



Appeal Decisions

Hearing held on 17 December 2024

Site visit made on 17 December 2024

by **AJ Steen BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 January 2025

Appeals at Regency Lodge, Adelaide Road, London NW3 5EE

Table of appeal references, flat numbers and date of issue of listed building enforcement notices:

Appeal	Flat no.	Appeal Reference	Date of Issue
A	2	APP/X5210/F/24/3348046	31 May 2024
B	5	APP/X5210/F/24/3348109	4 June 2024
C	6	APP/X5210/F/24/3348127	18 June 2024
D	7	APP/X5210/F/24/3348134	20 June 2024
E	9	APP/X5210/F/24/3348259	21 June 2024
F	10	APP/X5210/F/24/3348263	25 June 2024
G	21	APP/X5210/F/24/3352657	19 August 2024
H	100	APP/X5210/F/24/3352659	19 August 2024
I	101	APP/X5210/F/24/3352661	20 August 2024

- The appeals are made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the Act).
- The appeals are made by Daejan Properties Limited against listed building enforcement notices issued by the Council of the London Borough of Camden.
- The contraventions of listed building control alleged in the notices are without Listed Building Consent: removal of the original steel/Crittall windows and replacement with UPVC windows.
- The requirements of the notices are to:
 1. Permanently remove the UPVC windows and reinstate steel or appropriate aluminium framed windows of a similar size, design, profile and opening method (outward opening) as the original steel windows.
 2. Make good any damage caused as a result of the above works.
- The periods for compliance with the requirements are 6 months.
- The appeals are made on the grounds set out in section 39(1)(c), (e) and (h) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Summary Decisions: The appeals are dismissed and the listed building enforcement notice is upheld with a correction and a variation in the terms set out below in the Formal Decision.

Preliminary Matters

1. These appeals relate to flats within the grade II listed building of Regency Lodge. The listed building enforcement notices are the same in terms of the allegation and the requirements but relate to individual flats. As a result, I will deal with all the appeals together, differentiating between the flats and notices where necessary. I note that those differences could lead to different decisions on some appeals.

2. It has been suggested that the words “appropriate” and “similar” in the requirements of the notices mean those requirements are vague. It was agreed at the hearing that the requirements could be corrected to be clearer and more certain. I will do so.
3. My attention was drawn to the emerging Camden Local Plan during the course of the hearing. I understand that it is at an early stage of preparation. I am not aware of the extent of outstanding objections or whether the policies concerned will be considered as consistent with the National Planning Policy Framework (the Framework). Consequently, in accordance with paragraph 49 of the Framework I give it limited weight.
4. The Framework was published during the course of the appeal. Changes in relation to these appeals were minor and I have taken the new Framework into account in coming to my decisions.

Appeals on Ground (c)

5. Appeals on this ground are that “those matters” (the matters stated in the alleged breach of listed building control) do not constitute a breach of listed building control. The burden of proof for this ground is on the appellant, with the relevant test of the evidence being on the balance of probability.
6. Section 7 of the Act sets out control of works in respect of listed buildings. Insofar as this is relevant to the works set out in the enforcement notices, it restricts works that would affect the character as a building of special architectural or historic interest. Consequently, it is necessary to consider whether the original steel/Crittall windows contribute to the special architectural or historic interest of the building.
7. Regency Lodge was constructed in 1937-8 to a design by the architects Robert Atkinson and A.F.B. Anderson. Robert Atkinson was a notable architect who was commissioned to investigate cinema design in America tied in with art deco design before returning to design buildings, many cinemas but also Regency Lodge.
8. The building is of Moderne design with a strong horizontal emphasis to the appearance. Elements of the design contributing to that include the artificial stone bands around the building and size and shape of window openings. The building is constructed around a steel frame, which enables interesting shapes, such as the turning corners of the building, particularly on the junctions of Adelaide Road with Finchley Road and Avenue Road. The ground floor fronting Finchley Road and on the corner with Adelaide Road contains shops, although the original shop fronts have since been replaced. There is parking provided under the building and lifts provided to reach the upper floors. There are bas-relief panels on the elevations showing the trades employed in its construction. Internally, some of the original features remain, particularly in the public parts of the building.
9. The windows of the building were originally steel windows manufactured by a company called Crittall. This provided a consistent appearance to the windows around this large building. These windows were mass produced; originally these types of windows were manufactured for use in industrial buildings but by the time of Regency Lodge’s construction were also used domestically. They feature thin frames with horizontal glazing bars. I note that alternative materials could have been used in the windows. A number of these original windows remain on the

building, particularly in communal areas. They tend to no longer be in good condition. Some flats have recent replacement metal windows, which may have also been manufactured by Crittall and installed following approval of listed building consent.

