



Appeal Decisions

Site visit made on 29 September 2009

**by Gyllian D Grindey MSc MRTPI Tech.
Cert. Arb.**

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

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**Decision date:
12 October 2009**

Appeal A Ref: APP/X5210/A/09/2104256

34 Kingstown Street, London, NW1 8JP

- 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 Patrik Zeigherman against the decision of the Council of the London Borough of Camden.
- The application Ref 2008/3674/P, dated 18 July 2008, was refused by notice dated 25 March 2009.
- The development proposed is construction of new single family dwelling and the demolition of the existing single family dwelling on the same site.

Appeal B Ref: APP/X5210/A/09/2104294

34 Kingstown Street, London, NW1 8JP

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
- The appeal is made by Mr Patrik Zeigherman against the decision of the Council of the London Borough of Camden.
- The application Ref 2008/3827/C, dated 18 July 2008, was refused by notice dated 25 March 2009.
- The demolition proposed is of the existing single family dwelling on the site.

Application for costs

1. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Decisions

2. I dismiss Appeal A and Appeal B.

Main issues

3. For the most part the 2 appeals can be dealt with together. The appeals site lies within the Primrose Hill Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 refers to the need to pay special attention to the desirability of preserving or enhancing the character or appearance of the Area. This national policy is reflected in UDP policy B7¹. I need to examine Appeal A with that important statutory consideration in mind. Concerning Appeal B, consent for demolition should normally be dependent on whether there are acceptable and detailed plans for any redevelopment, as

¹ Saved by direction of the Secretary of State, letter of 10 June 2009 refers

Planning Policy Guidance 15: Planning & the Historic Environment states at paragraph 4.27.

Reasons

4. The Council's UDP was adopted in June 2006 and under current legislation its policies no longer have effect unless saved by Direction of the Secretary of State. Policies S1, S2 and S3, referred to in the Council's decision on Appeal A have not been saved and therefore are not now part of the development plan. Notwithstanding this 'sustainable development' is the core principle underpinning planning, as *Planning Policy Statement 1: Delivering Sustainable Development* states at paragraph 3.
5. The Council argues that the proposals would represent an over-development of the site. I agree. In order to come to a judgement on any effect on the character or appearance of the Conservation Area it has to be decided what that character and appearance is. The Council's Conservation Area Statement describes Albert Terrace Mews, Kingstown Street and Regal Lane as a "contrast to the wide roads and villa style properties that dominate this sub-area. These narrow mews roads originally provided servicing to the rear gardens of the villas..... these small mews buildings are generally located directly abutting or close to the highway". This seems to me to be the essence of the street: 'narrow'; 'small'; a function of 'servicing' with the implied subservient or ancillary nature of the character here.
6. I agree with the description in the Design and Access Statement of the existing building on the site; that it is brick and render with windows and venting placed inconsistently and without rhythm or composition; it is of low quality and poor detailing. It also fills its plot on the street elevations, being on the back edge of the narrow highway looking cramped and lacking in a curtilage or setting commensurate with its size. All other aspects being satisfactory, I see no great obstacle to its demolition. But what is proposed is a large volume increase in the building here, (albeit with 2 floors below ground) and a radically different design concept which would be much more strident and dominant in the street scene.
7. The appellant argues that "the new building will not exceed the building mass of the existing structure above ground thus posing no detrimental effect to the existing character of the street"². But the character or appearance of a Conservation Area is not formed just of building mass. The street is small-scale and, at present, the most striking building by far is the appellant's architect's design at no. 45 obliquely opposite the appeal site. This is a uncompromisingly modern flat-roof house with dark, blank, largely un-fenestrated ground floor and a full-width horizontal-emphasis glass treatment above. It is not a restrained or self-effacing design but stridently dominates the street scene and was the subject of Design Awards.
8. It seems to me that the scheme proposed on the appeal site would have similar elements which, cumulatively, would tip the balance of the character and appearance of the Conservation Area. The appeal design would be overwhelmingly horizontal in emphasis, with a long, full-width, stream-lined

² Design and Access Statement, page 6, middle

frameless translucent glass ground floor and concrete rain-screen above. No. 45 and no. 34 would be little more than a few metres apart but, it seems to me, could not help but compete for attention, visually. While 1 uncompromisingly prominent building can be absorbed into the street scene, I am concerned that 2 would be just too much and would result in 2 'landmark' buildings competing visually.

