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# Appeal Decisions

Site visit made on 13 May 2013

**by Jennifer Vyse DipTP DipPBM MRTPI**

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

**Decision date: 10 June 2013**

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## **Appeal A: APP/X5210/E/2184791**

### **5 Belsize Lane, London NW3 5AD**

- 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 N Cartwright against the decision of the Council of the London Borough of Camden.
  - The application No 2012/1015/L, dated 10 February 2012, was refused by a notice dated 13 June 2013.
  - The works comprise a building/garage in connection with the existing dwelling.
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## **Appeal B: APP/X5210/A/2184882**

### **5 Belsize Lane, London NW3 5AD**

- 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 N Cartwright against the decision of the Council of the London Borough of Camden.
  - The application No 2012/0882/P, dated 10 February 2012, was refused by a notice dated 13 June 2013.
  - The development comprises a building/garage in connection with the existing dwelling.
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## **Decisions**

### ***Appeal A***

1. For the reasons that follow, the appeal is dismissed.

### ***Appeal B***

2. For the reasons that follow, the appeal is dismissed.

## **Procedural Matters**

3. In December 2010, planning permission and listed building consent were granted for the erection of a detached garage at the property.<sup>1</sup> The garage was built, but not in accordance with the approved plans. The applications seek permission/consent for the building that has been erected.
4. The appellant draws attention to the Questionnaire completed by the Council in connection with the appeals, in particular, the answer to Question 12b, which indicates that the appeal building does not affect the setting of a listed building. However, the appeal building lies within the curtilage of a grade II listed building and it is clear from the officer's reports, and the reasons for refusal, that the Council has concerns in this regard. In any event, section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard is paid to the desirability of preserving the setting of listed buildings.

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<sup>1</sup> Application Nos 2010/5631/P and 2010/5645/L

5. The description of development set out on the application forms is, by and large, an explanation of correspondence between the appellant and the Council following erection of the building. Furthermore, although both the Council and the appellant refer to the applications as being for retention of the building, retention is not an act of development. With this in mind, the description set out in the headers above reflects the appellant's description of the building for which consent/permission is sought, as referred to in the grounds of appeal and subsequent statements, and that used on the Council's Decision Notices.
6. The building for which consent/permission was originally granted was described as a garage. However, it has been fitted out as an office. Whilst there is considerable local concern on this point, the Council confirms that the use remains ancillary to the main dwelling and no further permission is required in relation to any change of use. I have no reason to demur from the Council's view.

### **Main Issues**

7. These relate to the effect of the building on the setting of the adjacent listed building and on the character and appearance of the Fitzjohns/Netherhall Conservation Area, and its effect on the living conditions of the occupiers of No 9 Belsize Lane, having particular regard to outlook.

### **Reasons**

8. No 5 Belsize Lane occupies an elevated position at the apex of the road, where it intersects with Wedderburn Road. The detached appeal building lies within the southern corner of the site, set back from the road behind a solid wooden gate that lies between a pair of substantial gate pillars with decorative tops, which themselves are set within a garden wall. The appeal building lies close to, and runs alongside, the adjacent property, No 9 Belsize Lane.

### *Listed Building/Conservation Area*

9. No 5 Belsize Lane, known as Hunters Lodge, is a grade II listed building. It was built in around 1810/1812, designed by Joseph Parkinson for William Tate and is a rare example of a Regency villa in an area that grew later in the century when the grounds of larger houses were developed for housing. Indeed, it is one of the earliest buildings within this part of the Conservation Area. Its special interest derives not only from its history, but also its architecture. The stucco building consists of three distinct phases of development: the original house, has a crenellated parapet to the road elevation, with three round towers to the principal rear; to the east is a Victorian addition; a 1928 addition to the west had, at the time of my visit, been demolished and work had commenced on a permitted replacement. Notwithstanding the previous extensions, the richly detailed triple-bowed façade of the original building remains as a distinctive feature of the rear elevation, designed to take advantage of its elevated position, looking out over what would have been much larger pleasure gardens and the wider townscape. As a consequence, the remaining garden space is particularly important to its setting. I am mindful, in this regard, that the National Planning Policy Framework defines the setting of heritage assets as comprising the surroundings within which the asset is experienced.
10. The large Conservation Area spreads across the southern slopes of Hampstead on the descent from Hampstead village. As noted in the Conservation Area

Statement, long views along the Avenues combine with substantially scaled properties and generous grounds to create an imposing district. There is a wide range of architectural styles, with the gaps between the buildings providing views to the rear gardens. The Statement also notes that, although not always visible from the street, the rear gardens form large blocks of open land that make a significant contribution to the character of the area, the area having an over-riding sense of a quiet leafy suburb.

