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## Appeal Decisions

Site Visit made on 19 October 2021

**by A Edgington BSc (Hons) MA CMLI**

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

**Decision date: 4 November 2021**

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### **Appeal A Ref: APP/X5210/W/21/3270197**

#### **64 Lincoln's Inn Fields, London, WC2A 3JX**

- 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 Thakkar against the decision of London Borough of Camden.
- The application Ref 2020/3104/P, dated 10 July 2020, was refused by notice dated 4 January 2021.
- The development proposed is Full planning permission and listed building consent to raise the existing rear extension, to lower the third-floor ceiling level and for the erection of a single storey double pitch mansard roof extension along with alterations to the front façade to facilitate the creation of a two bedroom apartment and associated plant.

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### **Appeal B Ref: APP/X5210/Y/21/3270198**

#### **64 Lincoln's Inn Fields, London, WC2A 3JX**

- 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 Thakkar against the decision of London Borough of Camden.
- The application Ref 2020/3723/L, dated 10 July 2020, was refused by notice dated 4 January 2021.
- The works proposed are Full planning permission and listed building consent to raise the existing rear extension, to lower the third-floor ceiling level and for the erection of a single storey double pitch mansard roof extension along with alterations to the front façade to facilitate the creation of a two bedroom apartment and associated plant.

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### **Decision**

1. Appeal A is dismissed.
2. Appeal B is dismissed and listed building consent is refused.

### **Applications for costs**

3. An application for a costs award has been made by the appellant. This is the subject of a separate decision.

### **Preliminary Matters**

4. To avoid duplication, I have considered the appeals together where appropriate.
5. Although not mentioned in the reasons for refusal I have considered the effects of the development and works on other listed buildings as well as Lincoln's Inn Fields in my reasoning, in line with my statutory duty. As the appellant has prepared a comprehensive heritage statement, I am satisfied that this would not be prejudicial to the parties.

## Main Issues

6. The main issues are:

- Whether the proposals would preserve the Grade II listed 64 Lincoln's Inn Fields, or any features of special architectural and historic interest, including setting, and whether the proposals would preserve the settings of the Grade I listed Lindsey House, the Grade II\* Listed Powis House, 57 – 58 and 65 Lincolns Inn, and the Parks and Gardens Grade II listed Lincoln's Inn Fields; and, whether the works would preserve or enhance the character or appearance of the Bloomsbury Conservation Area (BCA), (Appeals A and B);
- The effect of the development on parking stress and highway safety (Appeal A); and,
- Whether the development would accord with local policies regarding affordable housing, (Appeal A).

## Reasons

### *Heritage assets*

#### No 64

7. Number 64 Lincoln's Inn (No 64) is listed as an early 19<sup>th</sup> century four-storey house with basement located in West Row. It has a central double panelled door and fanlight, with side corbels supporting a stone balcony with iron balustrade. There are multipaned sash windows on all floors, with ionic pilasters through the first and second floor carrying entablature, and a dentilled cornice. At third floor level, above the cornice, the window openings have the same dimensions as those on the first and second floors, and are set between sunk pilasters. The façade is topped by a low lead covered parapet which partially conceals a low hipped roof.
8. West Row is a long terrace of high-status former townhouses. In comparison with the other buildings on West Row, No 64's principal elevation is one of the plainer facades. However, although there is a variation in style, height and materials across West Row, there is an underlying cohesiveness derived from similarities of scale and typology.
9. Number 64's plan form has been altered to accommodate the current flatted accommodation, but the building has a spacious double flight staircase with what appeared to be a 19<sup>th</sup> century balustrade, a dado rail, and cornice plasterwork as well as ceiling roses. These appeared to me to be original rather than reproduction. On the rear elevation there is evidence of significant intervention, including the replacement of rear wings.
10. There is a very detailed heritage statement before me, which argues that No 64 is considerably older than suggested by the listing. Early illustrations of Lincoln's Inn suggest that when constructed, No 64 formed part of a continuous 17<sup>th</sup> century terrace and was one of a line of four near identical buildings located towards the terrace's northern end. These plots are now occupied by 63, 64, 65 Lincoln's Inn Fields and Powis House. At third floor level the original mid-terraces had steeply pitched roofs and pitched roof dormers.
11. The building chronology indicates that the original third floor and roof were altered between 1770 and 1820. The cornice was retained but the dormers

