



Appeal Decisions

Site visit made on 17 January 2022

by R J Jackson BA MPhil DMS MRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 18 February 2022

Appeal A Ref: APP/X5990/W/21/3278569

44 Acacia Road, London NW8 6AP

- 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 Lord David Alliance against the decision of City of Westminster Council.
 - The application Ref 21/01468/FULL, dated 10 March 2021, was refused by notice dated 10 May 2021.
 - The development proposed is erection of replacement rear conservatory extension with a balcony and steps to rear garden.
-

Appeal B Ref: APP/X5990/Y/21/3278571

44 Acacia Road, London NW8 6AP

- 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 Lord David Alliance against the decision of City of Westminster Council.
 - The application Ref 21/01469/LBC, dated 10 March 2021, was refused by notice dated 10 May 2021.
 - The works proposed are replacement of existing rear conservatory extension with new extension with a balcony and steps to rear garden and associated internal alterations.
-

Decision

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is allowed and listed building consent is granted for replacement of existing rear conservatory extension with new extension with a balcony and steps to rear garden and associated internal alterations at 44 Acacia Road, London NW8 6AP in accordance with the terms of the application Ref 21/01469/LBC dated 10 March 2021 and the plans submitted with it subject to the following conditions:
 - 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
 - 2) All new work inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance.

Preliminary Matters

3. The appeal property, 44 Acacia Road (No 44), is listed as a single listed building with the adjoining property, 45 Acacia Road (No 45).
4. As the appeals relate to a listed building and lie within the St John's Wood Conservation Area I am required to consider the proposals in the light of the obligations set out in Sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) as appropriate, and the representations received.

Main Issues

5. The main issues for Appeal A are:
 - (i) whether the proposal would preserve the special architectural and historic interest of the listed building and its setting;
 - (ii) the effect on the St John's Wood Conservation Area; and
 - (iii) the effect on the living conditions of the occupiers of No 45 in terms of whether the proposal would be overbearing.
6. The main issues for Appeal B are:
 - (i) whether the proposal would preserve the special architectural and historic interest of the listed building and its setting; and
 - (ii) the effect on the St John's Wood Conservation Area.
7. As the first two main issues in respect of Appeal A and that of Appeal B are effectively the same, I will consider them together.

Reasons

8. The National Planning Policy Framework (the Framework) defines the significance of a heritage asset as the value of a heritage asset to this and future generations because of its heritage interest. The national Planning Practice Guidance (the PPG) also notes¹ that 'significance' derives not only from a heritage asset's physical presence, but also from its setting.
9. Paragraph 199 of the Framework indicates that great weight should be given to the conservation of a heritage asset and this is irrespective of the level of harm that may occur. It is also emphasised that the more important the asset, the greater the weight should be. Paragraph 200 of the Framework indicates that any harm to the significance of a heritage asset, or from development within its setting, should require clear and convincing justification.

The effect on the listed building

10. The listed building is a pair of semi-detached villas built in the period 1830-40. It is completed in stucco and in an Italian-Grecian style. It is constructed in four storeys² with the lowest being partially below ground level. It is one of four similar pairs of semi-detached properties on the northern side of Acacia

¹ Reference ID: 18a-006-20190723

² The listing description gives the height as "2 storeys on semi-basement". However, it is clear that there are four storeys of accommodation, with the lowest partially below ground level. I will refer to the four storeys, from the lowest, as "lower ground", "ground", "first" and "second" floors.

Road. The appeal property has been extended on the east side by a single storey extension which extends to the rear of the main elevation. The rear wing on the eastern side of the main house extends to lower-ground, ground and first floors with a balcony on top. A predominantly glazed single storey extension at lower ground level infills the gap between the rear wing and boundary wall with No 45.

