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## Appeal Decision

Site visit made on 15 August 2019

**by Jamie Reed DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 September 2019**

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### **Appeal Ref: APP/X5210/W/19/3227305 169 West End Lane, London NW6 2LH**

- 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 Dr Linda Greenwall against the decision of the Council of the London Borough of Camden.
  - The application Ref 2018/3113/P, dated 2 July 2018, was refused by notice dated 25 October 2018.
  - The development proposed is change of use to utilise the basement and rear ground floor (A1 use) to form single flat (C3 use) including the installation of a lightwell.
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### **Decision**

1. The appeal is dismissed.

### **Background**

2. The application that forms the basis of the appeal was submitted following the refusal of a previous planning application<sup>1</sup> at the appeal site for two flats. The reduction in the number of units of accommodation and associated changes to the scheme have been made in order to overcome the previous concerns raised by the Council.

### **Main Issues**

3. The main issues are the effect of the proposal on:
  - the character and appearance of the appeal property and the surrounding South Hampstead Conservation Area (SHCA);
  - the living conditions of the occupiers of the appeal property by way of outlook; and
  - the quality of the public realm, including highway safety and pedestrian movement in the immediate surrounding area.

### **Reasons**

#### *Character and appearance*

4. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. These

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<sup>1</sup> Planning application ref 2017/3582/P

- requirements are also echoed in the National Planning Policy Framework (the Framework), with Paragraph 192 requiring proposals to take into account the desirability of sustaining and enhancing the significance of heritage assets, and to the positive contribution that their conservation can make to local character and distinctiveness.
5. The appeal property is located in the predominantly residential SHCA, on the corner of West End Lane and Sherriff Road. The Conservation Area Appraisal and Management Strategy (CAAMS) for the SHCA identifies the appeal property as making a positive contribution and describes the area as a well preserved example of a leafy Victorian suburb, almost exclusively residential in nature, and largely homogenous in scale and character.
  6. The ground floor of the appeal property is currently in retail use and features a shop front arrangement typical of many commercial corner properties, with an entranceway on the corner, flanked by large display windows to either side. Such an arrangement results in the shop frontage effectively wrapping around the corner, which emphasises its presence within the street scene.
  7. The proposal would affect this side elevation of the property and would involve the removal of a row of existing lightwells that serve the basement. Once removed, the basement area, which extends beyond the façade of the upper floors of the building, would be opened up further by removing a section of the paved frontage. This would create a new and substantive lightwell area into which an external staircase would be constructed to enable access to the proposed flat. A glazed balustrade of sleek and modern appearance would then enclose this new lightwell area that would extend beneath a significant proportion of the side elevation of the building, including around half of the space beneath the large side display window that is present.
  8. By virtue of its size and location, the lightwell and its associated glazed balustrade would reduce the amount of openness on this prominent and busy street corner. In addition, the modern design of the glazed balustrade and the manner in which it would transgress partway across the side elevation of the appeal property and its shop window would visually jar with the original form of the building. Such an arrangement would be incongruous within the streetscene and would visually harm the positive contribution that the appeal property makes to the SHCA. Consequently, the proposal would therefore fail to preserve or enhance the character and appearance of the SHCA.
  9. There are other lightwells nearby. None of these are located in such an open and prominent location and are not enclosed in a similar manner to that which is proposed. Whilst it is inevitable that comparisons may be made between developments, each must be determined on its own specific merits and these other lightwells do not set a precedent that I must follow. The design and the use of high quality materials would not overcome the harm I have identified above.
  10. I therefore conclude that the proposal would be harmful to the character, appearance and significance of the SHCA. The suggested benefits of assisting with increasing choice in the housing market and supporting local shops, services and facilities would not outweigh the clear harm that I have identified above. Consequently, the proposal would be contrary to Policies A5, D1 and D2 of the Camden Local Plan (LP) (2017). When read together, these policies and guidance require proposals in basements to not result in harm to the

architectural character of the building and to preserve or enhance the character and appearance of a conservation area.

