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## Appeal Decisions

Site visit made on 9 February 2015

**by Anthony J Wharton BArch RIBA RIAS MRTPI**

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

**Decision date: 17 February 2015**

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### **Appeal A - Ref: APP/X5210/A/14/2222687**

#### **33 Conway Street, London W1T 6BW**

- 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 Ms A Schoeller against the decision of the London Borough of Camden
  - The application Ref 2014/1554/P dated 26 February 2014 was refused by notice dated 30 April 2014.
  - The development proposed is the use of the external first floor flat area at no. 33 Conway Street as a private terrace including associated works.
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### **Appeal B - Ref: APP/X5210/E/14/2222690**

#### **33 Conway Street, London W1T 6BW**

- 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 Ms A Schoeller against the decision of the London Borough of Camden
  - The application Ref 2014/1565/L, dated 26 February 2014 was refused by notice dated 30 April 2014.
  - The works proposed are the installation of railings and screens to roof of rear extension to provide terrace for use by upper maisonette.
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### **Decisions**

1. Both Appeals, A and B, are dismissed.

### **Main issues**

2. The main issues in both appeals A and B are the effects that the works would have firstly on the preservation of the listed building, on its setting and on its features of architectural and historic interest and, secondly, on the character and appearance of the Fitzroy Conservation Area. In relation to Appeal A an additional issue is the effect of the proposals on the living conditions of existing residents.

### **Reasons**

3. The four storey building (plus basement) is a mid-terraced, Georgian property which was listed in Grade II in 1974 and dates from around 1788. The building has front and rear light wells and a two storey lower ground floor rear extension. It currently provides accommodation in the form of two maisonettes and the appeal works relate to the upper maisonette. The proposal is the installation of railings and screens to a flat roof over the lower maisonette adjacent to the rear lightwell and between Nos 31 and 33. Access to the roof terrace is via an existing window on the staircase access to the upper maisonette. The significance of the building lies in its Georgian characteristics and its retention of historic and architectural features in a terraced setting within the Fitzroy Conservation Area.

4. In considering whether to grant planning permission and listed building consent, and in accordance with sections 66(1) and 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, special regard must be had to the desirability of preserving the building or its setting or any features or special architectural or historic interest. Section 72 of the same act requires that special attention must also be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

5. I taken into account the Council's Core Strategy Policies CS5 (Managing the impact of growth and development); CS14 (Promoting high quality places and conserving our heritage); DP24 (Securing high quality design); DP25 (Conserving Camden's Heritage); DP26 (Managing the impact of development on occupiers and neighbours); Camden Planning Guidance Design CPG 1 and the Camden Town Conservation Area Appraisal and Management Strategy. I have also considered relevant policies of the National Planning Policy Framework (NPPF) and in particular those relating to conserving and enhancing the historic environment as well as relevant Planning Practice Guidance. The NPPF sets out a presumption in favour of sustainable development and I have taken this into account.

*The effect of the works on the listed building*

6. Having studied the proposals for the screens and railings and having inspected the rear roof area and noted their proposed positioning, I share the Council's concerns about their impact on the listed building. I find that the design proposal is somewhat contrived with railings set back 500mm from the lightwell and with a higher (1.8m) more solid screen along the boundary with No 31. In my view the overall effect would result in a cluttered appearance on this relatively small area of roof. Even though they would not be seen from any public viewpoint they would result in obtrusive and alien features attached to this listed building.

7. I can understand why the 500mm set back railings have been placed in the positions shown, in order to avoid direct sight-lines into the windows of the lower maisonette. However they would appear clumsy and visually discordant on this rear roof area. I also consider that the closed type screen would add to the visual clutter in what is described by the Council as a '*disjointed number of railings and screens*'. In my view the screen is too high and would also have an impact on the neighbour's living conditions at No 31 (see below).

8. I consider that the overall design of the proposed works is poor and conflicts with policies CS14 and DP24 of the UDP. In turn this would be harmful to the character of the building and would also detract from its setting, as well as visually affecting other aspects of architectural and historic interest (namely the light well and the sloping parapet party wall). It would also be contrary therefore to policy DP25 of the UDP and to NPPF policies which seek to ensure good design (section 7 and paragraph 64) and also to ensure the conservation and enhancement of the historic environment (section 12).

9. If it is harmful to the listed building it follows that it is harmful to the conservation area. Even though the works would not be seen from public viewpoints within the conservation area I do not consider that the design would preserve the character or appearance of the Fitzroy Conservation Area. I do not consider, therefore, that planning permission or listed building consent should be granted for the works as proposed.

*The effect of the use of the roof as a terrace (with the associated works)*

10. With regard to Appeal A and the proposed use of the roof as a private terrace, I acknowledge that the area is already dominated by terrace uses and that the Council appears to consider that some may be immune from enforcement action. In my view the principle of a terrace on roofs such as this can be acceptable if such use does not cause harm to peoples' living conditions.

11. In this case, I accept that there would be no loss of privacy for the occupants of the lower maisonette (33a) and that it is not the intention to build over, or affect the light well in any way (as initially thought by the occupants of No 33a). Even looking directly into the light well it is difficult to see into the windows of this lower property.

12. It may well be that the light well can funnel or exaggerate the sound created by the use of the terrace, but there is no firm evidence before me to indicate that this is a significant issue. In any case, taking into account the other terraces and the fact that noise must already be experienced within this tight grouping of dwellings, I do not consider that there would be any significant change to the aural environment of neighbours caused by the use of the terrace.

13. However, turning to the proposed screen along the boundary between Nos 31 and 33, I note that this would be 1.8m high and of a solid rather than open structure. Having noted the proximity of some of the windows to the rear of No 31, I consider that the positioning and height of the long screen would result in an overbearing impact for the next door occupants. From the windows mentioned the screen would be perceived as a dominant and overbearing feature which would exacerbate the already tight and cramped perception of space around the rear of No 31. Appeal A also fails, therefore in relation to this aspect of the works.

**Other Matters**

14. In reaching my conclusions on the main points at issue in both appeals I have taken into account all other matters raised by the Council and on behalf of the Appellant. These include the relevant planning history; all references to the development plan policies; all references to the NPPF; the main statements of case and the Appellant's final comments dated 4 September 2014. However none of these carries sufficient weight to alter my conclusions on the main points at issue and nor is any other factor of such significance so as change my decisions that both appeals should be dismissed.

**Conclusion**

15. I do not consider that planning permission should be granted for the use of the external first floor flat area at no. 33 Conway Street as a private terrace including associated works (Appeal A). Nor do I consider that listed building consent should be granted for the installation of railings and screens to roof of rear extension to provide terrace for use by upper maisonette (Appeal B). Both Appeals, therefore fail and both are dismissed.

*Anthony J Wharton*

Inspector