



APPEAL BY:

Mr John Myers & Mr Daniel Bartlett

AGAINST THE LONDON BOROUGH OF CAMDEN COUNCIL'S REFUSAL
TO GRANT PLANNING PERMISSION AND LISTED BUILDING CONSENT FOR:
*An increase in the height of part of the approved glazed winter garden (previously approved
references 2015/6950/P & 2015/6999/L)*

AT

116 Drummond Street, London, NW1 2HN

The London Borough of Camden Council's References: 2017/1260/P & 2017/1454/L

WRITTEN REPRESENTATIONS: COMBINED GROUNDS OF APPEAL

June 2017

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1.0 INTRODUCTION

- 1.1 This combined statement has been prepared by RJS Planning, on behalf of Mr John Myers & Mr Daniel Bartlett, in support of the appeals lodged against the refusal of planning application 2017/1260/P and Listed Building Consent application 2017/1454/L.
- 1.2 By way of background, planning permission and Listed Building Consent was previously granted under references 2015/6950/P & 2015/6999/L for a glazed structure to the rear of the building to provide a winter garden at ground floor level. The approved scheme is indicated on the existing plans submitted with the appeal application. Following the grant of planning permission, reference 2015/5538/P, for a first floor rear extension to No. 118, the appeal application was submitted seeking to raise the height of the roof of the proposed glazed structure, so that it would be just below the top of the approved extension at No. 118. The rationale being that the proposed extension at No. 118 would result in a loss of daylight and direct sunlight to the winter garden and that the higher glass roof would essentially capture and reflect more sunlight down into the winter garden, therein mitigating against the effect of the proposed extension at No. 118.
- 1.3 Despite 5 letters of support having been submitted by neighbouring residents and there being no objections by any local residents or statutory consultees or any local community groups, both applications were refused under delegated authority on 21st April 2017 for the following reasons:

Planning Application Refusal:

- 1) *The proposed increase in height of the approved glazed structure in the rear courtyard, by virtue of its size, appearance and design, represents an inappropriate form of development, that would be detrimental to the special architectural and historic interest of the Grade II listed building and its setting, and also to the character and appearance of the wider area, contrary to Policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and Policies DP24 (Securing high quality design) and DP25 (Conserving Camden's Heritage) of the London Borough of Camden Local Development Framework Development Policies. The proposal also fails to comply with Policies D1 (Design) and D2 (Heritage) of the Camden Local Plan Submission Draft 2016.*
- 2) *The proposed increase in height of the approved glazed structure in the rear courtyard, by virtue of its overbearing appearance and as a result of light pollution / spillage, would cause harm to the amenities of No. 118 Drummond Street, contrary to Policy CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and Policy DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Policies. The proposal also fails to comply with Policy A1 (Managing the impact of development) of the Camden Local Plan Submission Draft 2016.*

Listed Building Consent Refusal:

- 1) *The proposed increase in height of the approved glazed structure in the rear courtyard, by virtue of its size, appearance and design, represents an inappropriate form of development, that would be detrimental to the special architectural and historic interest of the Grade II listed building and its setting, contrary to Policy CS14 (Promoting high*

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quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and Policy DP25 (Conserving Camden's Heritage) of the London Borough of Camden Local Development Framework Development Policies. The proposal also fails to comply with Policy D2 (Heritage) of the Camden Local Plan Submission Draft 2016.

- 1.4 This grounds of appeal will address the central concerns raised within the Council's reasons for refusal, notably:
- Whether the increase in the height of the glazed structure would harm the special historic interest of this grade II listed building and be of detriment to the character and appearance of the area in general; and
 - Whether the increase in the height of the glazed structure would be of detriment to the residential amenities of the neighbouring property at No. 118 Drummond Street.
- 1.5 To set some context, this statement will first provide a description of both the appeal property and the proposed development. This statement will then discuss the relevant national and local planning policy before responding to the Council's concerns. For clarification, this statement should be read in conjunction with the plans and the Design and Access Statement which were submitted with the application.

2.0 THE SITE & THE PROPOSED DEVELOPMENT

- 2.1 The appeal site is located on the north-western side of Drummond Street, to the north-east of the junction with North Gower Street, and comprises a three storey terraced dwelling with a vehicular access undercroft (providing access to the properties in Charles Place to the rear) and a rear courtyard garden. As set out within the Design and Access Statement, although the building was listed in 1999, the listing only refers to the front elevation of the building and the cast iron railings. The rear of the building does not possess any quality that can be identified with special architectural and historic interest.
- 2.2 By way of background, the appeal application sought planning permission and Listed Building Consent to increase the height of the approved glazed structure such that it would now finish above the first floor rear window. As mentioned previously, the increase in height has been proposed in response to the approved extension at No. 118, with the Appellant's seeking to ensure that the proposed winter garden will be served by sufficient levels of light.

