



Appeal Decision

Site visit made on 11 September 2017

by Anthony J Wharton BArch RIBA RIAS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 September 2017

Appeal Ref: APP/X5210/F/17/3168817

4 Flask Walk, London NW3 1HE

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Keith Fawkes-Underwood against a listed building enforcement notice (LBEN) issued by the London Borough of Camden (the LPA).
 - The enforcement notice, numbered EN15/0607 was issued on 13 January 2017
 - The contravention of listed building control alleged in the notice is the erection of a roof extension following the removal of the roof and replacement of timber sliding sash windows with plastic windows on front and rear elevations.
 - The requirements of the notice are as follows:
 - 1) Remove the new roof and reinstate the original roof in terms of design, profile and materials as shown in photographs attached at appendix 1; and
 - 2) Remove all uPVC sliding sash windows from front and rear elevations and replace with timber sliding sash windows to match those at No 2 Flask Walk.
 - The period for compliance with the requirements is SIX (6) months.
 - The appeal is made on grounds (e) and (h), as set out in section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. The appeal succeeds to a limited degree under ground (h). Otherwise the appeal is dismissed (see formal decision below).

Background information

2. The appeal building is located at the western end of Flask Walk and forms one of a pair of early C19 terraced shops. It is constructed of yellow stock brick and is of two storeys plus roof space. The upper parts are in residential use and the ground floor shopfront has pilasters which support a C20 fascia. Together with No 2, it was listed in Grade II in May 1974 and lies within the Hampstead Village Conservation Area (HVCA). The original roof and windows have been altered and the appellant has been in discussions with the Council about an alternative acceptable roof design. The new roof tiles are red clay and the replacement windows are uPVC.

3. Both the Council and the appellant refer to the alternative roof design but there is nothing before me to indicate that a scheme has been approved. In any case I am only empowered to deal with the enforcement notice and the contraventions of listed building control to which it refers. Any other scheme is for the appellant and the Council to agree/resolve.

4. The limited evidence indicates that the new angular roof extension replaces a much lower, 5 sided roof which had a gable end fronting Flask Walk and a ridge with roof slopes running off. It was hidden at the front and the rear by a parapet wall. The new roof is only partly visible from Flask Walk but is most noticeable from 'Bird in Hand Yard' to the rear with its red tiles and angular form.

The appeal on ground (e)

Main issues

5. The main issues are firstly, the effect of the works on the character and integrity of the listed building; on its setting and on its features of special architectural and historic interest and, secondly, the effect on the character and appearance of the conservation area (HVCA).

6. The development plan has been up-dated since the appeal was made and the submissions prepared. It now comprises the consolidated London Plan 2015 and the Camden Local Plan (LP) which replaces the Core Strategy (CS) and the Camden Development Policies. The relevant policies of the LP are D1 (Design) and D2 (Heritage). These are up to date with the National Planning Policy Framework (NPPF) which is a major material consideration. I have had regard to the relevant policies of the NPPF: in particular, to those contained within sections 7 (Requiring good design) and 12 (Conserving and enhancing the historic environment).

7. Because the appeal building is listed in Grade II and also lies within the HVCA, in reaching my decision, I have had special regard and paid special attention to the requirements of sections 16(2) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA).

The effect of the new roof

8. Having seen the roof in-situ and having noted the view from 'Bird in Hand Yard' and a fire-escape opposite, I share the Council's concerns about its effect on the character of the listed building. The angular roof appears as a most obtrusive, ungainly and insensitive addition to the roofscape in this part of Flask Walk. It detracts markedly from the simple architectural and historic form of the roof due to its inappropriate bulk and massing and choice of materials. It is also detrimental to the setting of the listed building and to those of the neighbouring heritage assets.

9. I acknowledge that the form of the original roof must have been complex but the finish was slate and a parapet wall helped to reduce direct views. The new structure, on the other hand, is most noticeable from the rear and from further east along Flask Walk. As indicated above its overall form and materials detract from the qualities of the listed building. In harming the character, setting and architectural and historic features of the host building, it follows that the works carried out are also harmful to the character and appearance of the HVCA which are neither preserved nor enhanced by such an inappropriate roof construction.

10. I accept that the harm caused can be said to be 'less than substantial'. However, in accordance with paragraph 134 of the NPPF, the harm needs to be weighed against public benefits, including securing its optimal viable use. In this case there are no public benefits which would outweigh the harm. In any case the works are contrary to the design and heritage policies of the NPPF, as well as with policies D1 and D2 of the LP. I do not consider, therefore that listed building consent should be granted for the roof structure as built and the appeal, therefore fails on ground (e) with regard to this element of the unauthorised works.

The effect of the uPVC windows

11. Having seen the windows, again I agree with the Council that they are harmful to the listed building. Although the panes are small the sashes have been fitted with horns which, as indicated by the Council, would only feature on much later larger-paned windows. There are also narrow marginal panes which are not appropriate as well as 'fake' glazing bars. Overall they appear as obtrusive and crude window

features and I endorse the Council's comments that they are deficient in every regard due to the materials, glazing and design.

12. The original timber sashes are referred to in the list description and thus harm has been caused by the removal of these architectural and historic features. I do not agree with the contention (set out in the appellant's statement) that the windows as installed could be made acceptable by the omission of the 'ears' or 'horns' or that the correct glazing bar patterns could be applied. The window materials and the way in which they have been constructed are fundamentally unacceptable in a heritage asset such as this Grade II listed building.

13. Again, therefore, I find that these elements are contrary to the design and heritage policies of the NPPF, as well as with policies D1 and D2 of the LP. Listed building consent will not be granted for their retention. The appeal also fails, therefore, on ground (e), in relation to the uPVC windows as installed.

The appeal on ground (h)

14. It is stated that the appellant has commenced the process of providing an alternative roof which is acceptable to the Council. It is contended that if the alternative works are granted permission then it would take longer than 6 months to acquire vacant possession and to carry out party wall negotiations.

15. I acknowledge the willingness of the appellant to try and resolve the matter regarding an alternative roof design. It will also take some time to manufacture and gain consent for appropriate windows. In the overall circumstances of this case I consider, therefore, that a 12 month compliance period would not be unreasonable. The appeal succeeds to a limited degree under this ground and I will vary the LBEN accordingly.

Other Matters

16. In reaching my conclusions I have taken into account all other matters raised by the Council and on behalf of the appellant. These include the detailed statements; the photographic submissions; reference to the permission for the roof at No 2; the references to Nos 1-3 Flask Walk; the permission relating to 1A Well Road; the shorthold tenancy information and the final comments (including photograph and drawing) dated 27 June 2017.

17. However, none of these matters (either singly or collectively) carries sufficient weight to alter my conclusions on the two grounds of appeal. Nor is any other matter of such significance so as to change my decision.

Formal Decision

18. The appeal succeeds to a limited degree on ground (h) only. I direct that the Listed Building Enforcement Notice be varied by deleting the words and number 'SIX (6) months' in part 5 of the notice (WHAT YOU ARE REQUIRED TO DO) and by substituting therefor the words and figure 'TWELVE (12) Months'.

19. Otherwise the appeal is dismissed, the Listed Building Enforcement Notice is upheld as varied and Listed Building Consent is refused for the works carried out in contravention of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Anthony J Wharton

Inspector