



Appeal Decisions

Site visit made on 30 April 2024

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 16 May 2024

Appeal A: APP/X5210/W/23/3336019

135 Arlington Road, Camden, London NW1 7ET

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Glyn Emrys of Emrys Architects Ltd against the decision of the Council of the London Borough of Camden.
 - The application reference is 2023/0803/P.
 - The development proposed is building fabric improvements, including: replacement of composite slates; replacement of non-original sash window; replacement of a roof hatch for a roof light; and a demountable access deck.
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Appeal B: APP/X5210/Y/23/3336012

135 Arlington Road, Camden, London NW1 7ET

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Mr Glyn Emrys of Emrys Architects Ltd against the decision of the Council of the London Borough of Camden.
 - The application reference is 2023/1183/L.
 - The works proposed are building fabric improvements, including replacement of composite slates: replacement of non-original sash window; replacement of a roof hatch for a roof light; and a demountable access deck.
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Decisions

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

Preliminary Matters

3. As the proposal is in a conservation area and relates to a listed building, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. Accompanying these appeals, the appellants submitted plans showing an alternative arrangement for the proposal. The appellants identify that the plan showing the alternative arrangement were submitted as part of new applications for planning permission and Listed Building Consent made at the same time as these appeals were submitted. The 'Procedural Guide – Planning Appeals – England' advises that if an appeal is made the appeal process should not be used to evolve a scheme.

5. Case law¹ identifies that a two-stage process is necessary to test whether amendments to a proposal should be accepted as part of the appeal process, comprising a substantive test and a separate procedural test.
6. Whilst I consider that the amendments to the proposal are not substantially different to the plans for the applications that are before me in this appeal, thus satisfying the first, substantive, test they were not consulted on and therefore no opportunity has been given to parties to comment. Thus, the amended alternative proposals fail the second, procedural, test. I have therefore not accepted the revised plans on the basis that it may be prejudicial to some parties by my doing so. I have, therefore, considered these appeals in regard to the same proposal on which the Council made its decision.

Main Issues

7. The main issues are: whether the proposal would preserve the Grade II listed building, "Numbers 101-145 and Attached Railings to Areas" (Ref: 1244689) (Nos 101-145), and any of the features of special architectural or historic interest that it possesses; and the extent to which it would preserve or enhance the character or appearance of the Camden Town Conservation Area (the CA).

Reasons

8. The CA is considerable in extent and can be subdivided into two sub areas of markedly different character and appearance, the commercial and retail area and an area of residential terraces.
9. The commercial and retail area is comprised of a wide, bustling, shopping street stretching from Mornington Crescent to Camden Town, with buildings in a wide variety of styles and scale that reflect the diverse and changing architectural styles over the last two hundred years. The area has a strongly urban, busy character.
10. To the west of the commercial and retail area lie quieter, more sedate streets that form the residential sub area. These streets are characterised by stock brick and stucco terraces dating from the early to mid-19th century. They are of a more consistent character and provide a marked contrast to the more dynamic, busy commercial frontages. It is within this sub-area that Nos 101-145 lies.
11. Arlington Road, in the vicinity of the appeal site lies on the border between the two sub-areas where industrial uses populate the east side, interspersed with shorter terraces of residential properties. The western side of the street consists of complete terraces which, whilst varying in detail, create a very consistent appearance.
12. Given the above, I find that the significance of the CA, insofar as it relates to these appeals, is primarily associated with the architectural symmetry and consistent design of its 19th century terraces.
13. Nos 101-145 dates from the 1840s. The terrace is listed for its group value with a consistent design applied to each bay. and is a terrace of three storey brick houses with a basement. The houses are of brick construction with a

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

stucco-ground floor and characterised by cast-iron balconets and spearhead railings around basement areas. Throughout the terrace there is a general consistency of fenestration, on both elevations of the building, with upper floors featuring small-pane sash windows featuring horns.

