



# Appeal Decisions

Hearing held on 3 September 2009

Site visit made on 3 September 2009

by **D R Nicholson** RIBA IHBC

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

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**Decision date:  
1 October 2009**

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## **Appeal A: APP/X5210/E/09/2105722**

### **40 College Crescent, London NW3 5LB**

- 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 Central Securities Ltd. against the decision of the Council of the London Borough of Camden.
- The application Ref. 2009/0042/L, dated 4 December 2008, was refused by notice dated 21 May 2009.
- The works proposed are demolition of most of the 1930s extension to No.40 College Crescent (also known as Palmers Lodge) in association with the erection of a three storey building comprising six town houses, plus basement, realignment of existing vehicular accesses, creation of associated open space and landscaped areas.

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## **Appeal B: APP/X5210/E/09/2105723**

### **39 College Crescent, London NW3 5LB**

- 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 Central Securities Ltd. against the decision of the Council of the London Borough of Camden.
- The application Ref. 2009/0043/C, dated 4 December 2008, was refused by notice dated 21 May 2009.
- The demolition proposed is of part of the southern elevation of No.39 College Crescent and two freestanding walls in association with the erection of a three storey building comprising six town houses, plus basement, realignment of existing vehicular accesses, creation of associated open space and landscaped areas, together with change of use of retained element of No.39 College Crescent to Class B1 (business).

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## **Appeal C: APP/X5210/A/09/2105720**

### **39 & part 40 College Crescent, London NW3 5LB**

- 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 Central Securities Ltd. against the decision of the Council of the London Borough of Camden.
- The application Ref. 2008/5896/P, dated 4 December 2008, was refused by notice dated 21 May 2009.
- The development proposed is erection of a three storey building comprising six town houses, plus basement, realignment of existing vehicular accesses, creation of associated open space and landscaped areas, together with change of use of retained element of No.39 College Crescent to Class B1 (business).

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## **Summary of Decisions**

1. **I allow all 3 appeals as set out in the Formal Decisions below.**
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### **Application for costs**

2. At the Hearing an application for costs was made by Central Securities Ltd. against the Council of the London Borough of Camden. This application is the subject of a separate Decision.

### **Procedural Matter**

3. An Agreement was submitted under Section 106 of the Town and Country Planning Act 1990 (s106). I deal with its contents below.

### **Main issues**

4. The main issues are whether the proposals would preserve or enhance the character or appearance of the Fitzjohns/Netherhall Conservation Area, and whether they would preserve the adjoining listed building or its setting.

### **Reasons**

5. The Fitzjohns/Netherhall Conservation Area is characterised by rather exuberant late 19<sup>th</sup> century speculative houses with decorative brickwork. The appeal site lies at the southern limit of the conservation area. No.40 College Crescent is a Grade II listed building which typifies many of the more flamboyant attributes of houses within the conservation area except that it was built specifically for Samuel Palmer (of Huntley & Palmers biscuit fame). It stands back from College Crescent and has individual, but more or less balanced gables on either side of a central porch; all three are highly decorated. The height, forward projection and degree of ornamentation of the building all diminish towards the adjoining appeal site at No.39, which may have housed the service wing to No.40. The surviving building on the appeal site stands at the back of the pavement and is two storeys high under a pitched roof, as was the building to which only the freestanding walls survive.
6. Facing College Crescent, the houses would be 3 storeys high under flat roofs. They would form a horseshoe shape around a central access point facing the street. They would be in a bold modernist style and clad with rough faced stone. The elevations would be articulated with stepped rectilinear sections and large thin framed windows. The stone facing would be in stark contrast with the brickwork to the listed building and much of the conservation area. Viewed from the street, one of the ends of the horseshoe would project further forward than most of the listed building, but not quite as far forward as the porch. The other end would stand roughly in the same line but be partly obscured by the retained building at No.39.
7. The Council does not take issue with the partial demolition of a small, late addition to the listed building or the surviving walls of a building at No.39, subject to a satisfactory replacement scheme, and nor do I. In general terms, I consider the bold approach to the proposed houses would be suitable for this gap site, and that the combination of lower roofs, recessed elements and different materials would all be appropriate against the general character of the large Victorian houses in the conservation area. The proposals would therefore preserve the character and appearance of the conservation area and so meet advice in Planning Policy Guidance Note 15 (PPG15): *Planning and the Historic*

*Environment* that the character or appearance of conservation areas should be preserved or enhanced, and satisfy current adopted UDP Policy B7 that echoes this advice.

8. With regard to the adjoining listed building, I find that the height, form and materials of the scheme would generally distinguish it from the special interest of the listed building. I am concerned that the nearest three storey wing would generally stand forward and be quite close, and this might detract from the features within the nearest part of the listed building. On the other hand, there is an extant permission for a new house on the front of the site which would stand much further forward. Given that this permission has been started, and might well be fully implemented, I find that when compared with this fallback position, the proposals would not harm the listed building or its setting. Although the facing materials would be radically different, these could be controlled by a condition. On balance, the proposals would satisfy guidance in PPG15, and accord with UDP Policy B6, which aims to prevent harm to the special interest of listed buildings.

