



The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

APPEALS
ALLOWED

Direct Line 0117-987 8927
Switchboard 0117-987 8000
Fax No 0117-987 8769
GTN 1374

Mr J Blacker BArch UCT RIBA ZIA
5 Shepherds Walk
LONDON
NW3 5UE

Your Ref:

JB

Our Ref:

T/APP/X5210/A/96/267325/P2

T/APP/X5210/E/96/812615/P2

Date:

3 NOV 1996

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEALS BY MS SHARON WEINER
APPLICATION NOS: 9501478R3 & 9560174R3

1. As you know I have been appointed by the Secretary of State for the Environment to determine these appeals against the decisions of Camden London Borough Council to refuse applications for planning permission and conservation area consent for the conversion of two buildings into a 4 bed house, two 3 bed maisonettes and a 2 bed flat with minor extensions and alterations at 7 Willow Road, Hampstead. I conducted a hearing into the appeals on 9 October 1996. At the hearing an application on behalf of your client was made for an award of costs against the Council. This is the subject of a separate letter.

2. The site is in the Hampstead Conservation Area. Section 72 of the 1990 Planning (Listed Buildings and Conservation Areas) Act requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. The application and appeal concerning conservation area consent arise because the proposed alterations would involve the partial demolition of a building in a conservation area. This was refused consent in the absence of an approved replacement scheme. At the hearing it was agreed that the outcome of the conservation area consent appeal is entirely dependent on the outcome of the planning appeal and no separate evidence was advanced concerning the proposed partial demolition. I intend to proceed accordingly.

3. Before the Council determined the applications that led to the appeals the proposals were revised in detail three times. It on the basis of the latest revised plans that I shall determine the appeals.

4. The Council do not take issue with the proposed sub-division of the building or any intensification of the use that would be involved. I also see no harm in the proposals in principle, although important matters of detail concerning the impact of the proposed alterations on the conservation area and on the neighbouring property remain contentious.

5. In view of the above and from what I heard at the hearing, have read in the written submissions and saw during my inspection of the site and its surroundings, I consider that the main issues in the appeals are:

- a. the impact the proposed alterations to the appearance of the building would have on the conservation area;

b. the impact the proposed front terrace at upper ground level would have on residential amenity, with particular reference to privacy and the nearby side window in 1a Prince's Court.

6. There is an adopted local plan for the area which says that preference should be given to providing family sized accommodation where there is access to a garden. Full consideration is also to be given to the aesthetic and environmental factors necessary to achieve a high level of design in conservation areas. There is guidance in the Council's Environmental Code on daylight, sunlight and privacy.

7. The emerging Unitary Development Plan for Camden also seeks to ensure that development in a conservation area preserves or enhances its special character or appearance with particular guidance on Hampstead and Highgate Ridge. Extensions are not to dominate the building which they extend and there are policies on daylight, sunlight, overlooking and privacy. There are also standards on residential space, access to gardens and car parking, although the Council do not contend that the appeal proposals fail to meet these standards.

8. The character and appearance of the conservation area are determined by its residential nature, the style and interest of its buildings and the open aspect of the Heath. The buildings on the appeal site (and especially the studio extension at the back) are distinctive, attractive and interesting and they make a positive contribution to the area's character and appearance.

9. The appeal proposals would replace the featureless door of the integral garage in the studio extension with windows and replace an existing brick extension at the back of the main house by a more elaborate and attractive feature containing a kitchen. These changes would be in keeping with the overall appearance of the building and would, in my view, improve the contribution it makes to the appearance of the conservation area.

10. The proposals would also extend the lower ground floor of the studio towards the road and create a narrow terrace above it. Although this aspect of the proposals is contentious, it is below the level of the road and in my opinion the extension forward would barely be discernable either from the road or from the Heath. In any event the terrace balustrade will enliven the appearance of the front of the studio. I therefore consider that the proposed alterations will have some benefits for the conservation area without causing any harm to it.

11. Accordingly, I conclude on the first of the main issues in the appeal that the proposed alterations will enhance the appearance of the building and preserve the character and appearance of the conservation area.