14. The terrace has a very distinct local roof form. Behind the front parapet, the houses have valley roofs which are hipped towards the rear. To the rear the roof continues down in hung slate to form the top floor. At the end of the terrace these give way to slated mansard roofs. They have large chimney stacks on the rear elevation. This pattern gives rise to a distinctive vertical emphasis with long stair windows. Some reconstruction is evident, probably resulting from bomb damage. Most roofs are intact and provide a consistent roofscape to the buildings in the middle of the terrace.
15. Given the above, I find the special interest of the listed building, insofar as it relates to these appeals, to be primarily associated with the consistent architectural form and materials of its construction and the legibility of its vertical hierarchy of stairwells.
16. 135 Arlington Road (No 135) is a mid-terrace house which, whilst varying in detail, contributes to the value of the terrace as a whole through its consistency of design of its external features, including its roof and fenestration. It is an example of a mid-19th century town house whereby the stairs and hallways, located on one side, provide the main means of circulation.
17. The building exhibits evidence of reconstruction on its upper façade and has been renovated internally. This notwithstanding, its architectural design and construction, fabric and features, internal plan form and circulation all contribute in their own right to the special interest of Nos 101-145. Overall, I consider that No 135 makes a positive contribution to its host terrace, and thereby to the character and appearance of the CA.
18. The proposal would replace the second-floor rear window and the existing roof hatch. Associated with the works, the hanging composite slates on the rear wall would be replaced. A demountable roof terrace would be installed on the roof valley, accessed by means of a hit-and-miss ladder/shelf unit from the second-floor landing through the loft space.
19. Whilst it is apparent that roof terraces exist in the vicinity, notably in association with the mansard roofs on properties across the street from the appeal site, the roofs of Nos 101-145 remain virtually intact in terms of their historic form.
20. The introduction of a roof terrace on one of these roofs would be an insensitive modern intrusion which would disrupt the rhythmic pattern of the roofscape. Further, the uncharacteristic presence of persons on the roof would be an incongruent use of the roofscape of Nos 101-145. Thus, I find that the addition of a roof terrace would be contrary to the visual and historical integrity of Nos 101-145, where minimal change has occurred to this historically significant feature.
21. The existing loft hatch is of a modest scale, intended for little more than occasional access for inspection and maintenance of the roof. The proposed unit, in comparison, is much larger and intended to provide convenient, free access to the roof for the intended roof terrace. As such it would be an

- uncharacteristically large and inauthentic feature on the roof. The associated hit-and-miss ladder, by formalising access from the second floor into the roof space and onto the roof, would result in harm to the vertical hierarchy of the dwellings that was present when they were first constructed. The proposal would thus further erode the legibility of the internal arrangement of the dwelling, thus harming the evidential and historic value of the terrace as a whole.
22. The proposal would replace the vertical hanging slates to the rear second floor garden elevation with natural slates. The existing slates are made of an artificial composite material, and I observed, during my visit, that many had become discoloured and had acquired a brownish hue. The replacement of the slates with natural ones would be an authentic replacement and would, therefore be a positive step which would enhance this important feature of Nos 101-145. The texture and colour of the slates could be controlled effectively through the use of a suitably worded planning condition.
 23. The existing rear window at second-floor level is decayed and needs repair or renovation. It is not an original window. When compared to other windows in No 135 and elsewhere on the terrace differences of design are apparent. Most of the windows along the terrace possess horns. I observed that the windows in No 135 are mostly lead counterweighted sash windows, rather than the spring-loaded sash design of the existing window.
 24. The proposed window, in timber, would be double-glazed with slim-line units and the use of double glazing would lack authenticity as it would not be a like-for-like replacement of what would have originally been present. The greater reflectivity of the panes and the limited lifespan of the double glazing units would not reflect the longevity and craftsmanship associated with traditional sash windows.
 25. I note that the window has deteriorated, and it is likely that this has resulted from condensation accumulating on the panes. I accept that this would be ameliorated by using a form of glazing with better thermal performance although there are less intrusive alternatives such as more authentic single glazed windows used in combination with suitable internal secondary glazing. I note the support given in paragraph 164 of the National Planning Policy Framework (the Framework) to the need to support energy efficiency and low carbon heating improvements to existing buildings. However, this does not disapply the tests to be applied in section 16 of the Framework or the great weight to be applied to any harm that might be caused. Given the above I find that harm would result from the suggested replacement.
 26. At the time of my visit, I observed that the ground floor windows on the front of the property had already been fitted with secondary double glazing and that its use on the window to be replaced would consequently be a consistent intervention that would enable the preservation of the historic pattern of fenestration and the use of traditional materials.
 27. I note that, within the roof of the terrace there are other loft accesses. However, none of these appear to be of a scale or form required to facilitate regular access to the roof for leisure purposes.
 28. The appellant has suggested that the proposal would not harm the listed building because it would not be more widely visible. However, listed buildings