and roof were replaced by a flat elevation topped by a parapet. The replacement windows were of diminished dimensions compared to the first and second floors, establishing a clear hierarchy. Number 64's height was not significantly changed.

12. Between 1820 and 1880, the ceiling height of the third floor was raised and new taller windows installed. A new roof was constructed and overall, there was a significant increase in height. The resultant principal elevation is broadly what can be seen today. The hipped roof behind the low parapet is relatively shallow and although unseen from the immediate footways, it is visible in views from the nearby road junction as well as in longer views from within Lincoln's Inn Fields (the Fields).
13. The structural survey confirms that the roof has undergone structural alteration since the 17<sup>th</sup> century. Although the report states that the timbers can be dated mainly from the 19<sup>th</sup> century, the drawings show that there are long lengths of 18<sup>th</sup> century beams forming the base of the current roof as well as part of the wall-plate. One area of roof has 18<sup>th</sup> century beams and rafters<sup>1</sup>.
14. I had access to only part of the roof space but it was apparent that a large proportion of the roof structure in that area was of some age. Although the loft access and plant room were clearly associated with new timbers, some of the wall plates, rafters, lower sarking boards and some beams appeared to fall within the category of timbers dating back to the 19<sup>th</sup> century or earlier.
15. I conclude that the significance of No 64 arises from the evidential value of its intact historic fabric, particularly the high-quality detailing of its principal elevation. It also makes a notable individual and collective contribution to the rich architectural diversity of West Row, contributing to the settings of other listing buildings nearby. The significance of the existing roof is that it also has evidential value, reflecting No 64's evolution since the 17<sup>th</sup> century.

#### Other listings

16. By the mid-17<sup>th</sup> century, the Fields were largely enclosed by housing. The present layout dates from the early 19<sup>th</sup> century and has not significantly changed. The large open space provides a vantage point from which to view and appreciate the imposing terraces of mixed 17<sup>th</sup>, 18<sup>th</sup> and 19<sup>th</sup> century buildings. Although listed in its own right, the Fields also contains listed features including a pair of lamp posts, commemorative seats and a gothic drinking fountain.
17. Lindsey House is a three-storey house with basement and 20<sup>th</sup> century attic with dormers, a stuccoed principal elevation and rusticated ground floor. It was built in the 17<sup>th</sup> century for Lincoln's Inn's main developer and contemporary views show that it was built as the terrace's centrepiece. It also provided a model for the development of London over the next two centuries and has been described as historically perhaps the most important single house in London.
18. Lindsey House and No 64 are separated by 61-62, and 63 Lincoln's Inn Fields, which appear to post-date both buildings by a considerable period. However, it is apparent when looking between the two that Lindsey House's principal elevation is more generously proportioned. It also has notably more

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<sup>1</sup> Dwg.s SSK100, SSK101, SSK200

ornamentation than No 64, with pedimented first floor windows and a stone balustrade above the cornice. This accords with the visual images seen in the early illustrations of the terrace.

