59 Spencer Rise London NW5 1AR - 2020/2910/P closing 30/08/20

DPCAAC Objection Version 2 – 26/08/20

The need to resist the harm being done to, in particular, the butterfly roofs in Spencer Rise and Churchill Road was a key trigger to the decision to designate Dartmouth Park a Conservation Area. Following designation, the Council has resisted most of a great number of further attempts at such development and has successfully defended its decisions at numerous Appeals. An attempt to reverse this course now would be deeply damaging to the preservation and enhancement of the Conservation Area.

An aberrant decision in relation to no. 57 Spencer Rise caused consternation and resulted in the Council including, after full consultation, in its ***subsequent*** (nearly two years later)Statement/Strategy and Appraisal explicit guidance precluding the removal of any of the remaining butterfly roofs on the north side (odd nos.) and adding an additional ‘mansard’ floor to these modest buildings within an area developed by a single ‘owner’, the Conservative Land Association.

Appraisal and Management Statement summarised in the Council’s guidance as follows:

*Roof alterations and extensions*

*The Conservation Area retains its clear historic rooflines which it is important to preserve. Additional storeys, fundamental changes to the roofline, insensitive alterations, poor materials, intrusive dormers or inappropriate windows can harm the historic character of the roofscape and will be resisted…*

*Proposals for additional storeys will generally be resisted…*

Subsequent application of this type have been refused by the Council.

The Conservation Area Advisory Committee relies in particular on the following Appeal decisions:

* 1 Spencer Rise, London, NW5 1AR - 14 November 2018 - Appeal Ref: APP/X5210/D/18/3208293 - by G Powys Jones MSc FRTPI - an Inspector appointed by the Secretary of State
* 49 Spencer Rise, London, NW5 1AP - 21 February 2013 - Appeal Ref: APP/X5210/D/13/2190582 - by P Willows BA MRTPI DipUED - an Inspector appointed by the Secretary of State for Communities and Local Government
* 65 Spencer Rise, London NW5 1AR - 2 March 2010 - Appeal Ref: APP/X5210/A/09/2112426 - by Lynne Evans BA MA MRTPI MRICS - an Inspector appointed by the Secretary of State for Communities and Local Government
* 18 Churchill Road, London NW5 1AN – May 2005 – Appeal Ref: APP/X5210/A/05/1172270 by David Harrison BA Dip TP MRTPI - an Inspector appointed by the Secretary of State
* 47 Spencer Rise, NW5 1AR – 1997 – Appeal Ref: T/APP/X5210/E/96/813040/P9 & A/96/273911/P9

One must note here that the guidance to be used by planners in determining whether a proposed development will preserve and enhance the Conservation Area is a matter wholly reserved to Camden and the Borough, in its Plan, has determined that this will be done via the Appraisal and Management Statement agreed by the Council for each Conservation Area. The Neighbourhood Plan is subservient to the hierarchy of plans above it and cannot be inconsistent with them. Moreover, all tiers of the planning system are subject to the statutory obligation in all that they do to seek to preserve and enhance heritage assets.

In this context it is important to note the sections which were removed from the Neighbourhood Plan at the independent examination stage and that these were before those voting in the Referendum and these are set out at Appendix 1.

The issues have all been raised before during the numerous Appeals.

Thus, for example, the issue of whether one can attenuate the harm being done by ‘good design’ was considered by several Inspectors all of whom concluded it couldn’t in the instance under consideration even where it was acknowledged that design guidelines had otherwise been met. ***In any event it is clear that the design quality of the current application does not attenuate or not sufficiently attenuate the harm which would be done***. The fundamental difficulty here being that the buildings were built in groups and terraces whilst each proposed change can alter only one dwelling.