12. The main issue concerning privacy relates to the extent to which the proposed front terrace would impinge on the small window in the side wall of the adjacent block of flats. This serves the small flat known as 1a Prince's Court. At the time the Council determined the applications, this window had clear glass in it but it now has opaque glass.

13. You say a covenant prevents clear glass being used in this window, although the occupier's sister says that (until recently) it had had clear glass for so many years that the covenant is now a spent force. My own view is that the existence of a covenant (enforceable or not) is not a material consideration in planning appeals. However, the fact that the window in question now has opaque glass and that it is the subsidiary window in the flat are both material. The possibility of the window being refitted with clear glass is not a matter

for me to resolve. However, I note that there is no suggestion that such a course of action is necessary to make the flat it serves habitable. I will therefore give this matter such weight in the appeal decision as the facts of the case (as outlined above) indicate is appropriate.

14. The proposed terrace would be narrow but could be used for sitting out. The end of the balcony is shown in the amended plans as having a planting area nearest to the adjoining block. Although this planting would preclude the possibility of viewing the main window at the back of the adjacent flat from the front of the studio premises, it would not be in the direct line of vision between the rest of the front terrace and the small side window. It would, therefore, be possible to sit on the terrace at a distance of a few metres from the side window and look directly at it.

15. However, my understanding of the internal layout of 1a Prince's Court from plans and photographs is that the affected window serves a lobby off the main room in the flat rather than the main room itself. Although from some angles it would be possible to look through the window and lobby into the main room in the flat, from the proposed terrace only a restricted view would be possible even if the window in question had clear glass. The small size of the window would also, in my opinion, restrict any loss of privacy in practice.

16. For these reasons I conclude on the second of the main issues in the appeal that the impact the proposed front terrace at upper ground level would have on privacy in 1a Prince's Court would not be such as to warrant dismissing the appeal for this reason.

17. It was also suggested that the windows in the replacement kitchen extension at the back of the main house would overlook the same side window in 1a Price's Court. However, the new windows would be further away from the window in question and the levels involved would also restrict the ability of anyone standing in the proposed kitchen from looking into the flat. I consider that no material loss of privacy would be involved in this respect.

18. I have also considered the objections concerning shade and privacy in 6 Willow Road and its garden. Whilst I accept that there are already problems in this direction in respect of both shade and overlooking, the proposed alterations would make matters no worse than they already are. I therefore take the view that this is not reason to prevent the proposals.

19. The matter of possible conditions was fully discussed at the hearing and on the site. The Council suggested that a condition be imposed to ensure that the materials used in the proposed alterations match the existing materials in the buildings. You accepted this suggestion and I also consider it necessary, although I favour the form of words set out in Circular 11/95. The Council further suggested a condition restricting the permitted development rights relating to the new dwellings. Although you opposed this, the sensitive relationship of the buildings to both Prince's Court and 6 Willow Road indicate to me that such a restriction is necessary. In any event the Council would not be able to refuse any reasonable requests for alterations. Again I have simplified the wording suggested by the Council in line with the Circular.

20. At my suggestion it was also agreed that a condition is needed to secure the implementation of the proposed planting on the terrace, as shown on the appeal plans.

21. More contentiously, the Council also suggested a possible condition restricting the use of the small flat roof at the back of the studio and this was discussed at length at the hearing.

The appeal plans do not indicate any change to either the access to this roof or its use. Although the access is far from easy, it is reported that this roof has been used in the past for sitting out and there is also a washing line there. This clearly has an adverse impact on privacy at the back of 1a Prince's Court. However, in view of the established nature of this use and my conclusions in paragraph 16 above, I consider that it would not be reasonable to impose a condition along the lines suggested by the Council in this instance.

22. I have taken into account all the other matters raised in the written representations and at the hearing, including the views of consultees in response to the applications, but consider that they do not alter the conclusions reached above.