11. As this harm to the significance of the SHCA would be less than substantial, it is therefore necessary, in accordance with paragraph 196 of the Framework, to balance it against any public benefits from the proposal. Whilst it is acknowledged that the proposal would assist in meeting the demand for additional housing, such public benefits would not outweigh the great weight I must attach to the harm that the proposal would cause to the SHCA.

#### *Living conditions*

12. A Sunlight / Daylight Assessment demonstrates that the rooms would receive adequate levels of lighting. However, this does not equate to a satisfactory level of outlook. From inspection of the proposed sections plan<sup>2</sup> that forms part of the application, it is apparent that any views out of the accommodation would be poor and restricted from the main basement level however. These views would either be directly out into the small lightwell area or upwards, where views would largely be compromised by the glazed balustrade enclosing the lightwell.
13. As a result, I conclude that the inadequate outlook from the majority of the main living spaces proposed would result in an unsatisfactory standard of living accommodation for prospective occupiers. Consequently, the proposal would be contrary to Policy A1 of the LP, which seeks to ensure that adequate levels of outlook are achieved.

#### *Public realm, including highway safety and pedestrian movement*

14. The appellant contends that the Council has been inconsistent with the previous decision it made on the site<sup>1</sup> which did not cite that the proposal would be harmful to the public realm. Furthermore, the appellant asserts that they own and have legal control over this land and is of the view that the land does not form part of the public realm or highway.
15. Whilst it is evident from the information before me that the appellant does own the forecourt area around where the new lightwell would be formed, this is currently set out as a paved area, forming a seamless continuation of the footway, providing additional circulation space in which pedestrians can move. From the observations made during my visit, it appears that this arrangement has been in place for some time, with there being nothing evident to prevent the public from walking across this area or there being anything in place to differentiate that land which is in the appellant's ownership. Furthermore, in their comments the Council has referred to the area in question as a public right of way and the appellant has indicated that they intend to apply for a stopping up order. Whilst this would indicate that the land does have highway status, such matters are between the two parties and are not decisive in my decision.
16. Whilst the previous application<sup>1</sup> may not have included such a reference to the public realm, it is still nonetheless clear from the associated officer report that the lightwell would create a narrowing of the footway on this busy street corner, as is the case with the appeal that is before me. This narrowing would be further exacerbated by the positioning of an existing telephone kiosk, close

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<sup>2</sup> Drawing Ref 17/08 GA 02/ Rev B

to where the kerb line meets the highway, reducing the amount of useable unobstructed footway available in this busy location.

17. Accordingly, I conclude that such an arrangement would constrain pedestrian movement, making it difficult for pedestrians to manoeuvre around this prominent corner location and to cross the road. This would be detrimental to the quality of the public realm and to highway safety. As a result, the proposal would be contrary to Policies A1, C6, G1 and T1 of the LP. When read together, these policies require developments to create conditions that allow for the growth of the population, taking into account the characteristics of local areas and to improving the pedestrian environment and public realm so that they can be used safely by all.

### **Other Matters**

18. The Council's decision notice cites 7 reasons for refusing the application. An informative note on the decision notice advises that reasons for refusal 4-7 could be overcome by entering into a s106 agreement, a draft copy of which accompanies the appeal. However, as I have found harm in respect of the main issues, my decision does not turn on this matter.
19. The appeal site is located outside of the setting of the Grade II Listed St James' Church which is located on the opposite side of Sherriff Road. As the proposal would largely be underground, it would not compete with or dominate the church or its grounds. The proposal would therefore have no effect upon the setting of this heritage asset.
20. Objections have also been raised by local residents relating to parking congestion, amongst other matters. Whilst I acknowledge these concerns, the appeal is being dismissed for other reasons and as such, these matters would not alter my decision.

### **Conclusion**

21. For the reasons given above, I conclude that the appeal is dismissed.

*Jamie Reed*

INSPECTOR