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## Appeal Decisions

Site visit made on 29 March 2022

**by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC**

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

**Decision date: 13 April 2022**

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### **Appeal A: APP/V5570/W/21/3282822**

#### **7 Nelson Terrace, Islington, London N1 8DG**

- 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 Peter Bishop against the decision of the Council of the London Borough of Islington.
  - The application Ref P2021/1805/FUL, dated 21 June 2021, was refused by notice dated 15 August 2021.
  - The development proposed is described as demolition of existing rear wc and its replacement with a full width garden room extension with green roof and brick cladding. Alterations to existing basement stair. Waterproofing to basement ground slab. Refurbishment and/or replacement of existing windows.
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### **Appeal B: APP/V5570/Y/21/3282821**

#### **7 Nelson Terrace, Islington, London N1 8DG**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) against a refusal to grant listed building consent.
  - The appeal is made by Mr Peter Bishop against the decision of the Council of the London Borough of Islington.
  - The application Ref P2021/1822/LBC, dated 21 June 2021, was refused by notice dated 15 August 2021.
  - The works proposed are described as demolition of existing rear wc and its replacement with a full width garden room extension with green roof and brick cladding. Alterations to existing basement stair. Waterproofing to basement ground slab. Refurbishment and/or replacement of existing windows.
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## **Decisions**

1. Appeal A is dismissed.
2. Appeal B is dismissed.

## **Procedural Matters**

3. Since the applications subject of these appeals were determined, planning permission and listed building consent have been granted for an alternative scheme (the approved scheme) including many of the same elements. The appeal scheme differs from the approved scheme to the extent that it would entail greater removal of fabric at lower ground floor level, replacement windows, flooring, doors, renewal of a lead gutter, and the installation of shutters and an air source heat pump. These areas will therefore provide the focus for my assessment below.

4. The appellant has questioned the extent to which some of the works described in the application related to Appeal B require listed building consent. Here the Act sets out that consent is required for works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest. The matter is one of fact and degree and ultimately for the local planning authority to determine. In this regard I see no reason to take a view contrary to that of the Council. It is otherwise open to the appellant to apply for a Certificate of Lawfulness of Proposed Works to a Listed Building.

### **Main Issues**

5. The main issues are the effect of the scheme on:
  - designated heritage assets, specifically: whether the scheme would preserve a Grade II listed building, its setting, and any of the features of special architectural or historic interest that it possesses, and whether the scheme would preserve or enhance the character or appearance of Duncan Terrace/Colebrooke Row Conservation Area (the Conservation Area); and
  - the living conditions of occupants of neighbouring dwellings in relation to noise.

### **Reasons**

#### *Heritage assets*

6. 7 Nelson Terrace forms part of a 16-unit terrace numbered 1B-16 Nelson Terrace, which is a Grade II listed building, and thus a designated heritage asset. Whilst the Act sets out the desirability of preserving listed buildings, paragraph 199 of the National Planning Policy Framework (the Framework) makes clear that great weight should be given to the conservation of designated heritage assets. In this regard paragraph 200 further states that any harm to the significance of a designated heritage asset should require clear and convincing justification.
7. Insofar as it is relevant to these appeals the special interest and significance of the listed building resides in its construction during the early C19th, its terraced design, detailing and layout, and its relationship with other historic terraces within the surrounding townscape.
8. The lower ground floor has been the subject of past alterations including fabric renewal, the formation of an opening between the 2 main rooms it contains, and the removal of the access from the stair lobby to the back room. It also appears possible that the existing doorway to the back garden, which generally matches the width of window openings above, was itself originally a window. These alterations have harmfully eroded the historic identity and layout of the lower ground floor.
9. To the extent that the approved scheme would see the means of access between the lobby and back room re-established it would better reflect the likely past layout. The appeal scheme would on the other hand see the lobby removed, involve almost complete removal of surviving sections of the wall which originally subdivided the 2 rooms, and widening of the rear access. Together these alterations would result in the more comprehensive and

harmful loss of historic plan form and character from the lower ground floor than has occurred to date.

