

# Appeal Decision

Site visit made on 28 March 2019

**by F Rafiq BSc (Hons), MCD, MRTPI**

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

**Decision date: 7 May 2019**

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**Appeal Ref: APP/M2325/D/18/3217874**

**5A Lowther Terrace, Lytham St Annes, FY8 5QG**

- 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 Mr Talbot against the decision of Fylde Council.
  - The application Ref 18/0428 dated 29 May 2018 was refused by notice dated 21 September 2018.
  - The development proposed is a replacement garage and studio.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are (1) whether the proposal would preserve or enhance the character or appearance of the Lytham Conservation Area, and (2) the effect on the living conditions of neighbouring residential occupiers with regard to privacy and sunlight.

## Reasons

### *Character and Appearance*

3. The appeal property is situated on Lowther Terrace and is within the Lytham Conservation Area. Lowther Terrace consists of large, Victorian semi-detached properties, set back from the road behind front garden areas. The properties also have long rear gardens, with some of them having garages and other outbuildings to the rear, facing Gregson Street. The traditional appearance of properties, along with the presence of trees and vegetation in gardens and open spaces, contributes to the special character of the Conservation Area.
  4. The appeal site consists of a flat which occupies the upper floors of the property on Lowther Terrace and has a detached double garage to the rear. Following the demolition of this garage, the appeal development seeks permission for a two storey structure that would provide a garage, WC and garden room to the ground floor and living accommodation to the first floor. I was able to see a variety of built forms in the area at the time of my visit, including garages that had a subservient appearance to the larger Victorian properties facing Lowther Terrace. Although the proposal would increase the mass of development on this
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part of Gregson Street around the appeal site, it would still retain a subservient appearance to the larger size of the main properties on Lowther Terrace.

5. I do not consider the street rhythm of development would be unduly affected on the western side of Gregson Street, given the presence of the existing two storey building, identified as The Coach House. There are also other two storey properties to the south of the appeal property on Gregson Street which are clearly visible in the streetscene. The proposal would be separated from the two storey elements of The Coach House and the other two storey properties on the western side of Gregson Street by single storey garages and I do not therefore consider that there would be an unacceptable concentration of mass that would be detrimental to the Conservation Area.
6. I acknowledge that the development proposes to utilise uPVC windows and doors as well as one way mirror glass. Many of the larger properties on Lowther Terrace contain original features. However, unlike them, it was evident that along Gregson Street, that the use of more modern materials, such as uPVC on the windows is more prevalent. Given this context and the modern nature of the proposed appeal building, I do not find the appearance arising from the choice of materials for the windows and doors to be such, that it would be significantly harmful, to the extent that it would fail to preserve the character or appearance of the Conservation Area as a whole.
7. I conclude therefore that the proposed development would preserve the character and appearance of the Lytham Conservation Area. Accordingly, the proposal would not conflict with Policy HL5 Fylde Borough Local Plan (Local Plan), which I consider to be of particular relevance to this main issue. This seeks, amongst other matters, to permit development where the character or appearance of the area, and its setting, are appropriately conserved or enhanced. It would also not be contrary to Section 16 of the National Planning Policy Framework, which seeks to conserve or enhance the historic environment.

#### *Living Conditions*

8. The proposal would result in a two storey structure replacing the existing garage building. I note the location of The Coach House relative to the appeal site and was able to visit this neighbouring property at the time of my visit. The Council has raised concerns on the overshadowing impact of the proposal on the first floor windows on the southern elevation of this neighbouring property. I note the reference to them being identified as obscure glazed on the original permission, although I was able to see that the larger windows were clear glazed. Irrespective of this however, the Appellant has submitted sun path diagrams that show that there would not be overshadowing of the two larger windows on the southern elevation of The Coach House. Based on this, and my site observations in relation to the height of and distance between the appeal and this neighbouring property, I do not consider that there would be a significant loss of sunlight arising from the proposed development.
9. The appeal development has been designed with first floor windows on both gable elevations. This includes a window facing towards the rear elevation of Lowther Terrace, with No. 5 being the apartment on the ground floor underneath that part of the building (No. 5A) which forms part of the appeal

site. I acknowledge that there is mutual overlooking of surrounding properties in the vicinity of the site. This does not however, justify the proposal, which would lead to direct views of No.5's rear garden area at close quarters. Reference has been made to one way glass, but this would be to the lower half of the window and would not prove effective in preventing unacceptable views.

10. The front window on the appeal proposal to Gregson Street would also permit direct views of the enclosed amenity area to the side of No. 3 Gregson Street. The Council have made reference to No. 3 having a limited private garden area and the proposal would, owing to its proximity and height, lead to harmful overlooking of the space to the side of No. 3. This would again not be mitigated by one way glass, due to the reference stating that the one way glass would be there to provide no view into the proposed appeal building, rather than restricting views out.
11. The Appellant has stated that neighbours at No. 5 Lowther Terrace and No. 3 Gregson Street have not objected to the proposal submitted. Whilst I have been provided with differing correspondence in this regard, whether or not objections have been raised by neighbouring residents, is not itself an indicator of the lack of harm. Given the permanent nature of the proposal, it is necessary to consider the living conditions of both current and future residents.
12. I conclude, for reasons set out above, that the appeal development would adversely affect the living conditions of surrounding residential occupiers with regard to privacy. It would be contrary to Policy HL5 of the Local Plan, which seeks, amongst other matters, to ensure that the amenities of adjacent and nearby residents are not unduly prejudiced by the loss of privacy.

### **Other Matters**

13. My attention has been drawn to a planning application at No. 7 Lowther Terrace. I have been provided with information which shows that an outline application for the erection of a house was granted and not refused. The Appellant considers that a precedent has been set for this type of development and has provided a range of photographs with addresses for various sites. Although some planning application documents have been provided, I am not aware of the full circumstances of these cases and am in any event required to determine this appeal before me on its own merits.
14. The Appellant has set out the visual benefits that would arise from replacing the existing garage. I also note the accommodation sought is to provide for a potential carer due to the health conditions the Appellant has set out. Whilst these matters weigh in favour of the proposal, they would not however not justify the harm that would arise from it.
15. I note the amendments that have been made to the scheme, including the reduction in height and the removal of the Juliet balcony. I can however confirm that I have dealt with the appeal on its own merits.

### **Conclusion**

16. I have found in the appellants favour in relation to the issue of the effect on the character or appearance of the Conservation Area. However, I conclude

that the appeal proposal would be unacceptable in relation to the impact on the living conditions of neighbouring residential occupiers with regard to privacy.

17. For the reasons given above and having considered all other matters raised, including reference to the previous approval on the appeal site, the proposal being acceptable in respect of car parking and representations from neighbouring residents, the appeal should be dismissed.

*F Rafiq*

INSPECTOR