

Member briefing Monday 21st September re 59 Spencer Rise

We are utterly astonished that the Officers consider a major and precedent setting departure from better than two decades of Council decision making and guidance in respect of the Dartmouth Park Conservation Area can be dealt with other than by the Council's full Planning Committee and would urge you to ensure it is. The Officer ought to have made it clear to Members that 59 is merely the first of a raft of applications including 49 Spencer Rise at the other end of the damaged section of buildings which is nearing the end of its consultation period.

The Report alleges the Dartmouth Park Neighbourhood Plan requires this departure. This is simply untrue.

The Neighbourhood Plan was considered in the context of the Council's own Plan, its policy and guidance for the Dartmouth Park Conservation Area with regard specifically to roofs and all in the context of National Planning Policy Framework and the Planning (Listed Buildings and Conservation Areas) Act 1990 by D. Szymanski, BSc (Hons) MA, MRTPI, the Inspector appointed by the Secretary of State to deal with Appeal Ref: APP/X5210/D/20/3247346 only last month ie **August 2020**:

"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." (Duty is binding on every level of part of the planning system, including neighbourhood planning.) "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)."

...(T)"he 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." (Emphasis added) ⁱ

Both the Council's Plan and the Dartmouth Park Neighbourhood Plan are at one in requiring "design respects local character and context, including the *original character of the dwelling and roof form*, and preserves or enhances the historic environment."

By no stretch of the imagination nor contortion of language can replacing traditional butterfly roofs with an additional floor in a mansard style be described as respecting the *original character of the dwelling and roof form*. The proposal for no. 59 is, therefore, plainly contrary to Policies DC3 and DC4 of the DPNP.

The Officer preys in aid the exception to a long string of refusals by the Council, many where the Council was supported on Appeal, number 57 in favour of the then Cllr Maya De Souza now, no doubt, coincidentally now the Chair of the Forum. As with every aspect of the Council's policies and guidance re roof developments here, this has been dealt with by P Willows BA MRTPI DipUED - an Inspector appointed by the Secretary of State for Communities and Local Government. in relation to, coincidentally, the next challenge to the Council's policy and guidance for the Conservation Area 49 Spencer Rise, London, NW5 1AP - 21 February 2013 - Appeal Ref: APP/X5210/D/13/2190582:

"The appellant refers to the Council's decision to allow a mansard roof extension at 57 Spencer Rise in 2007. It seems to me that that scheme is genuinely comparable with the appeal proposal. Despite the changes in policy since that decision was made it is, on the information before me, difficult to reconcile the different approach the Council has taken in the two cases. Since consistency is important in planning decisions, I attach some weight to this consideration."

"However, despite that development, the terrace retains much of its original character and this would be harmed by the development. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I pay special attention to the desirability of preserving or enhancing the character or appearance

of the Conservation Area within which the site lies. Overall, the decision to allow the extension at No 57 does not outweigh the harm I have found in this instance.”ⁱⁱ

A point remade again and again by numerous Inspectors upholding the Council’s policies and guidance.

“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 factor 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.”ⁱⁱⁱ

(In any event, following the 57 Spencer Rise decision and the considerable consternation it caused the Council published a CA appraisal in 2009.)

Within the scheme of the local plans, now including both the CLP and the DPNP, the Conservation Area Appraisal and Management Statement remains the applicable guidance as is provided for in the CLP.

“I found the Appraisal to be a well-researched, comprehensive and informative document, defining the special interest of the area. Its content and proposals for the management of change attract significant weight in my deliberations.”

(The 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...)

“Spencer Rise is comprised within the Dartmouth East sub area, as described in the Appraisal. Its paragraph 7.60 provides a description and historical background, whilst the next paragraph points out that:

Spencer Rise is one of the few streets in the conservation area which is marred by isolated mansard roof additions which have made their host building too prominent in the street.

I saw the mansard additions referred to and share the view that most are poorly designed and jar on the eye. Nevertheless, although generally resistant to roof extensions, the Appraisal advises that exceptions may be made:

‘on the south side of Spencer Rise where the majority of the buildings in a distinct group already have roof extensions and a mansard roof would infill a gap and reunite the group.’

However, the appeal property is sited on the northern frontage of the Rise, being one of a small group of three distinctive dwellings displaying front parapets, screening their butterfly roofs behind. Alongside this group, comprised within a terrace, stepped because of the topography, are three-storey properties displaying differing roof styles. The terrace as a whole, as it rises eastwards, is very pleasing to the eye.”

“In terms of its proportions, massing and materials the proposed mansard’s design is superior to most currently on display in the street, and I note the attempt to adhere to the Council’s general design guidance on constructions of this form.”

“But even if the property were sited on the southern frontage, this roof addition would not ‘infill a gap and reunite the group’. On the contrary, the mansard would be perceived as a harmful, incremental addition incongruously marring the pleasantly distinctive rhythms of the town/roofscape on display in this part of the Rise.”^{iv} (The Council’s Appraisal remains the applicable Guidance for the Conservation Area pursuant to the provisions of the CLP.)

The Neighbourhood Plan does still make possibly problematic references to the desirability of allowing ‘small’ extensions, which can’t reasonably be applied to adding a floor, but are anyway expressly made subject to being consistent with conservation obligations. This is appropriate because to do otherwise would bring the Neighbourhood Plan into conflict with Planning (Listed Buildings and Conservation Areas) Act 1990.

Let us be absolutely clear about this, it would not be lawful for the Council to reduce the standard of protection it offers heritage assets simply to advance other vague objectives. The only basis upon which this can be done is set out in the Framework as echoed in the CLP. Again various Inspectors have come to our aid in explaining this:

“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. ... 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.”^v

Even had H1 b ^{vi} not been struck out of the Neighbourhood Plan at the examination stage and even had it not been obviously out with Section 72 and paragraph 196 it merely ends up referring to Policy DC4 which Szymanski points out “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.” The struck out Policy must be read with the also struck out justification which, it must be said, did not evidence any substantial public as opposed to minor private benefit.

There is, in our submission, nothing in the Neighbourhood Plan which justifies reversing more than two decades of planning decisions supported by numerous Appeal decisions. The claim that 59 is an exception because it sits next to an exception unwisely made for the 57 is comprehensively dealt with above and would apply to 49 at the other end and then to 61 and 47 etc etc.

Patrick Lefevre
For Dartmouth Park Conservation Area Advisory Committee ^{vii}
21.9.2020.

ⁱ August 2020, 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

ⁱⁱ 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

ⁱⁱⁱ 47 Spencer Rise, NW5 1AR – 1997 – Appeal Ref: T/APP/X5210/E/96/813040/P9 & A/96/273911/P9

^{iv} 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

^v August 2020, 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

^{vi} Taking a sympathetic approach to small roof, side and rear extensions in existing residential properties, where this can be achieved consistently with Policy DC4

^{vii} And previous member of the Dartmouth Park Neighbourhood Forum Committee.