19. Lindsey House abuts the Grade II\* listed 57-58 Lincoln's Inn Fields (Nos 57-58) on its other side. The listing dates Nos 57 -58 from the 18<sup>th</sup> century, but given the contemporary illustrations it seems highly likely that there was an earlier 17<sup>th</sup> century mid-terrace on the plot. This would have been subservient to Lindsey House but taller than the remaining terrace to the south.
20. Number 57-58 was rebuilt in 1730. Although its architecture is superficially very similar to Lindsey House, with a stuccoed elevation, rusticated ground floor and pedimented windows at first floor level, its eaves are slightly higher than at Lindsey House and the cornice is more ornate. As such, after 1730 Lindsey House was no longer the obvious centrepiece of West Row and the former balance and consistency of the terrace were disrupted.
21. The Grade II\* listed No 65, which abuts No 64 to the north, is listed as a late 18<sup>th</sup> century townhouse with a stone façade and rusticated ground floor. In turn the Grade II\* listed Powis House abuts No 65 and forms the end of the terrace. This was partly rebuilt by Lutyens in the early 20<sup>th</sup> century, adding a central pediment above the principal elevation of brown and red brick with stone dressing, a projecting central bay and an entrance door with rusticated pilasters approached by twin quadrant flights of steps.
22. Although documentary evidence suggests that there was considerable uniformity in height and architectural detailing of the town houses making up West Row around 1650<sup>2</sup>, by 1688 that consistency was far less evident<sup>3</sup>. A comparison of the early illustrations and the current appearance of individual buildings indicates that all of the original townhouses have undergone incremental and/or substantial changes, including upwards extensions, since the terrace was established. My conclusions in this regard are confirmed by the listings, the heritage statement and the BCA appraisal. This states that individual town houses have been subject to regular piecemeal and alteration works since the 17<sup>th</sup> century, which included alterations to height, scale, plot size and architectural style. I see no reason to disagree.
23. As such, the current appearance of West Row is very different from that shown in the early illustrations. Other buildings are now taller than Lindsey House and the rigid geometry of symmetry and repetition that characterised the original 17<sup>th</sup> century terrace has largely disappeared.
24. The significance of the Fields and the other listed townhouses described above lies in their interlinked and underlying spatial relationship. These reflect London's early planning and development. There is also a wealth of intact and very high-quality internal and external historic fabric, as well as historic association with key architects, notable occupiers and developers which reflects the social and economic drivers of the time. The listed buildings and the Fields provide reciprocal and overlapping settings for each other.

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<sup>2</sup> Heritage Statement Fig.1

<sup>3</sup> Heritage Statement Fig.3

*Bloomsbury Conservation Area*

25. The BCA appraisal states that Bloomsbury is internationally significant as an example of town planning. The predominant built form is that of terraces of town houses reflecting the speculative and mainly residential development of the Stuart, Georgian, Regency and early Victorian periods. This gives a distinctive and repeated grain to the area. The large scale of the fields, together with the wide roads gives a sense of openness and space affording long views on all sides of development on a grand scale.
26. The significance of the BCA is derived from its outstanding historic fabric and highly attractive built form. This provides evidential value of planning, architecture and craftsmanship serving the upper strata of society over several centuries, as well as indicating that there has been ongoing change.

*Proposed effects*

27. The proposal is to return No 64's third floor front elevation to a design similar to that of the period between 1770 and 1820 above the cornice, that is, with a flat elevation and reduced size windows than is currently the case. There would be a full height mansard roof with dormers above. The works would also include raising one of the rear outriggers and to installing a new staircase to the proposed fourth floor. It is argued that this would restore No 64's 17<sup>th</sup> century origins and that the heritage benefits of the proposals would outweigh the loss of the existing roof structure and part of the existing façade.
28. However, the heritage statement indicates that the 17<sup>th</sup> century roof and dormers were on the third floor, rather than the fourth floor as now proposed, and did not sit above a 19<sup>th</sup> century façade. In addition, the original building had a steeply pitched roof and pitched roof dormers<sup>4</sup>, rather than a mansard. The proposals appear to amount to cherry picking from various periods of history and the resultant building would not resemble any of its previous iterations or any other building in West Row.
29. I acknowledge that remains of a 17<sup>th</sup> century basement wall were found in 2015. However, the argument that No 64 remains a largely 17<sup>th</sup> century construction is not based on the discovery of extensive 17<sup>th</sup> century fabric. I acknowledge that there are distinct resemblances between the terrace shown in the illustration and parts of No 64's principal elevation, and I give moderate weight to the argument that there is a substantial 17<sup>th</sup> century structure remaining on No 64's site. However, I give no weight to the argument that it had a mansard roof.
30. In any case, even if there was a substantial 17<sup>th</sup> century structure remaining and even if the proposals represented a replica of the original building, No 64 is now seen and appreciated within a wholly different context. Whilst not all phases of a building's development have equal value in heritage terms, I am unclear why the significance of the 17<sup>th</sup> century building should be given so much more weight than later building phases, particularly when the immediate context is so changed.
31. In addition, the historic roof forms would be taken apart and the areas of 18<sup>th</sup> century joists and rafters would be removed completely. It is argued that timbers could be reused, but the plans show that the proposed roof structure