3.0 RELEVANT PLANNING POLICY

- 3.1 The reasons for refusal refer to Policies CS5 & CS14 of the London Borough of Camden Local Development Framework Core Strategy and to Policies DP24, DP25 and DP26 of the London Borough of Camden Local Development Framework Development Policies. The reasons for refusal also refer to draft Local Plan Policies A1, D1 & D2, however these policies are not yet adopted and are therefore afforded little weight. Although it is not referred to within the reasons for refusal, the National Planning Policy Framework is also considered to be of relevance to these appeals.
- 3.2 The following paragraphs provide a brief summary of the relevant policies. The paragraphs are in a hierarchical order relative to national and local planning policy.

National Planning Policy Framework (NPPF)

- 3.3 The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. The following sections and paragraphs make reference to the parts of the NPPF which are directly relevant to this appeal.

Presumption in Favour of Sustainable Development

- 3.4 Paragraph 14 of the NPPF sets out that a presumption in favour of sustainable development is at the heart of the National Planning Policy Framework with paragraph 187 stating that local planning authorities should approach decision making in a positive way and should look for solutions rather than problems. The NPPF also advises that decision takers at every level should seek to approve applications for sustainable development where possible.

- 3.5 For decision making this means:

- *Approving development proposals that accord with the development plan without delay;*
- *Where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless:
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted.**

Core Planning Principles

- 3.6 Paragraph 17 of the NPPF sets out 12 core land-use planning principles which should underpin both plan-making and decision taking. The second, fourth and tenth bullet points state that planning should:

- *Not simply be about scrutiny but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives.*
- *Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.*
- *Conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.*

Requiring good design

- 3.7 Section 7 of the NPPF refers to design, however there are no specific policies or guidance relating to residential extensions. Indeed paragraph 60 states:

“Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles”.

Conserving and enhancing the historic environment

- 3.8 Chapter 12 of the NPPF refers specifically to “Conserving and enhancing the historic environment” and sets out that planning permission should be refused only if a proposed development would lead to **substantial harm** to the significance of a designated heritage asset (including a Listed Building and Conservation Areas).

- 3.9 The NPPF does not define “substantial harm” but it is widely accepted as including the total loss of a heritage asset, or fundamental compromise of its significance by means of extensive physical alterations, or inappropriate development within its setting. Such an impact can only be justified on the grounds that the harm is necessary to deliver important public benefits that outweigh the value of the heritage asset. In these terms it is absolutely clear that the application proposal will not result in substantial harm to the listed building or its setting.
- 3.10 Paragraph 134 of the NPPF sets out that “less than substantial harm” arises from proposals which include physical alterations or development within the setting, which on balance retain the fabric-authenticity and integrity of the heritage asset. The NPPF advises that such proposals should be “weighed against the public benefits of the proposal”. Such benefits include securing a sustainable future for the heritage asset. The Appellants contend that the appeal proposal would result in no harm to the listed building whilst making a positive contribution in terms of the appearance of the structure and the impact that the creation of a winter garden would have on the existing and future occupiers of the building in respect of the high standard of the resultant amenity space.

The Local Planning Policies

- 3.11 The reasons for refusal refer to Policies CS5 & CS14 of the London Borough of Camden Local Development Framework Core Strategy and to Policies DP24, DP25 and DP26 of the London Borough of Camden Local Development Framework Development Policies.
- 3.12 Policy CS5 is a spatial policy which refers to “Managing the impact of growth and development”. Criterion d) makes reference to protecting and enhancing our environment and heritage and the amenity and quality of life of local communities.
- 3.13 Policy CS14 refers to “Promoting high quality places and conserving our heritage” and states that the Council will seek to ensure that Camden’s places and buildings are attractive by requiring development to be of the highest standard of design that respects local context and character and by preserving and enhancing Camden’s heritage assets and their settings, including Conservation Areas and listed buildings.
- 3.14 Policy DP24 relates to “securing high quality design” and states that the Council will require all developments, including extensions to existing buildings, to be of the highest standard of design. The policy sets out that proposals should consider the character, setting, context and the form and scale of existing and neighbouring buildings and the materials to be used.
- 3.15 Policy DP25 refers to “Conserving Camden’s heritage” and states that the Council will seek to preserve or enhance the Borough’s listed building, stating that planning permission should not be granted for extensions and alterations if they would cause harm to the special interest of the building or its setting.
- 3.16 Policy DP26 refers to “Managing the impact of development on occupiers and neighbours” and states that the Council will protect the quality of life of occupiers and neighbours by only granting permission for development that does not cause harm to amenity.