9. The lack of small component parts in the elevations or the design detailing results in buildings which appear rather larger-than-life. In the street, no 45 does and no 34 would punch above their weight. I find that this scheme would result in a marked change to the intimate, small-scale, mews-y intrinsic character of the Conservation Area hereabouts.
10. No. 34 would appear as an over-large building, filling its plot and without a curtilage commensurate with its size. It would be a strident, visually arresting building cramped onto a tight, urban corner site and visually competing with another similar, starkly modern, building nearby. No. 34 cannot help but have an appearance of over-development because of these design characteristics.
11. Whilst of merit, the design seems to me totally at odds with the better examples of traditional styles nearby, and particularly would not reflect the pleasing unpretentious "small mews buildings" described in the Conservation Area Statement. Individually, they do not vie for attention, but are simple, well-mannered and proportioned buildings with low visual impact which merge into a well-integrated whole. In contrast, the elevations of the proposed appeal house must stand out and the design proposed here seems to me to be one which could be found anywhere in the country, it does not respect *this* Conservation Area, nor *this* specific locality.
12. I agree with the comment in the grounds of appeal that the most relevant parts of UDP policy B1 are a, b, d, and g. But, for the reasons I give above I find that the proposal would not respect its site or setting, but would harm its appearance or amenity. I conclude that the proposal would not preserve, much less enhance, the character and appearance of the Conservation Area and hence would conflict with UDP policy B7.
13. *Neighbours' amenities during construction.* I have read the comments of neighbours concerning the disruption to their lives during extensive building work that has been carried out in Kingstown Street in recent times (including the excavation of a single-level basement and not a double-depth one as now proposed). The issues raised by neighbours included the noise, disturbance, dust, the considerable lorry movements to remove all the excavated material and deliver materials, traffic congestion and general disruption for those that live in the area.
14. It seems to me that the appeal site is so small, and so very restricted; there would be 100% site work-coverage – it is, indeed, a 'tight urban corner site' as the design and access statement describes it. The building lies on the back edge of a very narrow highway on the south side, abuts other buildings on the north and the scheme involves building up to the east and west boundaries. There is a small pull-in or lay-by at the east end but this does not appear to be within the application site edged red and hence not under the control of the appellant. Kingstown Street is, in reality, little more than a narrow mews

- access; on-street parking effectively reduces it to a narrow single vehicle width, turning is not straightforward.
15. I am at a loss to know how the considerable amount of excavated materials will be loaded into lorries; where those lorries would be able to wait without blocking the narrow street; where the machinery would be placed; to where materials would be delivered and stored and the sheer practicalities of the excavation of 2 basement floors on a site with no part where it is not proposed to work/build/excavate upon it. In the absence of any information on this, I find it difficult to imagine how the works might be carried out. Without doubt, the proposals will impinge on the lives of the other residents in the street hugely.
16. As was said in another appeal decision³ which has been brought to my attention 'all construction work necessarily involves disruption and disturbance but, in the particular circumstances of this site which is so intimately connected with other residential properties, the level of intrusion would go well beyond what is normally acceptable'. Whilst I have not seen that site, it seems to me that Kingstown Street is so narrow, numerous other dwellings are so close, and the appeal site is so restricted, that almost all work must inevitably spill out onto the public street causing unreasonable disruption to the lives of others. Like the Inspector concerning the other appeal, I do not have a construction or demolition/excavation method statement but, given the limited nature of the site, I do not see that major disruption could be avoided. I consider that the comment above could be equally well directed at the current appeal site. This adds weight to my conclusion on the main issue.
17. *Other issues raised by neighbours.* Many of the neighbours comment on possible effects to the structural stability of buildings which abut the appeal site and the potential problems of water entering excavations and so forth. The appellants consider that these are unfounded. I have no conclusive evidence either way, although doubtless, at a cost, any structural problem could be overcome; this cannot be a determining issue in this case. Some neighbours comment on possible harm to the sycamore to the west of the site. This self-set tree is growing very close to a wall, such that there is likely to be direct, physical distortion of the structure soon. The trunk has 2 separate stems, virtually from ground level with a poor union between them. Hence while it is a substantial tree and plays a part in the pleasantness of the neighbourhood, I think that the tree has a limited useful life expectancy. Again, this is not a determining issue.
18. I am mindful that there is a perfectly habitable dwelling on the site. It does not lack basic amenities, which might justify the laborious excavation and building work, together with the waste in resources in demolishing a serviceable building, the disposal of excavated material and the issues of sustainability in terms of vehicular movements and the disposal of surplus material to landfill. The appellant submits that 'the replacement residential unit is in line with central government advice which encourages more efficient use of urban land'⁴. However, the proposal is a one-for-one replacement of a 4 x bedroom house with a 4 x bedroom house with a cinema and gym (facilities

³ APP/X5990/E/08/2087905 and APP/X5990/A/08/2087932

⁴ Grounds of Appeal, page 10

readily available in London); it would not alter the basic nature of available housing stock (except in terms of financial value); I do not think this should be a determining factor in this appeal.

19. I appreciate the appellant has put a great deal of effort into formulating a scheme which he considers to be suitable. But that factor does not override the harm to the public interest that I would associate with the proposals before me. I understand that the appellant proposes a building with 'passive servicing strategy utilising the high voids and large thermal mass of the concrete frame to enable natural cooling and ventilation' and that it fulfils the Lifetime Home Standards. However, this is not the only possible scheme that could incorporate such positive elements.
20. **Conservation Area Consent – Appeal B.** National policy advice in *Planning Policy Guidance 15: Planning and the Historic Environment*, states that consent for demolition should not be given until there are detailed plans for redevelopment. It follows, therefore, that there should be no barrier to demolition *only* if there is a suitable replacement development scheme. Hence, at this stage, consent for demolition should not be forthcoming.
21. I have considered all other matters raised, including the replacement of an architecturally uninspired building with another, but find nothing that alters my decision on these appeals. For the reasons given above I conclude that the appeals should be dismissed.

Gyllian D Grindey

Inspector