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<sup>4</sup> Figure 16.

would not replicate the existing. Retained timbers would need to be cut and presumably fixed with 21<sup>st</sup> century fixings. The reuse of timbers in different structures would not compensate for the scale of intervention proposed. In any case, I am unclear what would be gained in heritage terms from reusing 19<sup>th</sup> century timbers to recreate a 17<sup>th</sup> century mansard roof.

32. Furthermore, the full storey height of the mansard above the rebuilt third floor would appear disproportionately tall and bulky above the reduced height of the third floor windows and associated parapet. Its increased height would also make it more visible from the public domain. Given that as far as I can ascertain there is no evidence of a mansard roof at No 64, this would detract from No 64's significance.
33. Number 64 was listed on the basis of its special architectural or historic interest in 1974. The listings for the other buildings in West Row also recognised that they have evolved in a piecemeal fashion over a number of centuries. As such, the terrace's current typology and style charts changing aspirations and fashion in an upper-strata of society. This in itself has heritage value and significance. The appeal statement states that No 64 *needs to be better identified as a 17<sup>th</sup> survival in a context of other similarly detailed 17<sup>th</sup> buildings*. However, even those buildings that have retained some evidence of their 17<sup>th</sup> origins on their front elevations, are now part of a richly diverse and detailed street scene which reflects 300 years of building history.
34. Consequently, even if No 64 was inaccurately dated at listing, it contributes to the wider setting of the Fields, the other listed buildings and to the character and appearance of the BCA. If the appeal was allowed, evidential historic fabric and structures would be lost to enable the construction of what would be a highly contrived principal elevation, bearing little resemblance to any period of No 64's own evolution. Even if I give weight to the argument that there would be heritage benefits in returning No 64 to its 17<sup>th</sup> century origins, and no weight to the removal of the existing roof, it surely follows that what is proposed should reflect the 17<sup>th</sup> built form. This appears to be a fundamental inconsistency in the arguments before me.
35. Moreover, one of the arguments advanced by the appellant is that the existing roof has little value as it is not authentic. However, the use of 19<sup>th</sup> century timbers to build a quasi-17<sup>th</sup> roof structure in the 21<sup>st</sup> century is equally inauthentic. I see no compelling reason in heritage terms to justify what is before me with regards to the roof alterations.
36. The heritage statement includes plans that indicate the stairwell dates from the mid-19<sup>th</sup> century and the late 18<sup>th</sup> to early 19<sup>th</sup> centuries. Whichever date is correct, it appears that the stairwell and staircase have remained intact for a considerable period. In principle I see no reason why an additional flight could not be added to enable access to a fourth floor, given appropriate detailing, as it would not affect the existing staircase or the floor plan of No 64's other floors, and would clearly be seen as addition.
37. The rear side wings of No 64 have been significantly altered since the 18<sup>th</sup> and 19<sup>th</sup> centuries and the works would include the raising of those wings. Whilst this would alter No 64's rear elevation I am satisfied that such works would not further detract from the building's significance.



