important element of surviving historic fabric is the twin structure of the original rear wall and external retaining wall, with the arched buttresses between them, which are now only visible through two access hatches.
11. The Council raises no objection to the removal of the modern floor and partitions, but argues that the ceiling height should be restricted to 2.0m to maintain the service character of the space. At present, headroom is sub-standard below several downstand beams. The proposed ceiling height of 2.3m would achieve safe headroom under these beams. The room to be created would still have the character of a low service space compared to the floors above, so that the hierarchy of functions within the house would be retained. There should be little or no loss of historic fabric, and the necessary additional steps down would match the existing treads. The Council also accepts that, subject to detail, the proposed tanking of the external walls could be beneficial in resolving rising damp issues affecting the original house.
12. The proposed additional cellar space would cover the full extent of the 1980s third bay. I agree with the appellant that the proposal would be consistent with the pattern of extensions previously approved. Had consent been sought for a cellar under the third bay at the same time as the upper floors, I have little doubt that it would have been granted. There would be no additional harm in principle to the building's heritage significance.
13. The proposed access to the extension would involve minimal impact on historic fabric, comprising minor enlargement or existing openings. Importantly, the arched structures and cross wall between the two skins of the external wall would be retained and sensitively incorporated into new useful storage spaces. I agree with the appellant that the exposure to view of these currently hidden features would allow a better appreciation of the house's original form and later evolution. The reinstatement of a basement window to the north elevation would restore the original detail.
14. The Council argue that the proposal would result in substantial harm to the significance of the designated heritage asset. The Planning Practice Guidance advises that substantial harm is a high test⁶, and the courts have accepted that it would require a serious impact by which very much of its significance would be lost⁷. That would certainly not be the case here. In fact, I agree with the appellant that there would be no additional harm to the already eroded significance of the heritage asset, which would be better revealed by the proposed exposure of the original external wall structures and their incorporation into the enlarged cellar. For the reasons already set out, I find that the proposal would preserve the special interest of the listed building. The proposal would comply with national policy on the conservation of heritage

⁶ PPG Historic Environment, paragraph 018

⁷ Bedford BC v SSCLG and Nuon UK Ltd [2012] EWHC 4344 (Admin)

assets and hence with Policy CS NPPF of Barnet's Local Plan ('LP') Core Strategy, adopted 2012. There would also be no conflict with the heritage protection objectives of Core Strategy Policy CS5 and of Policy DM06 of the LP Development Management Policies DPD, also adopted in 2012.

Other matters

15. The Council accepts that the character and appearance of the Totteridge Conservation Area would not be harmed as the proposed cellar extension would not be visible above ground beyond the footprint of the existing building. For the same reason, the Council concludes that the extension would not amount to inappropriate development in the Green Belt, and that there would be no adverse effect on openness. I find no reason to take a different view on these matters. The proposal would comply with LP Policies DM01 and DM06 in respect of protection of local character.

Conditions

16. The Council has proposed conditions to be applied in the event of the appeals being allowed. For the most part, subject to some amendment I find these reasonable and necessary and to meet the tests for conditions set out in the NPPF.
17. In both appeals, standard conditions are required to limit the commencement time and to confirm the approved plans.
18. In Appeal A, measures to protect existing trees on the site are necessary to ensure the character of the conservation area would not be harmed. The approval and implementation of a Construction Management Plan is needed to avoid harm to the living conditions of nearby residents and to highway safety. Both of these sets of measures need to be approved before development commences to ensure harm would be fully avoided.
19. In both appeals, but limited to the exterior of the building in Appeal A, a condition is necessary to ensure materials and finishes would match the adjacent situation, unless otherwise specified on the plans. Further details of the internal works can be secured by additional conditions on the Appeal B consent. In each case the condition is necessary to ensure the special interest of the listed building would be preserved, and approval of the relevant details before commencement of works is necessary for that reason.

Conclusion

20. I conclude that both appeals should be allowed, and planning permission and listed building consent granted subject to conditions.