11. The boundary wall between Nos 44 and 45 extends beyond a patio and beyond the steps up to ground level in the rear garden. It is noted that ground level at No 45 extends much closer to the house so that there is a comparatively small patio and step area. The boundary wall has a tall trellis upon it which is planted with a species of ivy and thus is evergreen.
12. The significance of the listed building for the purposes of these appeals relates to its overall external appearance with the rear elevation being more utilitarian in appearance. However, the whole is completed in stucco and ensures the listed building can be appreciated as a single asset. The existing single storey extension on the eastern side is of lesser quality. The overall plan form is retained, although the lower ground floor of No 44 has been opened up into the glazed extension, which has adversely affected the historic significance of the listed building.
13. The proposals are to remove and replace the glazed extension, with the new, flatter, glazed roof being used as a balcony. An external staircase would lead down to the garden level and the boundary wall would be increased in height by approximately 2.4 metres³. The existing Juliet balcony for the rear reception room would be removed and balustrades would be constructed at the rear of the new balcony and the return beside the staircase.
14. The Council has referred to its 1996 Supplementary Planning Guidance "Repairs and Alterations to Listed Buildings". The Council confirms that some parts have been superseded by advice in the Framework. In light of this I am only able to give the Supplementary Planning Document limited weight. The Council notes that not all extensions in the past have been sensitive to the architectural integrity of buildings and terraces.
15. The Council has concerns about the additional height of the wall, the balustrade and the external staircase, which it sees as cluttering the rear elevation. It appears that the existing glazed extension was in place when the listed building was so listed, and therefore did not represent an impediment to that listing. The replacement of one, more modern, glazed extension with another with appropriate detailing would not, of itself, affect the significance of the listed building.
16. While there would be a new railing, this would be similar to that on the top of the rear wing at second floor level and I am satisfied that being of an appropriate type and style the railing and staircase would preserve the significance and thus the historic and architectural importance of the listed building.
17. The increased height of the wall would mark a greater sub-division of the two properties within the overall listed building, but given the clear separation that currently exists, I am of the opinion that this too would preserve the

³ The relevant drawing (ACR 204) indicates a measurement of "2370" while the appellant's Statement of Case indicates "2.36m". The discrepancy does not make a difference to the considerations.

significance and thus the historic and architectural importance of the listed building. Even taken together these proposed elements would not result in clutter on the rear elevation.

18. That being the case, the proposal would preserve the special architectural and historic interest of the listed building and its setting and would comply with Policies 38, 39 and 40 of the City of Westminster City Plan 2019 – 2040 (the City Plan) which require a good standard of design, preserving or enhancing listed buildings.

Effect on Conservation Area

19. The Council published the St John's Wood Conservation Area Audit in 2008. This identifies the area as an Arcadian suburb with this part of the Conservation Area being made up of detached and semi-detached villas in substantial grounds. There are also tree-lined streets and these factors together provide the character and appearance and thus significance of the Conservation Area.
20. None of the alterations would alter any of the features that give the Conservation Area its significance which would therefore be preserved. There would still be a generous treed garden and the overall pattern, in this area, of semi-detached villa properties would remain.
21. Consequently, the character and appearance of the Conservation Area would be preserved and the proposal would comply with Policy 39 of the City Plan.

Living conditions

22. Increasing the height of the boundary wall would have a significantly harmful effect on the living conditions of the occupiers of No 45. The semi-basement of that property only has a small patio area outside and the wall would result in an overbearing effect both immediately within the room inside the rear elevation and the area outside creating an unacceptable sense of enclosure.
23. The appellant points out that the wall would only be a short distance above the existing trellis, but there are two points to make. Firstly, it would be taller, by around 0.7m which in my view is material, and secondly as a solid, hard surface it would have a greater perceptual effect than the natural surfaces of the many leaves of the vegetation.
24. The appellant has suggested that this matter could be resolved by a condition, on the basis that a screen is required between Nos 44 and 45 to ensure privacy. I agree that a screen of the proposed height is necessary to avoid harmful overlooking, but this height is the greater part of what makes the proposal unacceptable. Furthermore, when dealing with a listed building, it seems to me to be imperative that the proposal needs a greater degree of certainty in order to ensure that the listed building is preserved or enhanced. A condition of the type suggested would not necessarily secure this.
25. Therefore, the proposal would have a harmful effect on the living conditions of the occupiers of No 45. As such it would be contrary to Policies 7 and 38 of the City Plan which require development to be neighbourly by protecting amenity for existing occupiers. It would also be contrary to paragraph 130 of the Framework which requires planning decisions to create places with a high standard of amenity for existing users.

Other matter

26. There are a number of other listed buildings in the area, particularly those along Acacia Road to either side. I am satisfied that the proposals would have no effect on any of these properties or their settings which would therefore be preserved.

Conclusions on merits

27. The proposal would preserve both the listed building and the Conservation Area but it would harmfully affect the living conditions of the occupiers of No 45. Consequently, I am able to grant listed building consent. However, even while giving great weight and special attention to the conservation of the designated heritage assets I conclude that the effect on the living conditions of the occupier is overriding. Consequently, while the proposal would comply with some elements of the City Plan it would not with others, and taken as a whole, I conclude that the proposal would not comply with the development plan and the appeal against the refusal of planning permission should be dismissed.

Conditions

28. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance and the Framework. In addition to the standard timescale condition, I have imposed a condition specifying the works must match the original adjacent work. This is required to protect the special architectural and historic interest of the listed building.
29. It is not necessary to impose a condition either relating to the plans or the details as listed building consent is only for the works and plans proposed. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the relevant guidance.

Conclusion

30. For the reasons given above I conclude that the Appeal A should be dismissed but Appeal B allowed.

RJ Jackson

INSPECTOR