

Appeal Decision

Site visit made on 30 August 2023

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2023

Appeal Ref. APP/X5210/D/23/3324781
102 Frognal, London NW3 6XU

- 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 Dr Otto Chan against the decision of the Council of the London Borough of Camden.
 - The application ref. 2022/5138/P, dated 22 November 2022, was refused by notice dated 4 May 2023.
 - The development proposed is described on the application form as "*Alterations to existing side extension.*"
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Decision

1. The appeal is allowed and planning permission is granted for *Construction of 2-storey side extension with alterations to be made to it* at 102 Frognal, London NW3 6XU in accordance with the terms of the application ref. 2022/5138/P, dated 22 November 2022, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans numbered: EX-001; EX-010; D12; EX-100 B; EX-101 A; EX-102 A; EX-300 A; EX-301 A; EX-302 A; PL-100 B; PL-101 A; PL-102 A; PL-300 A; PL-301 A; PL-302 A.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those of the existing building, unless otherwise specified in the application or condition below.
 - 3) Before the sliding, folding garage doors are installed, detailed drawings, illustrating the joinery details for the doors and inset windows, materials of construction and coloured finishes, shall be submitted to and approved in writing by the local planning authority. The relevant part of the works shall be carried out in accordance with the detailed drawings so approved.

Preliminary matters

2. The appeal site falls within the Hampstead Conservation Area (HCA). There are various listed buildings along Frognal. The Council's Delegated Report (DR) draws attention to a sequence of listed buildings at 104-110 Frognal. There are several others in the vicinity.
 3. There have been many planning permissions at no. 102 since 1960, almost all of them relating to proposals for side additions, some of which would have seen
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the erection of a new 2-storey dwelling with garaging. There is also an extant planning permission granted under ref. 2020/3418/P in December 2020. This permitted alterations and extensions including the replacement of the existing conservatory by a new first floor side extension, alterations to the existing garage, erection of a single-storey rear extension, re-roofing and repairs to the main house and installation of side elevation windows.

4. The 2-storey side extension that has been built is unauthorised. It does not follow the plans approved under ref. 2020/3418/P. The application the subject of this appeal seeks permission, in part retrospectively, for the extension as built, alongside a series of modifications that would be made to it. The description of works I have adopted in the decision above more accurately reflects the overall proposal. I have avoided the lengthy descriptions found on the decision notice and the appeal form. They impart a degree of confusion as a reader may think that: the existing 2-storey side extension is authorised; front and rear dormer windows are to be added when the opposite is intended; an undercroft is proposed when one already exists; and the flank wall would remain blank when the proposed plans show 3 ground floor windows and one first floor window.

Main issue

5. The sole reason for refusal said that the design, scale and bulk of the proposed 2-storey side extension significantly detracts from the architectural character of the host building, the architectural and historic merits of neighbouring listed buildings and the character and appearance of the HCA.
6. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (s72 of the Act) requires that when assessing proposals for new development within a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. Section 66 (s66 of the Act) requires that special regard shall be paid to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses.
7. The main issue is therefore the impact of the proposed development upon the character and appearance of the host property and the HCA and whether it would preserve listed buildings, including their settings or any features of special architectural or historic interest they possess.

Reasons

8. The HCA covers a sizeable area. It encompasses Frognal, a leafy residential road following an appreciable gradient as it meanders upwards from south to north. The HCA Statement (HCAS) says that the properties on Frognal are diverse in scale and character, ranging from modest 18th century houses to the 20th century. No. 102 is identified in the HCAS as an unlisted house, dating from towards the end of the 19th century, which makes a positive contribution to the HCA, although reference is made to "... *a side extension with a large cross-over to the garage that detracts from the fine detail of the house.*" The appellant says the house was originally built in 1906. The most notable details are the front tile-hung, paired gables at second storey level, the 2 front oriel windows on the first floor, the array of fenestration on the front and rear elevations and the attractive chimney stacks.