4.0 THE APPELLANTS CASE

Introduction

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- 4.1 The Appellant's case will focus on the central concerns of the reasons for refusal, notably whether the increase in the height of the glazed structure would harm the special historic interest of this grade II listed building and be of detriment to the character and appearance of the area in general and whether the increase in the height of the glazed structure would be of detriment to the residential amenities of the neighbouring property at No. 118 Drummond Street. This case will demonstrate that the proposed works would be of no substantial harm such that a reason for refusal could be sustained.

The impact on the Listed Building

- 4.2 As a starting point it is necessary to clarify the Council's actual concern. To recap, the Council do not object to the principle of a glazed structure, having granted planning permission previously. In granting the previous planning permission the Council noted that the glazed structure would enhance the usability of the space and would add something of visual interest to Charles Place to the rear, with the Council also noting that the glazed structure could also be easily removed in the future whilst the rear elevation would remain relatively untouched. However in this instance the Council suggest that the increase in height would result in the structure appearing overly tall such that it would dominate the rear elevation and would be prominent in views of the building from the rear, with the Council going on to allege that the structure would obscure part of the rear chimney stack and much of the rear elevation of the building and therefore would not respect the existing architectural features and would alter the relationship of the appeal building within Charles Place.
- 4.3 In response it is important to clarify that the Council's concerns are based on the subjective opinion of the Council's Case Officer. The Case Officer's professional opinion is of course respected and indeed it is appreciated as to why the Case Officer may have concerns, however the Appellant's do question the Council's appraisal of the proposal and consider that the Council's concerns in these regards are somewhat exaggerated and without substance. It appears that there have been no objections raised by any Conservation Area Officers or advisory committees. This very lack of concern from any third parties serves to demonstrate the subjective nature of the Case Officer's concerns.
- 4.4 Part of the Council's concern appears to be focused on the suggestion that the additional height would result in the structure appearing as a "full extension" rather than a structure which would only enclose a "winter garden". This is simply not correct. The proposed glazed structure would still be a lightweight structure which has been designed solely to create a winter garden, with the increase in height being a direct response to the approval of the neighbouring extension. The higher glazed structure, by virtue of its form and appearance would not significantly alter the overall appearance or massing of the rear of the listed building and would not add height above the existing eaves, being no higher than the height of the approved extension at No. 118. Its lightweight nature would still mean that the structure would appear very subtle and discreet and the effect of the structure on the listed building would be limited. Moreover, the glazed structure would be located to the rear of No. 116, a section of the building which possesses negligible, if any, special architectural and historic interest. As such the structure and the creation of a winter garden would alter the existing building in a fashion that has either negligible or no effect on the heritage significance. Moreover, the proposed increase in height at first floor level would comprise a fraction of the width of the rest of No. 116 at first floor level, both because the proposed increase in height will not extend in front of the staircase window and because at first and second floors No. 116 also extends out over the vehicle entrance to Charles Place.

- 4.5 The Appellant contends that the building is far more significant for the architectural quality of the front elevation, which is visible within the street scene and from public views, rather than the rear elevation which is not of any particular special architectural merit. It is asserted that the quality of the listed building lies in its contribution to the terrace of similar buildings which form a coherent whole in this section of the street scene and not to the rear elevation.
- 4.6 Contrary to popular belief amongst Council Officers, it is not unacceptable in principle to extend a listed building and it cannot be reasonably considered that relatively small works such as this would adversely affect the historic fabric or the special architectural features of this listed building. There are no policies or guidance which stipulates that such extensions or structures will be unacceptable in principle. Mindful that the works would not result in the loss of any unusual or historically significant or distinctive features, with the original building being retained behind the glass structure, it is maintained that the proposed works would have a neutral impact on the listed building, sustaining the historic significance of the listed building and peoples' experience of it. It is strongly asserted that the significance and appreciation of the listed building, within the zone of influence of the proposal would not be compromised by the proposed works. It is therefore questioned as to what actual detrimental impact the proposed works would have on the listed building. It is suggested that it is incorrect and a gross exaggeration to suggest that the proposed works would not preserve the character or appearance of the listed building when they would have such a negligible impact upon it. The works do require a degree of change to the building, however they involve very limited removal of any historic fabric. Any suggested adverse impact would be extremely limited and would be balanced by facilitating a more efficient use of the courtyard garden, thereby enhancing the sustainability of the residential use. The impact of the proposed alterations to the listed building would not cause any harm to the special architectural or historic interest of the building and the overall impact of the proposed works must therefore be considered to be neutral at worst.
- 4.7 As set out above, the NPPF states that planning permission should be refused only if a proposed development would lead to **substantial harm** to the significance of a designated heritage asset. The NPPF does not define "substantial harm" but it is widely accepted as including the total loss of a heritage asset, or fundamental compromise of its significance by means of extensive physical alterations, or inappropriate development within its setting. In these terms it is absolutely clear that the application proposal will not result in substantial harm, or even less than substantial harm to the building. The proposed works would be of no detriment to the historic significance or built fabric of the listed building and would represent only a minor external alteration, which would sustain the significance of the listed building and peoples' experience of it.
- 4.8 In terms of the setting of the listed building it is again absolutely clear that the application proposal will not result in substantial harm, or even less than substantial harm to the setting of the listed building. When considering the visual impact of proposed works it is also important that due consideration is given to a) where the impact will be perceived and b) what the actual or demonstrable impact would be. It follows that the impact on the public realm (i.e. the street scene) will be greater than that of works which will have no impact on the public realm, such as a rear extension for example. Such an approach is validated simply by the General Permitted Development Order which allows substantial extensions and outbuildings to the rear of buildings but no development (other than porches) to the front of dwellings. In this instance, the proposed works would have no visual impact on the street scene and would not be visible from any public views, let alone from any important views in or around the area. The structure would cause no significant visible change to the overall