Brendan Lyons

INSPECTOR

Annex A

Appeal A: APP/N5090/W/19/3229873

Southernhay, 49 Totteridge Village, Whetstone, London N20 8PP

Schedule of conditions Nos. 1-5

1. The development hereby permitted shall commence not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans
Drawing 964.000 - Site Location Plan;
Drawing 964.101 - Basement Floor Plan Existing;
Drawing 964.102 - Ground Floor Plan Existing;
Drawing 964.111 - Section A-A Existing;
Drawing 964.112 - Section F-F Existing;
Drawing 964.113 - Basement Sections B-B to G-G Existing;
Drawing 964.201 - Basement Floor Plan Proposed;
Drawing 964.202 - Ground Floor Plan Proposed;
Drawing 964.211 - Section A-A Proposed;
Drawing 964.212 - Section F-F Proposed;
Drawing 964.213 - Basement Sections B-B to G-G Proposed.
3. No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until details of temporary tree protection have been submitted to and approved in writing by the Local Planning Authority.
No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the scheme of temporary tree protection as approved under this condition has been erected around existing trees on site. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time.
4. No development or site works shall take place on site until a 'Demolition and Construction Management and Logistics Plan' has been submitted to and approved in writing by the Local Planning Authority. The Demolition and Construction Management and Logistics Plan submitted shall include, but not be limited to, the following:
 - details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures;
 - site preparation and construction stages of the development;
 - details of provisions for recycling of materials, the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials;
 - details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage to mud and dirt onto the adjoining highway;
 - the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works;
 - a suitable and efficient means of suppressing dust, including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance;

- noise mitigation measures for all plant and processors;
- details of contractor's compound and car parking arrangements;
- details of interim car parking management arrangements for the duration of construction;
- details of a community liaison contact for the duration of all works associated with the development.

The development shall thereafter be implemented in accordance with the measures detailed within the statement.

5. All new external works and finishes and works of making good to the retained fabric, shall match the existing adjacent work with regard to the methods used and to material, colour, texture and profile, unless shown otherwise on the drawings or other documentation hereby approved or required by any condition(s) attached to this permission.
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Annex B

Appeal B: APP/N5090/W/19/3229874

Southernhay, 49 Totteridge Village, Whetstone, London N20 8PP

Schedule of conditions Nos 1-4

1. The works hereby approved shall commence not later than three years from the date of this decision.
2. The works hereby approved shall be carried out in accordance with the following approved plans:
 - Drawing 964.000 - Site Location Plan;
 - Drawing 964.101 - Basement Floor Plan Existing;
 - Drawing 964.102 - Ground Floor Plan Existing;
 - Drawing 964.111 - Section A-A Existing;
 - Drawing 964.112 - Section F-F Existing;
 - Drawing 964.113 - Basement Sections B-B to G-G Existing;
 - Drawing 964.201 - Basement Floor Plan Proposed;
 - Drawing 964.202 - Ground Floor Plan Proposed;
 - Drawing 964.211 - Section A-A Proposed;
 - Drawing 964.212 - Section F-F Proposed;
 - Drawing 964.213 - Basement Sections B-B to G-G Proposed.
3. All new external and internal works and finishes and works of making good to the retained fabric, shall match the existing adjacent work with regard to the methods used and to material, colour, texture and profile, unless shown otherwise on the drawings or other documentation hereby approved or required by any condition(s) attached to this consent.
4. Before the commencement of any works hereby approved, plan details (scale 1:20) and methodology statements with the following details below, shall be submitted to and approved in writing by the Local Planning Authority, and the works undertaken in accordance with the approved details and thereafter so retained:
 - Methodology and specification of proposed tanking to basement;
 - Methodology and specification of where and how the basement room plant services will be installed and routed to minimise impact on the historic fabric of the building;
 - Methodology and specification of extension to staircase, removal of rear basement wall and repair to lightwell to the north of the basement;
 - Methodology and specification of the damp proofing treatment to the basement.