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# Appeal Decisions

Hearing held on 3 October 2012

Site visit made on 3 October 2012

**by John Chase MCD Dip Arch RIBA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 16 October 2012**

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**Appeal Ref: APP/X5210/E/12/2176261**

**12 Chamberlain Street, London, NW1 8XB**

- 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 Luke Gillam against the decision of the Council of the London Borough of Camden.
  - The application Ref 2012/0784/L, dated 26 January 2012, was refused by notice dated 22 March 2012.
  - The works proposed are an excavation to create a sub-basement level and associated internal alterations including extending staircase to existing dwelling.
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**Appeal Ref: APP/X5210/A/12/2176253**

**12 Chamberlain Street, London, NW1 8XB**

- 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 Luke Gillam against the decision of the Council of the London Borough of Camden.
  - The application Ref 2012/0783/P, dated 26 January 2012, was refused by notice dated 22 March 2012.
  - The development proposed is an excavation to create a sub-basement level and associated internal alterations including extending staircase to existing dwelling.
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## Decisions

1. Both appeals are dismissed.

## Main Issues

2. The main issues are whether the special architectural and historic character of the listed building would be preserved, with particular reference to i) the integrity of the form and the hierarchy of rooms, and ii) the preservation of the fabric, and the structural implications of the conversion. If not, then whether any harm would be outweighed by the public benefits of the proposal.

## Reasons

3. No 12 forms part of a terrace of six similar properties, dating from the mid-nineteenth century. It is listed Grade II, and falls within the Primrose Hill Conservation Area. The appearance from the street remains largely original but, in common with several of its neighbours, there have been alterations behind the facade, including construction of a mansard roof to provide 3<sup>rd</sup> floor accommodation, addition of a first floor extension, construction of a

conservatory in a rear lightwell, and removal of internal partitions within the basement. In addition, there are permissions for further works, including extension of the basement below the rear garden, and alterations to the frontage to improve access to the under pavement storage area and the lightwell. It is now proposed to construct an additional basement, beneath the existing basement, occupying the footprint of the original house. The building is in single family use, but there is evidence that it had multi-occupation throughout the first half of the twentieth century.

4. The Council's decision notices refer to Policies CS14 and DP25 from the Local Development Framework, adopted 2010, which include requirements to preserve and enhance the Borough's heritage assets, and to avoid alterations which harm the special interest of a listed building. In addition, Policy DP27 refers to a need to demonstrate that the physical characteristics of the building and its surroundings, including its structural stability, will not be jeopardised. Among the nominated Supplementary Planning Documents, CPG 4 'Basements and Lightwells' notes that the acceptability of a basement extension to a listed building will be assessed on a case by case basis. Reference was made during the appeal to the National Planning Policy Framework (the 'Framework') which sets criteria for the assessment of proposals affecting heritage assets, with the objective of ensuring their conservation.
5. In rejecting the scheme, the Council noted that the internal layout is integral to the historic status of the building, drawing attention to advice in the English Heritage publication 'London Terrace Houses 1660-1860' which, amongst other matters, indicates that the domestic plan form is an important part of the character and special interest of the building. Whilst this document does not have the status of development plan policy, it is relevant advice which has a role in assessing the application of that policy. It is certainly the case that the listing schedule makes no reference to the interior, but it cannot be concluded that the omission indicates there is no heritage significance. The internal layout reflects the function and historical development of the building, of which the exterior is the outward expression.
6. Nor is it accepted that the interior has been so altered as to eliminate that heritage significance by changing the hierarchy of rooms within the house. The first and second floor rooms contain the principle spaces, whilst the basement is a subsidiary area. Even though it has been opened up to make a more attractive living space, with the potential for further expansion, it retains much of its functional character. Despite changing domestic patterns, which appear to have arisen throughout the life of the building, the hierarchy of the rooms remains largely intact.
7. The question therefore arises as to whether the addition of a further basement would interfere with that hierarchy and the integrity of the building. The Council accept that it would not have a direct effect on the external appearance of the property, nor on the character or appearance of the Conservation Area. However, a much larger proportion of the building would become subterranean, especially in conjunction with the permitted basement extension. The transfer of utility space to the sub-basement level would be more likely to promote the role of the basement as a principal living area, fundamentally altering the balance of the hierarchy of the rooms by drawing living functions away from the upper levels. As such, the integrity of the original building, in terms of the combination of its form and function, would be reduced.