11. The detached building the subject of these appeals differs from that approved in a number of significant ways. It is set approximately 1 metre further back into the site than was originally approved; it is slightly deeper; the space between the outbuilding and the boundary wall with No 9 Belsize Lane has been infilled with a single storey flat roofed structure, which has a width at the front of some 1.69 metres; and, in order to accommodate an internal mezzanine floor, the building has been increased in height in relation to the prevailing ground level. In order to maximise the internal height, the building has also been dug into the ground by around 0.6 metres.
12. In order to accommodate the mezzanine floor, the side facing windows within the appeal building have been set at a lower level, so that they read oddly in this elevation, with an overly large space between the top of the windows and the eaves. Similarly, the gap between the top of the timber 'doors' to the front elevation, and the gable above, is awkwardly proportioned. In addition, although the bottom of the eaves remains at the approved level, the parapet walling above, along each of the side elevations, has been increased, with a resulting height above the prevailing ground level of around 2.88 metres. The ridge to the roof has also been increased to some 4.2 metres, with the parapet verges to the gable end of the roof being slightly higher still (some 4.38 metres).<sup>2</sup> Those heights increase by around 0.6 metres when taken from the reduced ground level around the building.
13. Whilst the appellant's final comments state that the appeal building is no nearer to the listed house than the approved scheme, the Grounds of Appeal refer to it being moved some 0.3 metres closer. The site coverage analysis submitted with the appeal also shows the building to be in closer proximity to the rear elevation of the listed building than was previously the case.
14. Although at a lower level than the house, the overall bulk, massing and poor proportions of the appeal building mean that it is seen as an excessively large and uncharacteristic structure that fails to be sufficiently subordinate to the main listed property. That impact is exacerbated by the fact that it occupies a prominent position in relation to the principle façade of the original house, eroding the openness of the garden area and undermining what remains of the setting to the listed building. In coming to this view, I have had regard to the approved but, at the time of the site visit, un-built replacement extension to the west of the listed building. Whilst that will change the context of the appeal building to some extent, it would not moderate the adverse impact that I have identified. Indeed, it seems to me that it is likely to make what remains of the setting even more sensitive.
15. I recognise that the building is set back from the road, behind the garden wall and solid timber gates. That mitigates, to some extent, its impact on the character and appearance of the wider Conservation Area. Nevertheless, the

<sup>2</sup> These heights are taken from the sketch plan submitted by the appellant with the final comments. I understand the annotated measurements shown use the top of the boundary wall as a datum point.

increase in height and bulk means that it is seen as more prominent than would otherwise be the case, intruding into views across the site, above the boundary walling, with consequent harm to the established character and appearance of the Conservation Area.

16. In support of the appeals, the appellant draws attention to other detached buildings elsewhere in the locality. However, I have no information as to the circumstances that led to permission being granted in those instances, or whether they related to listed buildings. Moreover, in terms of their design and proportions, none appeared to be directly comparable to the appeal scheme, which I have considered on its own merits.
17. Given the findings above, I consider that the appeal building conflicts with policies CS5 and CS14 of the Council's Core Strategy (adopted November 2010) and policies DP24 and DP25 of the Development Policies Document of the same date. Together, these policies seek to ensure that development is of the highest standard of design that respects local context and character, preserving and enhancing the environment and the area's heritage assets and their setting. Whilst the impact on the listed building and the Conservation Area, is not substantial it is, nevertheless, harmful. Having regard to paragraph 134 of the National Planning Policy Guidance, that harm is not outweighed by any public benefit.

#### *Living Conditions*

18. No 9 Belsize Lane lies close to the joint boundary with No 5. During the site visit, I was able to view the appeal building from within the adjacent property at both ground and first floor level. Although the appeal building is clearly seen from first floor side facing windows, the affected windows are to en-suite bathrooms, the outlook from which is less sensitive than to other principal rooms. At ground floor, whilst the side facing utility window is a less sensitive vantage point, there are two side facing windows to the kitchen/living area.
19. The boundary between the two properties comprises brick walling some 2.2 metres in height. The infilling to the side of the appeal building is no higher than the boundary wall and, as a consequence, is not visible from the side facing ground floor windows at No 9. However, the parapet wall to the main part of the appeal building (which, based on the appellant's figures, is only some 3 metres from the side elevation of No 9) and the pitched roof, are clearly seen from one of the windows to the kitchen/living area, looming up above the boundary wall.
20. As noted above, the parapet has a height above the prevailing ground level of around 2.88 metres, with the ridge to the roof being some 4.2 metres in height, 4.38 metres to the parapet verges to the gable end of the roof. I recognise that the parapet and ridge are only around 0.4 metres<sup>3</sup> higher than the prevailing ground level compared to the approved scheme. However, as evidenced by the computer generated images submitted by the appellant, it is clear that the original scheme would have had quite an impact on the outlook of adjoining occupiers. In such close proximity to the adjacent windows, and irrespective of the fact that there may be no loss of daylight or sunlight, the increase in height means that the appeal building now has an overbearing, if

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<sup>3</sup> The submitted plans are annotated to show an increase in height of 0.435 metres, whilst the appellant's final comments suggest an increase of 0.4 metres to the ridge and an increase in height of 0.38 metres to the top of the parapet.

not overwhelming visual impact, dominating the outlook from the adjacent property. This is contrary to policies CS5 and DP26 which, together, seek to protect the amenity and quality of life of the Borough's residents.

### **Conclusions**

21. For the reasons set out above, I conclude that neither appeal should succeed.

*Jennifer A Vyse*

INSPECTOR