### **Conditions and S106 Agreement**

9. To protect the appearance of the area, and provide the opportunity for the facing material to be reviewed, I shall control the external materials for both the planning and listed building approvals. To avoid a vacant site, I shall require a contract for the redevelopment to have been made before the demolition permitted by the conservation area consent begins. With regard to the planning permission, in the interests of sustainable development I shall require cycle storage, and details of the green roof and solar water heaters. Given the constraints of the site and the nature of the design, I shall control permitted development rights, waste storage, landscaping, and boundary treatment. As the site has had previous industrial uses, there should be safeguards against possible contamination. To meet the Council's parking standards I shall require further basement details and to protect privacy I will require details of screens.
10. There would be 7 provisions within the s106 Agreement, which has been signed by the Council. Given the narrow road, I find that the Construction Management Plan would be necessary. To meet current national expectations and development plan policies, the Sustainability Plan and Renewable Energy Plan would also be needed. As parking spaces would be limited and the Council encourages the use of public transport, which is very close by, the provision denying parking permits is also reasonable. Given that the works would disrupt the pavement in front, the Highway contribution would be fairly and reasonably related. The Education and Affordable housing contributions would be pooled by the Council and spent off site at unknown locations. In the absence of information as to how these contributions would achieve additional school places or affordable homes, I give these elements limited weight.

### **Conclusions**

11. For the above reasons I conclude that all three appeals should be allowed.

## Formal Decisions

12. **I allow Appeal A, and grant listed building consent** for demolition of most of the 1930s extension to No.40 College Crescent (also known as Palmers Lodge) in association with the erection of a three storey building comprising six town houses, plus basement, realignment of existing vehicular accesses, creation of associated open space and landscaped areas at 40 College Crescent, London NW3 in accordance with the terms of the application Ref. 2009/0042/L, dated 4 December 2008 and the plans submitted with it subject to the following conditions:
- 1) The works hereby authorised shall begin not later than 3 years from the date of this consent.
  - 2) Notwithstanding the submitted details, no development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority (LPA). Development shall be carried out in accordance with the approved details.
13. **I allow Appeal B, and grant conservation area consent** for demolition of part of the southern elevation of No.39 College Crescent and two freestanding walls in association with the erection of a three storey building comprising six town houses, plus basement, realignment of existing vehicular accesses, creation of associated open space and landscaped areas, together with change of use of retained element of No.39 College Crescent to Class B1 (business) at 39 College Crescent, London NW3 in accordance with the terms of the application Ref. 2009/0043/C, dated 4 December 2008 and the plans submitted subject to the following conditions:
- 1) The works hereby authorised shall begin not later than 3 years from the date of this consent.
  - 2) The works of demolition hereby authorised shall not be carried out before a contract for the carrying out of the works of redevelopment of the site has been granted in accordance with the planning permission below.
14. **I allow Appeal C, and grant planning permission** for erection of a three storey building comprising six town houses, plus basement, realignment of existing vehicular accesses, creation of associated open space and landscaped areas, together with change of use of retained element of No.39 College Crescent to Class B1 (business) at 39 & part 40 College Crescent, London NW3 in accordance with the terms of the application, Ref. 2008/5896/P, dated 4 December 2008, and the plans submitted with it, subject to the following conditions:
- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) Notwithstanding the submitted details, no development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details.

- 3) Development shall not begin until details of the proposed cycle storage have been submitted to and approved in writing by the LPA; no dwelling shall be occupied until the cycle storage has been constructed in accordance with the approved details.
- 4) Development shall not begin until details of the proposed green roof, including species, planting density, substrate, depth and maintenance schedule have been submitted to and approved in writing by the LPA; no dwelling shall be occupied until the green roof has been constructed in accordance with the approved plans; it shall thereafter be retained and maintained in accordance with the approved schedule.
- 5) No development shall take place until full details of the solar water heaters have been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details and retained thereafter.
- 6) 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 buildings, extensions or alterations permitted by Classes A, B, C, D and E of Part 1 of the Second Schedule of the 1995 Order shall be carried out.
- 7) Development shall not begin until details of the location, design and method of waste storage and removal, including recycled materials, have been submitted to and approved in writing by the LPA; no dwelling shall be occupied until the waste storage has been constructed in accordance with the approved details; it shall thereafter be retained and maintained in accordance with the approved details.
- 8) No development shall take place until full details of both hard and soft landscape works, including proposed ground levels, other than to individual private gardens, have been submitted to and approved in writing by the LPA and these works shall be carried out as approved.
- 9) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority. If within a period of 5 years from the date of the planting of the proposed tree, it is removed, uprooted, destroyed, dies or, in the opinion of the LPA, becomes seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place.
- 10) Notwithstanding the submitted details, no development shall take place until revised details of the front boundary treatment, including control of vehicular access have been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details and retained thereafter.
- 11) No development shall take place until a programme of investigation, and any subsequent remediation where necessary, for the presence or soil and groundwater contamination, or landfill gas, has been submitted to and approved in writing by the LPA; no dwelling shall be occupied until any

necessary works have been carried out as approved and a verification report submitted and approved by the LPA.

- 12) No development shall take place until full details of the basement layout and sub-division between storage and parking have been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details and retained thereafter.
- 13) No development shall take place until full details of the 1.7m high privacy screening to the roof terraces of houses 4 and 5 have been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details and retained thereafter.

*David Nicholson*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Chris Miele	Montagu Evans LLP
Will Edmunds	Montagu Evans LLP
Geoffrey Searle	Geoffrey Searle Planning Solicitors
David Evans	Geoffrey Searle Planning Solicitors
Jonathan Stein	Central Securities Ltd.

### FOR THE LOCAL PLANNING AUTHORITY:

Andy Hollins	L B Camden
Hannah Walker	L B Camden

## DOCUMENTS

- 1 Completed s106 Agreement
- 2 Affordable housing report
- 3 Council's response to Costs application