9. The removal of the former garage and the large half-round conservatory that was perched above it is to be welcomed given the content of the HCAS and the photographs I have seen. For a long time, permission was in place for a new house and garaging which would have substantially infilled the side garden of no. 102 and utilised crown roofs, recessed garage doors and flat-roofed dormer windows. In terms of overall scale and bulk, the subject extension is and would be nowhere near as wide, deep or high as the main house. Appearing as a sufficiently subordinate adjunct to the main house, it would be similar to the extension shown in the extant permission in terms of height and width. Lining up with the main rear elevation and being set back from the front building line, its extra depth would not be a problem in itself. Its footprint would not be excessive. A mansard-style roof with small dormers is not alien to the area; the listing description for 104/106 Froggnal points to such a roof form on those adjacent cottages. A crown roof was also a feature of the extant scheme.
10. There is a band of hornbeam trees and other vegetation close to the common boundary between nos 102 and 100 on the southern side of the appeal property. It is this vegetation, in combination with high front boundary walls and the siting of the subject extension back from the front elevation, that would substantially limit views of the proposed development on the upward approach from the south along Froggnal and from the junction of Froggnal Gardens with Froggnal over the garden of no. 100. Viewing from the south, it is the white render of the overhanging oriel windows, which are sited very close to the roadside, that draw the eye. The glimpsed views of the warm red brickwork in the flank wall of the extension are not objectionable. The proposed development would not be visible on the approach from the north. I did not get the impression that the proposed side wing would be particularly noticeable in any private views from the backs of properties on Froggnal Gardens.
11. There would be views at close quarters from the opposite side of the street next to the grounds of 79-83 Froggnal. Here, some of the detailed design flaws would be apparent. Still, I am satisfied that the proposed modifications would address these flaws. So: the proposed chimney and 4 windows would add interest and visual delight to the unrelieved flank wall; adding the chimney and a half-hip to the side of the roof would remove the parapet and lessen any outward visual expression of the somewhat larger crown roof; removing a dormer from the front and rear roof slopes would make the fenestration less busy, with the 3 retained small dormers on each roof slope reflecting the arrangement of windows found on the main elevations of the existing house; and sliding, folding dummy garage doors with a set of windows, similar in appearance to those approved, would disguise the contrived undercroft below the front of the first floor and leave a forecourt 5.20 m wide by 3.25 m deep which could accommodate a car parked almost parallel to the street. The doors would be a large element in the front elevation and further details of their design, materials and coloured finish should be sought through a planning condition.
12. The proposed scheme would, at the very least, preserve the character and appearance of the HCA when directly compared to the garage and conservatory that have been removed. That is the most relevant comparison, rather than with the application approved under ref. 2020/3418/P. That was for a different scheme that would also have preserved the character and appearance of the HCA. That said, I find some elements of the approved scheme to be preferable,

particularly the brick flat arch with keystone over the garage doors. Even so, the band of brickwork above the existing undercroft is not particularly deep and the bricks have been very carefully selected to match the existing building, unlike the finish to the former garage on the site. Equally, I agree with the appellant that the approved front dormer, in attempting to ape the Arts and Crafts exuberance of the parent building, would have been too dominant as it had the size and scale to challenge the feature oriel windows. The appellant's approach for "...a visually 'quiet' subservient extension that did not compete with the appearance of the main house" is architecturally defensible.

13. The closest listed buildings are the pair of cottages at 104 and 106 Frognaal but these are set well back from the front elevation of no. 102 and lie to the north. The subject extension does not appear in the main views of those dwellings and leaves the setting of those listed buildings unharmed. I saw no reason why the extension would interfere with the setting of any other listed building, including those on the opposite side of Frognaal.
14. The Council has not pointed directly to any conflict with the Camden Planning Guidance *Design* 2021 or the Camden Planning Guidance *Amenity* 2021 in the DR or the decision notice.
15. Drawing these threads together, I consider that the proposed development would exhibit a high, site-specific and sensitive design quality, be sufficiently complementary and sympathetic to the original parent building in terms of design, scale and bulk, be respectful of the local context and surroundings, and conserve the significance, character and appearance of the HCA and the setting of nearby listed buildings.
16. I find on the main issue that the proposed development would preserve the character and appearance of the host property and the HCA and leave the nearby listed buildings, including their settings and any features of special architectural or historic interest they possess, unharmed. There would be no conflict with s72 and s66 of the Act, Policies D1 and D2 of the Camden Local Plan 2017 or Policies DH1 and DH2 of the Hampstead Neighbourhood Plan 2018-2033. When read together, these policies seek to ensure high quality design in development and to preserve, and where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas and listed buildings. There would be respect for the National Planning Policy Framework insofar as it relates to achieving well-designed places and conserving and enhancing the historic environment.

Conditions

17. A condition requiring that the development is carried out in accordance with the approved drawings is necessary as this provides certainty. I have also imposed a condition requiring the use of matching materials, in the interests of safeguarding the character and appearance of the building and the HCA. I have added a condition regarding the treatment of the dummy garage doors in accordance with my observations in paragraph 11 above.
18. The Council's questionnaire invites me to add conditions "*As per section 7.2 of Delegated Report.*" However, that section sets out the requirements of a potential enforcement notice to make the development accord with the scheme

approved under ref. 2020/3418/P. It would not be appropriate to proceed on those lines given my findings in this appeal. No such conditions are imposed.

19. Even so, the 2-storey side extension that has been built remains unauthorised in its current state. The parties ought to discuss the next steps forward, in particular with a view to reaching an agreement upon a timescale for the implementation of all the proposed and crucial modifications put forward in the subject application. Should it be necessary, it would remain open to the Council to serve an enforcement notice seeking compliance with the plans approved under ref. 2020/3418/P or under ref. 2022/5138/P (as a result of this appeal decision). There would be a further right of appeal against an enforcement notice, should one be served.

Conclusion

20. For the reasons given above and having regard to all other matters raised and the notable absence of objections from local residents and local organisations, I conclude that this appeal should be allowed.

Andrew Dale

INSPECTOR