
Appeal Decisions

Site visit made on 1 December 2014

by Mr JP Sargent BA(Hons) MA MRTPI

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

Decision date: 18 December 2014

Appeal A: APP/X5210/E/14/2225680

27 Kelly Street, London NW1 8PG

- 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 Simon Dix against the decision of the Council of the London Borough of Camden.
 - The application Ref 2014/3730/L, dated 24 June 2014, was refused by notice dated 3 September 2014.
 - The works proposed an improved route of access to the rear garden through the reception room.
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Appeal B: APP/X5210/A/14/2225875

27 Kelly Street, London NW1 8PG

- 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 Simon Dix against the decision of the Council of the London Borough of Camden.
 - The application Ref 2014/4148/P, dated 24 June 2014, was refused by notice dated 3 September 2014.
 - The development proposed is an improved route of access to the rear garden through the reception room.
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Decisions

Appeal A: APP/X5210/E/14/2225680

1. The appeal is allowed and listed building consent is granted for an improved route of access to the rear garden through the reception room at 27 Kelly Street, London NW1 8PG in accordance with the terms of the application Ref 2014/3730/L, dated 24 June 2014, subject to the conditions in the Conditions Schedule below.

Appeal B: APP/X5210/A/14/2225875

2. The appeal is allowed and planning permission is granted for an improved route of access to the rear garden through the reception room at 27 Kelly Street, London NW1 8PG in accordance with the terms of the application Ref 2014/4148/P, dated 24 June 2014, subject to the conditions in the Conditions Schedule below.

Main Issues

3. The main issues are whether the works cause harm to the special architectural and historic interest of this listed building and (in the case of Appeal B only) whether they preserve the character or appearance of the Kelly Street Conservation Area. Moreover, a further issue is, if harm would be caused to either of these heritage assets, whether this harm would be outweighed by public benefits.

Reasons

4. This dwelling is one of a row of Grade II listed 2-storey houses that form a terrace along the south side of Kelly Street. Built in the mid 19th Century the frontage of No 27 still retains many elements that reflect its original character. Moreover, it also respects the front elevations of the other properties in the terrace, enhancing the uniformity and rhythm of the group and adding to its pleasing composition. These aspects therefore contribute to the significance of No 27 as a heritage asset.
5. Turning to the conservation area, this is very much focussed on Kelly Street. Properties of a similar age, scale, form and design are opposite the Appellant's home, and the presence of these terraced blocks along either side of the road means the street still maintains its historic character and appearance. Such factors go towards the significance of the conservation area and, by being within one of the terraces, the Appellant's house makes a positive contribution to this significance.
6. At the rear, No 27 has been very much altered already. Whilst the ground floor window appears to be original, the 2 first floor windows are newer and a single storey extension and a sloping glazed area above the basement have been added. The rear is also dominated by the modern block on Castle Road that lies close by to the south, while the curve of the terrace and the tall boundary walls mean it cannot be readily appreciated within the context of the other houses on this side of Kelly Street. Therefore, the back of the property does not make a notable contribution to the special architectural or historic interest of the building and does not contribute appreciably to its significance as a heritage asset or to the significance of the conservation area.
7. The works would remove the cill of the rear ground floor window, as well as the brick work beneath, and introduce patio doors. The width of the opening would be the same as at present and the existing window head would be reused. This work would be done in connection with a consent and permission granted earlier in 2014 to remove the sloping glass above the basement and replace it with a flat glazed area (the extant approval), and the door before me now would open onto this new glazed area to allow access to the very small rear yard. The existing back door, which opens into the yard from the bathroom in the single storey extension, would be replaced with a window.
8. If the details were suitably controlled by condition, the design and proportions of the proposal need not look discordant on the house. The removal of the rear window would constitute a loss of historic fabric and would cause some harm to the significance of the building. However, for the reasons stated above this harm would be less than substantial and indeed would be limited. Given this is a listed building in a relatively small conservation area, I also accept that the