The argument that as some of the roofs have been harmed it is OK to extend the harm is robustly dealt with by most Inspectors. The Inspectors remarks in the Appeal re 47 are typical: “You have pointed out that there are already a number of existing roof extensions nearby on this side of the road. At my site visit I saw roof extensions at Nos. 37, 51, 53 and 55 which were clearly visible from Spencer Rise. However, the Council have indicated that these took place before the Conservation Area was designated. As I understand that unsympathetic roof extensions were a contributory factory in the designation of the Conservation Area***, I do not consider that the existence of these other roof extensions justifies your own proposal. To my mind, these existing roof extensions reinforce the need to resist further similar proposals, such as this one***.”

The main claim of those seeking to reverse the decades of decisions is set out in the deleted section of the Plan is not a Conservation argument at all. It too is a matter which the Inspectors have been required to address. The only lawful basis for inflicting the harm proposed is on the basis that the harm would be less than the ‘substantial harm’ referred to in the Framework. If this is said to be the case, the harm done must be weighed against and overwhelmed by any ***public benefits*** of the proposal. The benefit here, meeting the applicant’s need for a larger family dwelling, cannot, in our submission, legally ever amount to a public benefit. No evidence based claim to a public benefit is included with this application. There isn’t any way of limiting grants of planning permission to applicants who will stay in an expanded home thus enabling them to stay in the area. There is, moreover, no means of requiring applicants to stay after the development is complete. Anecdotal evidence suggests many do not. Planning permission travels with the land not the owner for the time being. Once this door is opened the benefit will be open to developers who would continue to reduce the number of smaller units the Plan seeks to preserve.

Earlier this month (August) D. Szymanski, BSc (Hons) MA, MRTPI, the Inspector appointed by the Secretary of State to deal with Appeal Ref: APP/X5210/D/20/3247346 58 Twisden Road, London, NW5 1DN, in relation to the lesser harm of a large dormer, confirms that:

“Within the DPCA there is a statutory duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing its character or appearance. Paragraph 193 of the National Planning Policy Framework (2019) (the Framework) requires when considering the impact upon the significance of a designated heritage asset great weight should be given to the asset’s conservation. Harm to the significance of a designated heritage asset should require clear and convincing justification (paragraph 194).”

Szymanski considered the effect of the Neighbourhood Plan on the application:

“For the reasons set out above the development would be harmful to the character and appearance of the host dwelling, and it would fail to preserve or enhance the character or appearance of the DPCA, adversely impacting upon its significance. ***Therefore, it would conflict with Policies D1 and D2 of the Camden Local Plan (2017) (the CLP) and Policies DC3 and DC4 of the DPNP. In combination and amongst other things, these policies require that design respects local character and context, including the original character of the dwelling and roof form, and preserves or enhances the historic environment.***”

Szymanski has clearly correctly read the Neighbourhood Plan DC3 and DC4 and Camden Local Plan’s D1 and D2 as having the same effect and, therefore, not in conflict with the Dartmouth Park Conservation Area Appraisal and Management Statement. The CLP dates to 2017 and the most recent Appeal decision in relation to 1 Spencer Rise a year later.

Szymanski also considered the public benefit argument:

“Paragraph 196 of the Framework and Policy D2 of the CLP require that where a proposal would lead to less than substantial harm to a designated asset, the harm should be weighed against the public benefits. However, less than substantial harm should not be equated with a less than substantial planning objection. It is suggested that the development would make the neighbouring larger dormer look less out of place. However, even if I were to agree, there would be greater overall harm from the appearance of the proposed development. The appellant’s need for additional accommodation is noted but is a small public benefit. There would be a minor economic benefit from construction, but it would be short lived. The small public benefits do not outweigh the significant harm from the proposal, which attracts great weight. Therefore, the development conflicts with the Framework and Policy D2.”

No need to warn that approval would open the floodgates, there has already been a new application from no 49. As has been noted above, there has already been an appeal with regard to this property.

The position has been clear and certain to residents for decades. It would be a cruel blow to the many who have been refused this private benefit in the past and have moved on. If change is to be made it must be made by the Council via a revision of the Appraisal and Management Statement and probably the only way the Council could do this in a way which is consistent with its legal duty to preserve and enhance heritage assets would be to remove the streets in question from the protection of being in the Conservation Area.

Appendix 1