10. Allied to the above, the scheme would see a cornerised chimney breast removed. The identity of this feature is obscured by brick cladding and its use to house an oven. To what extent it has or has not been rebuilt in the past is unclear. Insofar as it corresponds to the position of a flue above it is however apparent that a chimney breast was present in this location historically. Therefore, notwithstanding its current condition, and in the absence of clear evidence to the contrary, removal of this feature would further erode the historic identity of the lower ground floor. It could also raise structural issues in relation to the support of fabric above.
11. Many of the windows at the property, and indeed within the frontage of the terrace, have been replaced in the past. In most cases the design of the replacements appears to generally match the configuration of surviving original windows, being timber, single glazed and multi-paned. There are some discrepancies in terms of joinery details, and it appears that the windows at second floor level were originally of multi-paned sliding sash rather than casement type. Casements are nonetheless now common at second floor level across the terrace, including at No 7.
12. The information submitted with the application states that replacement windows are proposed at first at second floor levels. This is inconsistent with the plans which indicate that the first floor windows will be refurbished/reconditioned. That said, no clear explanation of the nature of these works has been provided. Nor have any detailed drawings showing the replacement windows and the way in which they will be fitted. The lack of such necessary information prevents a proper assessment.
13. Insofar as a basic written specification has however been provided, use of vacuum double glazing is proposed. This is much thinner than conventional gas filled double glazing. It is nonetheless visually dissimilar to single glazing, as it is both thicker, and typically features a grid pattern of support pillars between the panes. Use of the proposed glazing would clearly not be consistent with the historic design and character of either No 7 or the terrace as a whole. In relation to windows within the front elevation this inconsistency could be appreciable from the street, and in all cases would be clearly apparent internally.
14. The existing windows are modern and, as noted above, not of the presumed original design. Moving back to a potentially more historically accurate design could provide some modest benefit. This harm would however be outweighed by the harm caused by use of an alien glazing type.
15. The appellant states that double glazed windows have been approved elsewhere including within the terrace. However, I have not been provided with any detailed evidence, and the existence of potentially inappropriate alterations elsewhere does not otherwise constitute a sound reason to permit further harm.
16. There is no clear evidence that the windows of No 17 were originally fitted with shutters. Sliding shutters accommodated within a box fitted over the inner face of the window are however present in the front room at ground floor level. They are presumably a later, but historic addition of some interest. Insofar as it

possible to ascertain from external view, the presence or absence of shutters varies elsewhere in the terrace. In all cases where present they are again presumably later additions, and obviously so where modern slatted types have been installed. Though the appropriateness of the latter is doubtful, the proposed addition of shutters to windows at No 7 would not necessarily be inconsistent with the historic pattern. Again however, no detailed drawings have been provided showing the proposed design and way in which the shutters would be fitted. It is not therefore possible to fully and properly assess the internal and external impacts, or to reach any conclusion on the appropriateness of the proposal.

17. The proposed replacement of modern doors is not in itself objectionable given that this would not entail any loss of historic fabric. However, the locations of the doors have not been shown on the plans and the designs of the replacements have not been provided. The lack of information again limits both assessment and certainty.
18. As the proposed replacement of floorboards and lead gutter have not drawn any comment from the Council its view of these matters is unknown. Though renewal of the gutter nonetheless appears uncontentious in itself, no supporting information has been provided in relation to replacement of the floorboards. As such no justification for their removal, their replacement in oak, or the rationale for their apparent reorientation front to back as shown on the plans has been set before me. Whilst the wholesale removal of floorboards would result in the extensive and most likely unnecessary loss of fabric, the absence of evidence otherwise falls well short of the clear and convincing justification required.
19. The proposed air source heat pump would be installed in the garden, set well away from the rear wall. The garden is a small space which in itself contributes little to the significance of the listed building. Appropriately screened, the equipment would not detract from appreciation of the significance of the listed building, whose setting would therefore be preserved. The proposal is however once again lacking detail insofar as associated plumbing has not been shown. The acceptability of the likely direct impacts on the fabric of the listed building are therefore unclear, and again incapable of proper assessment.
20. It has been suggested that conditions could be imposed in order to defer assessment where information is lacking. However, the proper discharge of duties set out within the Act requires that the impact and acceptability of proposed works is ascertained in advance.
21. Thus, insofar as the submitted information allows for an assessment, and notwithstanding the fact that parts of the appeal scheme have already been approved, I find that when taken as a whole the scheme would fail to preserve the special interest of the listed building, contrary to the expectations of the Act. It would likewise fail to conserve its significance. As my view would be the same whether or not taking works to the floorboards into account, I am satisfied that the interests of neither party are prejudiced by my findings in relation to this specific matter. The harm caused to the significance of the listed building would be less than substantial. Such harm attracts great weight.
22. The listed building is located within the Conservation Area. Insofar as it is relevant to these appeals the significance of the Conservation Area lies in its historic residential character. This features a townscape predominantly