10. The listing description is unusually detailed given it was required to identify, rather than describe, the building. As a result, it is a useful source to consider what comprises the significance of the listed building and those elements that are of special architectural or historic interest. The final paragraph provides a summary of the significance of the building, including that it is a Moderne style development with a characteristic horizontal emphasis that suggests speed and that it is well-detailed.
11. The listing description mentions that a few of the steel casement windows in the building had been replaced prior to it being listed. That section of the description assists in identifying the building, rather than describing its special architectural or historic interest. The remainder of the description does not refer to the materials or style of the windows of the flats.
12. UPVC windows have different qualities to steel casement windows, generally with thicker frames and, where installed, glazing bars inserted between the panes of glass rather than to separate them.
13. Historic England Advice Note (HEAN) 16: Listed Building Consent states that the complete replacement of a historic window or casement is always likely to affect special interest. It also states that replacement of historic windows with double glazing ordinarily affects special interest, except in circumstances where there would be no harm to significance. HEAN 18: Adapting Historic Buildings for Energy and Carbon Efficiency also suggests that listed building consent is likely to be required for replacement windows, as such works will normally affect the special interest of the building. HEAN 2: Making Changes to Heritage Assets states that windows are frequently key to the significance of a building.
14. Taking all of the above into account, the special architectural or historic interest of the building is derived from its well-detailed Moderne design, as set out above, by a notable architect. The Crittall steel casement windows are part of the detailing of the building that make a contribution, albeit modest, to that special architectural or historic interest. As a result, their replacement with windows different in terms of design and materials does affect the character as a building of special architectural or historic interest.
15. For these reasons, replacement of the original windows with the UPVC windows in the flats subject of these listed building enforcement notices does constitute a breach of listed building control. On that basis, I conclude that the appeals under ground (c) should fail.

Appeals on Ground (e)

16. Appeals on this ground are that listed building consent ought to be granted for the works. The main issue, therefore, is whether the UPVC windows installed in these flats affect features of special architectural and historic interest (or significance) which Regency Lodge possesses.

17. I have set out under ground (c) the special architectural and historic interest, or significance, of the building, including that it is a Moderne style development with a characteristic horizontal emphasis that suggests speed and that it is well-detailed.
18. The UPVC windows installed in the flats differ between flats so, where that difference is material, I will deal with some flats individually. Nevertheless, UPVC differs from the original steel windows in having a thicker profile, particularly for the opening casements, such that the replacement windows subject of the appeal have a chunkier, heavier profile than the original windows they replaced. As a result, they alter the consistent appearance of the thin framed original metal windows that contributed toward the significance of the building as a heritage asset.
19. That, in itself, means the UPVC windows have resulted in some harm to the significance of the building as a heritage asset.
20. I note that some windows had been changed prior to the building being listed in 2006, as mentioned in the list description. I consider those had affected the character of the building at that stage.
21. Which casements open can vary between windows on different flats, for example the central casement smaller window closest to the stair well in Flat 10 compared to the outer casements below and, possibly, the bay windows in Flat 1 compared to those above. That detracts from the original consistency of windows within the building.
22. Most of the replacement windows contain glazing bars that seek to replicate the bars on the original windows. However, these are installed between the panes of the double glazed windows. As a result, they appear somewhat incongruous compared to the original glazing bars that project between the panes of glass.
23. The larger windows in Flats 2 and 10 are four panes wide, whereas the windows in the intervening floors, including two original windows, are five panes wide. Those in Flat 10 do not contain glazing bars, some in Flat 2 do not either. These windows are particularly inconsistent with the appearance of the original windows in the flats.
24. There is also some variation in the height of the top windows or fanlights, particularly in Flat 10, compared with other windows.
25. It would be possible to condition any planning permission in order to install glazing bars in windows that are currently lacking them. I note that this would mean those windows would more closely reflect the appearance of the original windows of the building and the majority of other UPVC windows. However, it would not overcome other effects and may lead to more variety if requiring the glazing bars to be external.
26. For these reasons, I conclude that the UPVC windows installed in flats 2, 5, 6, 7, 9, 10, 21, 100 and 101 have harmed the special architectural or historic interest of Regency Lodge. As a result, they adversely affect the significance of the grade II listed building as a heritage asset. I have mentioned some windows that are particularly inconsistent with the appearance of the original and other windows in the flats. As a result, there is some variation in the amount of harm derived from

individual windows. Nevertheless, I consider that the harm, individually and cumulatively, is less than substantial.

27. The works are contrary to Policies D1 and D2 of the Camden Local Plan (LP) insofar as they seek high quality development that preserves or enhances the historic environment and heritage assets, including listed buildings.
28. In determining the appeals on ground (e), I have had special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses in accordance with sections 16(2) and 66(1) of the Act.