- are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the building can be gained.
29. The appellants identify that both the stair and the roof terrace would be demountable and would not affect any existing fabric, being free standing. The appellant also argues that the installation of the stair would not require consent. However, given the nature of the proposed roof terrace, which is a substantial structure, it is likely to have a degree of permanence, rather than being erected only for limited periods when it is actually in use. Similarly, the stair, incorporating shelving, would, in practical use, have a degree of permanence, and would appear as such. In the absence of a need to access the roof on a more frequent basis, such as to use the proposed roof terrace, it is unlikely that such a feature would be installed. I have, therefore considered the proposal, and its effects on Nos 101-145, on this basis.
 30. I note the argument that, in dwellings of this period, stairs have been incorporated to allow access to mansard roof extensions, and that, in such cases, the vertical hierarchy of the building has been altered. However, only limited information has been provided on such works and, in the absence of a more complete planning history, I am unable to assess their comparability to the proposal before me.
 31. My attention has been drawn to the existing roof terraces on the top of buildings across the street from the appeal site. These have been erected on mansard roofs. Again, I do not know the full planning history of the provision of those roof terraces or even whether they are lawful. In any case, the form of those roofs is significantly different from the roof form of Nos 101-145 and their visual impact differs from that of the proposal on the roof form of Nos 101-145. I have, in any case, determined these appeals on their own merits.
 32. In regard to the effect of the proposal on the CA, the proposed changes have been designed to be concealed from the public realm by intervening parts of Nos 101-145, such as the party walls, parapets and chimney stacks and this would be largely effective. However, in the absence of sections showing views from street level, it has not been possible to assess the visibility of the structure or persons using it for passers-by on Arlington Road. Such views are, however, likely to be restricted and the proposal would not be a prominent feature in the street scene.
 33. The roof terrace and activity on it would, however, be visible from neighbouring properties, particularly from windows and the roof terraces opposite. There would also be some views from the rear of buildings fronting onto Albert Street. These are some distance away and, in addition to intervening parts of Nos 101-145, such as the rear chimney stacks, there would be intervening tree canopies. This planting is, however, mainly deciduous and screening would vary throughout the year, as would the use of the roof terrace. Nonetheless a degree of visibility would exist from properties on Albert Terrace.
 34. Views along the roof of Nos 101-145 are interrupted by party walls and chimney stacks. Thus, there would be no views of the structure of the roof terrace itself and only limited views of activity associated with it. In any case, access to the adjacent roofs is generally of a restricted nature and unlikely to be a common occurrence.

35. I have identified above that the proposed roof terrace would be an uncharacteristic and inauthentic intrusion on the roof of the terrace and that the presence of persons on the roof would be uncharacteristic of the usage of the roofscape of Nos 101-145.
36. Bringing all of these matters together, I find that the harm that I have identified, resultant from the introduction of a rooftop terrace and associated replacement access hatch and stair, would outweigh the benefits provided by the replacement of the window and slate-hung roof. I also note that any intervention that I have identified as being beneficial to the important features of Nos 101-145 could be carried out without the harmful ones. The rooftop terrace, and the activity on it, would have a degree of prominence from the private domain and would thus be capable of affecting the appearance of the CA as a whole.
37. Given the above, I find that the proposal would fail to preserve the special interest of Nos 101-145 and the appearance of the CA as a whole. In doing so it would harm the significance of these designated heritage assets. I give this harm considerable importance and weight.
38. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. Given the scale and limited visibility of the proposal, particularly from the public realm, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
39. Under such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes the securing of optimal viable use of listed buildings. There is no suggestion that the use of the building as a dwelling would be lost as a result of the proposal.
40. In terms of public benefits, there would be an economic benefit from the proposal resulting from employment in the construction trade and the associated increase in activity in the supply chain. Given the scale of the works the public benefit accruing from this would be limited.
41. The proposal would also provide an environmental benefit as it would facilitate natural cooling of the building through the creation of a natural ventilation corridor up the building and through the proposed replacement hatch. The replacement window would also have a better thermal performance than the existing one. I accept that, taken together, these would improve the overall energy efficiency of the building and that this should carry significant weight according to paragraph 164 of the Framework.
42. The proposal would provide additional leisure space for the use of the occupiers. I note that the property already benefits from an existing, landscaped and secluded garden, providing high-quality outdoor space for the occupiers of No 135. Given this fact, the improvements to wellbeing and the potential reduction in local health service demand are limited. Bearing in mind

the small number of occupants likely to benefit I give this negligible weight as a public benefit.

43. Taken overall the public benefits accruing from the proposal would be outweighed by the harm that I have found to the heritage assets and I conclude that, on balance, the proposal would fail to preserve the special historic interest of Nos 101-145 and the that the appearance of the CA would be neither conserved nor enhanced. This would fail to satisfy the requirements of the Act, paragraph 206 of the Framework, and conflict with policies D1 and D2 of the Local Plan, in as much as these seek, among other things, to ensure that development respects local context and character and to resist proposals for alterations that would cause harm to the special architectural and historic interest of a listed building or preserve or enhance the character or appearance of a conservation area. As a result the proposal would not be in accordance with the development plan.

Conclusion

44. For the above reasons and having regard to all other matters raised I conclude that the appeals should be dismissed.

I A Dyer

INSPECTOR