characterised by early C19th terraced housing. As the listed building is one such terrace, it makes a positive contribution to the significance of the Conservation Area.

23. Though most of the works subject of dispute would be internal, modifications to the windows could be perceived externally. This would include the installation of shutters. By causing harm to the significance of the listed building which would be capable of perception from spaces within it, the scheme would also harm the contribution that the listed building makes to the significance of the Conservation Area as a whole. The modest harm caused would again be less than substantial. In this instance however, it attracts considerable importance and weight.
24. I have therefore found that the scheme would cause less than substantial harm to the significance of both the listed building and the Conservation Area. In accordance with paragraph 202 of the Framework it is necessary to weigh this harm against the public benefits of the scheme.
25. The scheme has been promoted in relation to its environmental benefits. Here the use of double glazing would most likely result in some reduction in heat loss, as could shutters. The effect of the latter would however depend on their design and their level of use, each of which are unknown. The air source heat pump would itself provide a source of clean energy, albeit at the same time as consuming large amounts of electricity. The likely overall environmental benefits would thus be modest in themselves, and of limited broader benefit.
26. Implementing the scheme would otherwise generate minor work/trade for businesses. However, the benefits of this to the broader economy would be negligible. That and the above being so, the public benefits of the scheme would not outweigh the harm that it would cause in relation to either appeal.
27. For the reasons outlined above I conclude that the scheme would have an unacceptable effect on designated heritage assets, failing to preserve a Grade II listed building, and failing to preserve or enhance the character or appearance of the Conservation Area. In relation to Appeal A, and insofar as it is relevant to Appeal B, the scheme would therefore conflict with Policy CS9 of Islington's Core Strategy 2011, Policy DM2.3 of Islington's Local Plan: Development Management Policies 2013, and Policy HC1 of the London Plan 2021, which each set out the objective of conserving and enhancing the significance of heritage assets. In relation to both Appeals the scheme would fail to satisfy the requirements of the Act, and heritage policy set out within the Framework.

#### *Living conditions*

28. The proposed air source heat pump would generate noise. Technical specifications have been provided, including that of an acoustic enclosure. I have however been provided with no acoustic evidence upon which to base an assessment of its suitability. The Council has nonetheless proposed a condition that would limit the generation of noise to 5dB(A) below background level measured 1 metre from the facade of the nearest noise sensitive premises. I can only presume therefore that the Council considers that this would be achievable. Noise generation at this level would not cause undue disturbance to neighbours.

29. I conclude therefore that the development would not have an unacceptable effect on the living conditions of occupants of neighbouring properties in relation to noise. The scheme would therefore comply with Policy DM2.1 of the DMP which requires development to provide a good level of amenity including in relation to privacy.

### **Other Matters**

30. The appellant has raised concerns in relation to the Council's assessment of the scheme including the lack of a site visit. These are however matters which fall outside the scope of the appeals.

### **Conclusion**

31. The scheme would cause unacceptable harm to designated heritage assets, and in relation to Appeal A, conflict would arise with the development plan. There are no other considerations which alter or outweigh these findings. I therefore conclude that Appeals A and B should be dismissed.

*Benjamin Webb*

INSPECTOR