appearance of the building, would not obscure the visibility of the rear elevation of the building and would only be partially visible from neighbouring windows and gardens, wherein it would be viewed against the context of the built form of the larger terrace. The impact of the glass structure would evidently be negligible and the structure would not appear prominent from any private viewpoints.

Neighbour Impact

- 4.9 The Council suggest that if the approved extension at No. 118 is not implemented that the proposed glazed structure would be visible from the roof terrace and rear windows at No. 118, appearing overbearing to the occupiers of No. 118 and also potentially leading to light spillage, to the detriment of the residential amenities of No. 118. It is firstly pointed out that there is no reason to believe that the extension at No. 118 will not be constructed. For clarification, if the extension is constructed at No. 118, the Council accept that the proposed glazed structure would not be harmful to the amenities of No. 118.
- 4.10 However even if the extension at No. 118 is not constructed, the Council's concerns are grossly exaggerated. Although part of the glass structure would be visible from No. 118, its lightweight and open nature would ensure that the structure would not appear overbearing or incongruous. Additionally, it is highly unlikely that the structure would lead to any light spillage. The purpose of the glass structure is to facilitate the use of the courtyard all year round whilst enabling light to reach the courtyard garden. The winter garden will not be illuminated and any lighting will be from the existing doors and windows, which would have no significantly greater impact than the existing situation. The Council's concern in this regard cannot be based on fact and can only be based on the Case Officer's perception that the structure could lead to unacceptable levels of light pollution. It is appreciated that the Case Officer may have assessed the application based on a "worst case scenario" however the Appellant maintains that the Council have adopted an overly cautious approach in this regard.
- 4.11 In summary, the proposed glazed structure would not adversely affect the outlook from the neighbouring roof terrace or windows and would not result in an unacceptable level of light pollution. As such, the terrace would not result in a significant loss of residential amenity to the occupiers of the neighbouring properties.
- 4.12 In the instance that the proposed extension at No. 118 is not constructed prior to the installation of the glazed structure, the Appellants also propose to finish the flank of the structure in obscure glass, so as to further limit the impact of the proposed structure. A copy of an additional plan is attached at **Appendix A**. The Appellants request that the Inspector takes this into account as part of the assessment of this appeal.

5.0 CONCLUSION

- 5.1 The proposed works would be of no harm to the historic interest or significance of the listed building and would be of no detriment to the character and appearance of the setting of the listed building or the locality in general. Furthermore, the works would not have an unacceptable impact on the residential amenities of any neighbouring property. The Council's objection is based on a subjective Officer opinion, which is overly cautious and exaggerated. The Appellant understands why the Council may have concerns, however the Council have adopted an overly cautious approach failing to fully take into account the limited actual impact that the works would have on the building and the locality in general and the positive contribution that the creation of the winter garden would make. The proposed works would not be contrary to any specific requirements within the local planning policies and the National Planning Policy Framework (NPPF) states that decision-takers at every level should seek to approve applications for sustainable development where possible and that applications should be considered in the context of the presumption in favour of sustainable development.
- 5.2 The proposed works would not be contrary to national or local planning policy and for the above reasons it is politely requested that this combined appeal is allowed.