- works would cause some harm to the significance of the conservation area, but again, for the reasons provided, this would be less than substantial and limited.
9. The Council said that the works would impact on the front of the property too as they could be seen from the road through the dwelling's windows. Such views though would be nothing more than fleeting, and their restricted nature means the works could not be readily appreciated in the context of the historic significance of the property.
 10. The Council also raised concern about the effect of the works on the plan form of the building, contending that an external door would not have opened from a principal room into the yard. I accept that the plan form can contribute valuable information towards an appreciation of the significance of a historic building. In this case though I am unaware as to how the ground floor arrangement within the house has varied over time. However, the works would leave the existing floor plan intact, and while the door would be a new intervention to my mind, given the status of the dwelling, it would not be a discordant feature that confused or eroded an understanding of the property. I also accept some brickwork would be lost but this would not affect the significance of the building. Therefore, I am not satisfied that harm would result in relation to either of these matters.
 11. Paragraph 132 of the *National Planning Policy Framework* (the Framework) says that great weight should be given to the conservation of a designated heritage asset, and any harm requires clear and convincing justification. In paragraph 134 it then states that where a proposal would lead to less than substantial harm to the significance of such an asset that harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. In this regard, the Council offered a quotation from the English Heritage guidance, *London Terrace Houses 1660-1860*, which says that when considering changes 'the aim should be to minimise the impact on the building while helping the owner adapt the property to suit reasonable needs'.
 12. Any door to the back yard of No 27 would have to be from either the bathroom in the extension or the rear room in the main house, as these are the only 2 rooms that adjoin that area. The Council maintained that the current access through the bathroom was a suitable connection and so the formation of this new door was not a reasonable requirement. To my mind though accessing the yard through the main bathroom would inevitably mean people would be unable to leave or enter the yard when the bathroom was in use. As such, to my mind it falls below what can be considered to be a reasonable arrangement.
 13. I have no grounds to consider the continued use of the property as a dwelling would be in question if the appeal were to be dismissed. However, it is fair to assume that introducing a more suitable layout to overcome the existing unreasonable arrangement would appreciably improve the functioning of the listed building and mean it would be better suited to fulfil its role as living accommodation. As such the works would constitute a public benefit to which weight should be attached.
 14. In coming to this view I noted the property also had a shower room, but this was smaller and in the basement and so it did not render the ground floor bathroom unnecessary or redundant. I have also been mindful that the Council contended a door could be introduced into the side of the rear extension instead, but I have no details of how such an arrangement would work in

practice. If it opened straight out of the bathroom the concerns about the reasonableness of the access would be unchanged, and if it was to be separated it would appreciably reduce the size of that bathroom while the passage that would be created would, in itself, be a tortuous and new introduction into the plan form. Therefore I am not satisfied this is a suitable or appropriate alternative option.

15. Accordingly I conclude the loss of the rear window would fail to preserve the special architectural or historic interest of this Grade II listed building and would fail to preserve the character or appearance of the Kelly Street Conservation Area, causing limited and less than substantial harm to the significance of both of these designated heritage assets. However, although I have afforded great weight to the conservation of these assets I also conclude that the provision of a reasonable access to the rear yard constitutes a public benefit of sufficient weight to outweigh the limited and less than substantial harm identified. Therefore the works would not conflict with the Framework or Policy DP24 in the *Camden Development Policies 2010-2025*, and given the approach in paragraphs 132 and 134 of the Framework any conflict with Policy CS14 of the *Camden Core Strategy 2010-2025*, or Policy DP24 in the *Camden Development Policies 2010-2025* would not offer a basis for refusal.

Conditions

16. In order to safeguard the historic significance of the property and the conservation area conditions should be imposed requiring agreement of the details of the proposed doors and requiring all external works to match those of the existing building. Furthermore, for the avoidance of doubt the works should be in accordance with the approved plans and, as the door would only be useable if the extant approval were built, the works should not commence before the commencement of that scheme.

Conclusions

17. For the reasons stated I conclude the appeals should be allowed.

J P Sargent

INSPECTOR

Conditions Schedule

Appeal A

- 1) The works hereby authorised shall begin not later than 3 years from the date of this consent.
- 2) The works hereby authorised shall not begin before the commencement of the works authorised under consent 2014/1099/L.
- 3) Unless otherwise approved in the conditions below, the works hereby authorised shall be carried out in accordance with approved drawings 1339/EX/002, 003, 004 & 005 and 1339/PL/160, 161, 162 & 163.
- 4) Unless otherwise approved in the condition below or unless otherwise specified on the application, all new external work shall be carried out in materials that resemble as closely as possible in colour and texture those of the existing building.
- 5) Notwithstanding any details on the application, the doors and window shall be of painted timber, and no works hereby authorised shall take place until details at a scale of 1:5 of the doors and window (including details of the reveals and window bars) have been submitted to and approved in writing by the local planning authority. The works shall then be carried out in accordance with the approved details.

Appeal B

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall not begin before the commencement of the development permitted under permission 2014/1023/P.
- 3) Unless otherwise approved in the conditions below, the works hereby authorised shall be carried out in accordance with approved drawings 1339/EX/002, 003, 004 & 005 and 1339/PL/160, 161, 162 & 163.
- 4) Unless otherwise approved in the condition below or unless otherwise specified on the application, all new external work shall be carried out in materials that resemble as closely as possible in colour and texture those of the existing building.
- 5) Notwithstanding any details on the application, the doors and window shall be of painted timber, and no works hereby authorised shall take place until details at a scale of 1:5 of the doors and window (including details of the reveals and window bars) have been submitted to and approved in writing by the local planning authority. The works shall then be carried out in accordance with the approved details.