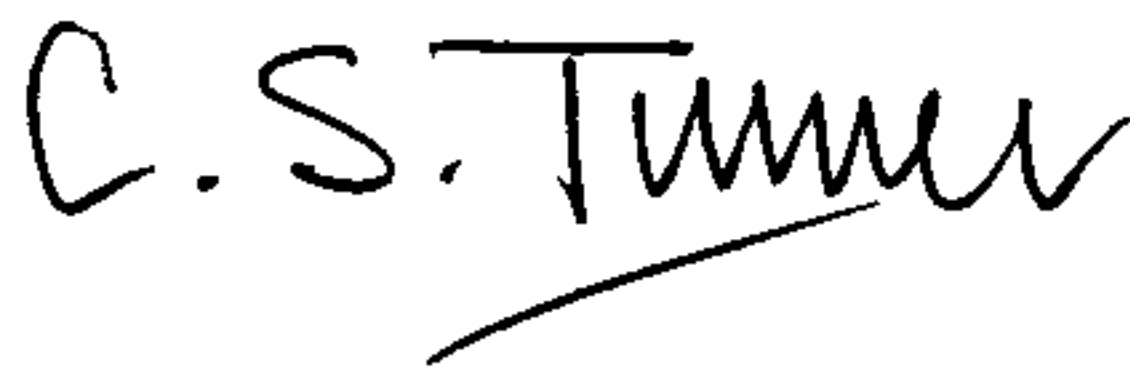
23. For the above reasons and in exercise of the powers transferred to me, I hereby allow these appeals and grant planning permission and conservation area consent for the conversion of two buildings into a 4 bed house, two 3 bed maisonettes and a 2 bed flat with minor extensions and alterations at 7 Willow Road, Hampstead in accordance with the terms of the applications (Nos 9501478R3 & 9560174R3) dated 7 August and 11 August 1995 and the plans submitted therewith, subject to the following conditions:

1. the development hereby permitted shall be begun before the expiration of 5 years from the date of this letter;
2. the materials to be used in the construction of the external surfaces of the alterations hereby permitted shall match those used in the existing building;
3. notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order, with or without modification), no windows, dormer windows or extensions other than those expressly authorised by this permission shall be constructed;
4. plans and particulars of the landscaping of the site, and in particular of the planting on the terrace shown in the approved plans, shall be submitted in writing to the local planning authority for their approval and shall be carried out as approved.

24. An applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

25. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

Yours faithfully



C S TURNER MA BA DipTP MRTPI DMS
Inspector

APPEARANCES

FOR THE APPELLANT

- Mr J Blacker - Agent for the Appellant.
BArch UCT RIBA ZIA
- Mr M Lewis - of Counsel.

FOR THE LOCAL PLANNING AUTHORITY

- Mr D March - Camden LBC.

INTERESTED PERSONS

- Ms Jill Purce - 20 Willow Rd, NW3 1TJ
for Occupier of 1a Prince's Court.

DOCUMENTS

- Document 1 - List of Persons Present at the Hearing.
- Document 2 - Notice of the Appeals.
- Document 3 - Replies to the Notice.
- Document 4 - Appellant's Statement.
- Document 5 - Council's Statement.
- Document 6 - Declarations Concerning Covenant Relating to the Window
in 1a Prince's Court.

PLANS

- | | |
|--------|---|
| Plan A | - Land Registry Extract. |
| Plan B | - 782/01; Lower Ground Existing. |
| Plan C | - 782/02; Upper Ground Existing. |
| Plan D | - 782/03; Existing Floors 1,2 and 3. |
| Plan E | - 782/04; West Elevation Existing. |
| Plan F | - 782/09; Lower Ground. |
| Plan G | - 782/10; Upper Ground. |
| Plan H | - 782/11; Floors 1,2 and 3. |
| Plan I | - 782/12; West Elevation Proposed. |
| Plan J | - 782/13; Section A to A. |
| Plan K | - Set of Plans Relating to First Revision of Applications. |
| Plan L | - Set of Plans Relating to Second Revision of Applications. |
| Plan M | - 782/09B; Lower Ground. |
| Plan N | - 782/10D; Upper Ground. |
| Plan O | - 782/11; Floors 1,2 and 3. |
| Plan P | - 782/12D; West Elevation Proposed. |
| Plan Q | - 782/13; Section A to A. |

Plans M to Q are the Appeal Plans.

PHOTOGRAPHS

Annotated Photographs (and Plans) Included with Ms Purce's Submissions in Document 3.