Public Benefits

29. The National Planning Policy Framework (the Framework) makes clear that great weight should be given to the conservation of the heritage asset at paragraph 212. Nevertheless, paragraph 215 sets out that where the works result in a less than substantial harm to the significance of the asset, that harm should be weighed against the public benefits of the proposal. That is reflected in Policy D2 of the LP that refers to a need for public benefits to convincingly outweigh any less than substantial harm to the significance of heritage assets.
30. The original metal windows are highly conductive, with heat within the rooms able to escape. The double glazed UPVC windows result in increased thermal insulation to the flats. This has an effect in terms of enabling less heating of the flats such that they result in a reduction in energy consumption that will affect global warming. The Framework, at paragraph 167, states that significant weight should be given to the need to support energy efficiency and low carbon heating improvements to existing buildings. That is clearly a public benefit that weighs in favour of the works.
31. The energy efficiency has benefits to occupants of the flats both in terms of enabling them to stay warm, reducing the costs of heating and reducing potential issues with damp. In addition, they are better at attenuating the noise from the busy roads outside. These contribute toward making the flats a desirable place to live. Whilst these are largely private benefits for the occupants, they can also be considered public benefits in terms of providing a high standard of accommodation as required by planning policies such as Policy D1 of the LP and paragraph 135f) of the Framework.
32. HEAN 18: Adapting Historic Buildings for Energy and Carbon Efficiency provides guidance on effective means of reducing carbon emissions in ways that protect historic significance and character. It suggests a number of changes to windows that will generally be acceptable but indicates original windows that contribute positively to a building's special interest should not be replaced.
33. Metal windows wear over time and can lead to staining of the walls and other surfaces below the windows. This is acknowledged in HEAN 2: Making Changes to Heritage Assets that suggests steel-framed windows are not simple to repair, such that repair would be disproportionate. Consequently, it is possible that replacement windows will be required and I have already noted that the original windows tend to no longer be in good condition. I understand that UPVC tends to retain its appearance through its lifetime. Nevertheless, it is not clear whether it is

necessary to replace with UPVC, especially taking account that other windows in the block have been replaced with modern double glazed metal windows. Those windows have more in common, including in relation to the profile of the frames, with the original windows than the UPVC windows installed in these flats.

34. I understand that the replacement of windows with metal double glazed units would be expensive. However, I have limited information as to the detailed costs, nor to justify whether that would be prohibitive in this instance.
35. The Framework states that public benefits would include securing the optimum viable use of the heritage asset. Regency Lodge was constructed as flats and that remains its optimum viable use. The replacement windows, for the reasons set out, would support that use. Nevertheless, it is unclear whether replacement windows need to be constructed of UPVC or whether other alternatives that would better reflect the significance of the building as a heritage asset would have been available and viable.
36. There are a number of public benefits to the UPVC windows that I have taken into account, including the significant weight given to the need to support energy efficiency and low carbon heating improvements, and the need to secure the optimum viable use of the heritage asset. However, on balance I consider that these do not convincingly outweigh the less than substantial harm to the significance of the listed building as a heritage asset.

Conclusions

37. Taking all the above into account, the windows have resulted in less than substantial harm to the significance of the grade II listed building of Regency Lodge as a heritage asset. I have found no public benefits that would outweigh that harm. As a result, the works are contrary to Policies D1 and D2 of the LP and of the Framework.
38. For these reasons, I conclude that the appeals under ground (e) should fail.

Appeals on Ground (h)

39. Appeals on this ground are that the period specified in the notice as the period within which any step required by the notice is to be taken falls short of what should reasonably be allowed.
40. The listed building enforcement notices require compliance within 6 months. However, the appellant suggests that a period of at least 12 months would be necessary to enable compliance with the notices. I understand that ownership of the flats is vested in different people, such that agreeing how to replace windows will be complicated. In addition, the works required to replace the windows may be much easier if a number of windows are replaced at the same time and have less impact on occupiers of both these and other flats within the block. Whilst it is likely that some windows would be capable of replacement within 6 months, others are likely to take significantly longer. As I do not know which windows will be capable of swift replacement, I consider a longer period of compliance would be reasonable. Taking all the evidence into account, a period of 12 months on each enforcement notice would be appropriate.

41. For these reasons, I conclude that the appeals under ground (h) should succeed and the periods of compliance amended to 12 months on all the listed building enforcement notices.

Formal Decisions

42. It is directed that the listed building enforcement notices be corrected and varied by:

the deletion of "SIX (6) months" and substitution with "TWELVE (12) months" in section 5. What You Are Required To Do; and

the deletion of the first requirement and its substitution with the words "Permanently remove the UPVC windows and reinstate steel or aluminium framed windows to match the size, design, profile, and opening method (outward opening) of the original steel windows." in section 5. What You Are Required To Do.

43. Subject to the correction and variation the appeal is dismissed and the listed building enforcement notice is upheld. Listed building consent is refused for the retention of the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

AJ Steen

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

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FOR THE LOCAL PLANNING AUTHORITY:

Angela Ryan
Principal Planning Officer

Alan Wito
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Deirdre Traynor
Planning Officer

DOCUMENTS SUBMITTED AT THE HEARING:

Document 1: Historic England Advice Note 16: Listed Building Consent

Document 2: Historic England Advice Note 2: Making Changes to Heritage Assets