



## Appeal Decision

Site visit made on 15 March 2021

**by T J Burnham BA (Hons) MSc MRTPI**

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

**Decision date: 9<sup>th</sup> April 2021**

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**Appeal Ref: APP/X5210/W/20/3256675**

**Heysham House, Heysham Lane, London NW3 7LX**

- 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 Allen Dalili against the decision of the Council of the London Borough of Camden.
  - The application Ref 2019/5984/P, dated 28 November 2019, was refused by notice dated 5 May 2020.
  - The development proposed is described as retrospective application to retain a 8.5m side extension.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. I noted on my site visit that the side extension had already been constructed. The extension appeared to broadly accord with the submitted plans. However, for the avoidance of doubt I have determined the appeal on the basis of the submitted plans.
3. No applicant details were entered into the planning application form, however this matter has since been clarified and the appellant details are included within the banner heading.

### Main Issues

4. The appeal site is located within the Hampstead Conservation Area (the Conservation Area) and within an area designated as Local Green Space (LGS). Accordingly, the main issues are:
  - i. The effect of the proposal on the character and appearance of the Conservation Area;
  - ii. Whether or not the proposal would cause harm to the LGS having regard to the Framework and local development plan policies; and
  - iii. Whether or not the harm would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

## Reasons

### *Character and appearance*

5. The appeal site is Heysham House, which is an attractive and established detached building of some age set within well sized grounds on Heysham Lane. The evidence indicates that the building has previously been converted in order to provide four flats with these each individually occupying one of the four floors within the building. The side extension has been added to the lower ground floor, serving the lower ground floor flat.
6. The evidence indicates that the site is within sub area 6 of the Conservation Area where woodland predominates and buildings play a subordinate role. The undeveloped nature of the area is therefore one of the defining features of the character and appearance of this part of the Conservation Area. The site also forms part of an area of designated open space.
7. While there is some disagreement between the parties as to the floor area that has been created by the extension, even taking into account the lower calculation submitted by the appellant, the additional floor space that has been created is substantial at 124sqm.
8. Whilst the garden covers a large area, the extension has eaten into a notable chunk of the garden area which the evidence indicates previously hosted patios, pathways, and areas of planting immediately to the north west of Heysham House. The gardens of this property make a positive contribution to the character and appearance of the Conservation Area. Subsequently the substantial extension has removed a significant section of the garden and as a result detracts from the heritage significance of the Conservation Area which lies in part with its undeveloped nature.
9. The extension has also obscured the lower level of an attractive three storey bay window on the north west elevation of Heysham House to the detriment of its appearance.
10. I accept that public views towards the extension are limited by reason of the position of the extension away from Heysham Lane and as a result of the presence of robust boundary treatment. I also note that views from surrounding private land and gardens are limited as the extension is set down and as a result of the heavily vegetated boundaries that edge the site.
11. However, the absence of public and some private views are no basis on which to consider allowing the appeal proposal given the harm it has caused to the character and appearance of the Conservation Area. The extension is widely visible from the gardens of Heysham House, and there is nothing to suggest that residents of the other flats within the building do not have access to them. Further, the extension will be visible to other residents of Heysham House from the windows of other flats within the development.
12. The harm to the significance of the Conservation Area is less than substantial. Paragraph 196 of the National Planning Policy Framework (the Framework) requires such harm to be weighed against any public benefits of the proposal.
13. The benefits of this scheme would be limited to the provision of increased living space at the appeal property. However, any benefit of increased space would primarily be a personal one for the appellant. Given the degree of harm I have

found that arises from the appeal scheme and the statutory protection afforded to Conservation Areas, such benefit is not sufficient to outweigh this harm.

14. The development fails to preserve the character and appearance of the Conservation Area. The extension therefore fails to accord with Policies D1 and D2 of the Camden Local Plan (2017) (CLP) which amongst other things require proposals of high-quality design that respect local context and character and that at a minimum preserve Camden's heritage assets. The proposal also fails to accord with Policy A2 of the CLP, one of the requirements of which is to conserve and enhance the heritage value of designated open spaces which make a significant contribution to the character and appearance of Conservation Areas.

*Whether or not the proposal would cause harm to the LGS*

15. The appeal site is within an area designated as LGS (Branch Hill) under Policy NE1 of the Hampstead Neighbourhood Plan (2018) (HNP). Policy NE1 states that development that causes harm to Local Green Spaces will not be permitted except in very special circumstances.
16. Both parties have interpreted paragraph 101 of the National Planning Policy Framework (the Framework) requirement for consistency in management of LGS with Green Belt policies as requiring application of paragraph 145 of the Framework, and I have no reason to take a different view. Paragraph 145 states that construction of any new buildings is inappropriate unless under the exceptional circumstances listed in the paragraph.
17. None of these would apply at the site, with the possible exception of provision for the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building, allowed by Paragraph 145(c). For the purposes of the assessment of this appeal I am considering the building as that part of the building that relates to the appeal site, the lower ground floor flat within Heysham House. There is disagreement between the Council and the appellant as to the floor space figures.
18. The appellant identifies the original dwelling GIA to be 199.5sqm to include a lower ground floor cellar. It is not clear whether the cellar area still contributes to the floor space available to the lower ground floor flat.
19. However, even on the basis of the appellants floor area calculations for the extension (124sqm), the side extension is a substantial addition in terms of the additional floorspace it provides and this is borne out when making a visual comparison between it and the areas of the flat within the main body of Heysham House. The extension therefore clearly comprises a disproportionate addition over and above the size of the lower ground floor flat.
20. Despite its position within the garden, the extension by reason of its significant size and scale has resulted in both a spatial and visual loss of openness to the garden when viewed both from within it and Heysham House. This has resulted in harm to the LGS.

*Other considerations*

21. Various personal circumstances have been drawn to my attention by the appellant in support of the extension including health and family circumstances. However, as I have previously noted, the extension is of significant size and the plans indicate the provision of various rooms including a bedroom with a substantial floor area of 50sqm. None of the circumstances put before me provide clear justification for an extension of such a significant footprint.
22. Consequently, other considerations do not clearly outweigh the harm to the LGS and the very special circumstances necessary to justify the development do therefore not exist. On this basis I conclude that the development conflicts with the requirements of Policy NE1 of the HNP which seeks the full protection of Local Green Spaces.
23. Other developments within the area have been drawn to my attention, although only in very limited detail and nothing indicates that they are so comparable to the proposal before me such to provide justification for it. It is suggested that the part of the site to which the application relates was previously occupied by 2 garages. However, the submitted plan indicates that the structure allegedly demolished on this part of the site was of a much-lesser footprint in comparison to the extension and I have afforded this matter limited weight.

**Conclusion**

24. The side extension causes less than substantial harm to the significance of the Conservation Area and no public benefits outweigh this harm. It also harms the LGS and there are no very special circumstances that justify it.
25. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

*T J Burnham*

INSPECTOR