38. I conclude that the development and works would fail to preserve No 64 or its features of special architectural or historic interest. This would amount to substantial harm to the significance of No 64.
39. The development's incongruous and contrived appearance would also detract from the settings of other nearby listed buildings and the Fields, and fail to preserve or enhance the character or appearance of the BCA. In relation to the other listed buildings, the Fields and the BCA, the development and works would amount to less than substantial harm.

#### Heritage balance

40. Paragraph 201 of the National Planning Policy Framework (the Framework) states that where a proposed development will amount to substantial harm, councils should refuse consent unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm. This paragraph goes on to list exceptions including that the nature of the assets prevents all reasonable uses of the site, no viable use can be found, the lack of funds for conservation and that the harm is outweighed by the benefit of bringing the site back into use. As the building is well maintained and being used as flats accommodation, none of these exceptions apply.
41. Paragraph 202 of the Framework sets out that where a development will lead to less than substantial harm to the significance of a heritage asset this harm should be weighed against the public benefits of the proposal, including optimum viable use.
42. The development would add one more unit of accommodation to the Council's housing supply in a highly accessible location. However, this would make a very small impact on local housing supply and would not outweigh the harm I have identified above.
43. I conclude that the development and works would fail to preserve No 64, and its features of special architectural and historic interest, and would also fail to preserve the settings of aforementioned listed buildings nearby and the Fields. In addition, they would fail to preserve or enhance the character or appearance of the BCA. This would be contrary to Sections 16(2), 66(1) and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (the Act). The proposals would also be contrary to Section 16 of the Framework which is concerned with conserving and enhancing the historic environment.
44. The proposals would also fail to accord with Policies D1 and D2 of the Local Plan (LP) which taken together seek to ensure that development respects local context and character, and preserves or enhances the historic environment and heritage assets, amongst other considerations.

#### Parking Stress

45. The site is located in central London. LP Policy T2 sets out that the Council will limit the availability of parking and requires all new developments in the borough to be car-free. Legal agreements are to be used to ensure future occupiers are aware that they are not entitled to on-street parking permits. I am satisfied that if the proposals were allowed an obligation could ensure that car ownership was restricted and that consequently the development and works would not result in additional on-street parking stress and congestion.

46. I have a completed Unilateral Undertaking (UU) before me which sets out that prior to disposing of the additional flat or permitting it to be occupied, the appellant undertakes to ensure that occupiers are aware that the development was considered to be car free. I see no reason in principle why the UU should not address the Council's concerns. As such, the development would be car-free and would not conflict with LP Policy T2 in this regard, or LP Policy DM1 which is concerned with delivery and monitoring.

#### *Affordable housing*

47. LP Policy H4 requires an affordable housing contribution for schemes of fewer than 10 additional units. The Council has set out the contribution that would be required in the officer's report. The UU sets out that the development and works would not be commenced unless the affordable housing contribution had been paid. The development would not therefore conflict with LP Policy H4 in this regard, or with LP Policy DM1 which is concerned with delivery and monitoring.

#### **Other Matters**

48. I appreciate that these proposals may differ from earlier applications, but this does not alter my reasoning which is based on the appeal before me.
49. The heritage statements refer at length to the previous appeal. However, this related to a materially different scheme, and that Inspector did not have the evidence now available to me. As such that Inspector's conclusions and reasoning have limited comparability to this appeal.

#### **Conclusion and Planning Balance**

50. The development and works would provide one additional unit of accommodation in central London and make a very modest contribution to the provision of affordable housing. However, I conclude that this would not be sufficient to outweigh the harm to No 64 through the loss of historic fabric and the adverse effect on other designated heritage assets. Moreover, I see no benefits in heritage terms arising from the development and works. If the appeal was allowed the resultant building would fail to reflect its original form and would be located in a context that has changed significantly since the 17<sup>th</sup> century.
51. As such the development and works would be contrary to the Act, the Framework and relevant local policies. The development and works would fail to accord with the local plan taken as a whole and there are no material considerations of such weight to lead me to conclude otherwise. As such, Appeal A and Appeal B are dismissed.

*A Edgington*

INSPECTOR