8. Turning to the physical effect of the conversion, the appellant has submitted two engineers' reports which set out the methodology to be adopted in carrying out the work, along with the assessment of the degree of movement of the existing structure which would be likely to arise. There is some lack of clarity in the reports, but it is accepted that there would be likely to be a physical means of carrying out the work, and that there would be potential for the further approval of details by applying a planning condition. It is also accepted that the reference to removal of the ground floor, which would have a significant effect on the fabric of the building, is likely to be an error, and that removal of the existing basement floor is intended.
9. However, by the nature of the works, which would involve excavation below the existing walls, and building up of retaining structures, there would be some risk of interference with the stability of the structure. The English Heritage guidance referred to above notes that older buildings may suffer from structural weakness, but that they have generally settled into a state of equilibrium, and major structural intervention could easily turn a limited weakness into a more serious defect. There is no indication of fragility of the existing structure, but having regard to the age of the property, and the nature of nineteenth century building methods, there is no reason to consider that this building, and its neighbours, would not be vulnerable in this respect. Even if it were possible to regulate the nature of professional involvement in the project, it is not accepted that the risk could be wholly eliminated. Construction risk is routinely accepted in order to carry out a building project, but when that risk is applied to an older structure with heritage significance, and when the work is particularly invasive, there is a need to show that the risk of harm is outweighed by the benefits of the proposal.
10. Whilst the work would not involve the removal of the more significant internal features of the building, which are above ground level, it would rely on substantial alteration at basement level, and would be likely to require temporary removal of external elements, including the front window, in order to gain access. Some of these works may be necessary to implement the extension scheme that has already been permitted, and there are indications that similar methods have been used elsewhere in the street. Nonetheless, the scheme would involve substantial additional interference with the fabric of the building, as well as an increase in the scale of excavation and construction work. Like the structural implications referred to above, the effect on the fabric of the original building is a negative aspect of the design which requires justification.
11. The conclusion is therefore reached that the scheme would alter the hierarchy of the internal spaces in the house, which form part of its historical significance, with a detrimental effect on its integrity as a heritage asset. This in itself would be sufficient to conclude that the scheme would not preserve the special architectural and historic character of the listed building, contrary to the objectives of the identified development plan policy. However, it is also the case that the fundamental nature of the structural work, and interference with the existing fabric, would have the potential to affect the physical integrity of the building. The Council have indicated, and it is accepted in this decision, that the harm may be assessed as less than substantial, as referred to in para. 134 of the Framework, in which case it is necessary to establish whether there is an overriding public benefit arising out of the scheme.

12. In this respect, it is appreciated that the appellant has a growing family, with increasing demands on the available living space, and that it would be desirable to provide more storage and utility areas. However, the property is not especially small as family accommodation, and would become larger if the permitted schemes are carried out, which would include increased storage space at the front of the house. There does not appear to be a compelling need for the additional space in order to maintain the optimum use of the property as viable living accommodation, and the future of the building would not be put at risk by rejection of the scheme.
13. Regard is also had to recent Government moves to avoid obstruction of new building projects, which have a beneficial effect on the economy. This links with the central objective of the Framework to create a presumption in favour of sustainable development. However, great weight is placed on the conservation of a heritage asset of significance, and part of the definition of sustainability in the Framework is the protection and enhancement of the historic environment, which this scheme would not achieve. Overall, there is no public benefit of such substance as to outweigh the harm to the listed building.

### **Other Matters**

14. Account is taken of the allegation of inconsistency on the part of the Council, including in respect of a double basement proposal permitted at a listed building in Hampstead Hill Gardens, and the treatment of the basement extension at the appeal property. On the first point, it seems that there were differences in the nature of the building and its background, and each decision is taken on its own merits. With respect to the previous approval at the appeal site, there is some strength to the Council's argument that an external addition has different implications from this proposal, which would be within the footprint of the original building.
15. Local residents expressed concern about the effect of increased accommodation on the local area, particularly with respect to parking demand. Having regard to the nature of the house as a single family dwelling, and the likely use of the basement, there are not strong grounds for considering that there would be a significant intensification in use, and any future proposal to subdivide the property would be subject to planning control. Disturbance has arisen as a result of building work in the street, but this would not be an adequate ground to prevent the project from proceeding, and there would be the potential, by the imposition of conditions, to control matters such as delivery methods and hours of work, to minimise loss of amenity. These, and the other matters raised, do not amount to additional reasons to reject these appeals.

*John Chase*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

|                                   |                      |
|-----------------------------------|----------------------|
| Mr P Munnelly BA, DipUP,<br>MRTPI | Indigo Planning      |
| Mr B Frodsham MTCP, MRTPI         | Indigo Planning      |
| Mr Van Sickle BA, MSc(PI)         | W H H Van Sickle Ltd |
| Mr L Gillam                       | Appellant            |

### **FOR THE LOCAL PLANNING AUTHORITY:**

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|-----------------------|--------------------------|
| Ms H Walker BA, MSc   | London Borough of Camden |
| Ms E Quigley BSc, MSc | London Borough of Camden |

### **INTERESTED PERSONS:**

|                               |                                                                    |
|-------------------------------|--------------------------------------------------------------------|
| Mr R Simpson MA, DipArch, FSA | On behalf of Primrose Hill Conservation Area<br>Advisory Committee |
| Cllr P Callaghan              | Ward Councillor                                                    |
| Ms J Bucknell                 | Local Resident                                                     |
| Mr A Moor                     | Local Resident                                                     |
| Ms M Evans                    | Local Resident                                                     |
| Mr A Phillipps                | Local Resident                                                     |
| Ms B Roberts                  | Local Resident                                                     |
| Ms S Brook                    | Local Resident                                                     |

## **DOCUMENT**

- 1 Basements and Lightwells CPG4, current version