



Enforcement Appeal Grounds (a), and (f)

**Application Number:
2018/1239/P**

August 2018

WEA Planning

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WEA Planning Ref: 2018_11

1. Introduction

1.1. WEA Planning was instructed by John Benn in July 2018 to pursue an appeal against the refusal of a planning application by the London Borough of Camden at Maisonette 2nd and 3rd floor, 7 Estelle Road, London, NW3 2JX. Mr Benn wishes to improve the appearance of the front elevation of its flat by providing a window of better quality and design than the very poorly designed non-original timber frame window.

1.2. The ground (a) appeal arises from the refusal of the London Borough of Camden (herein referred to as the "LPA" to grant permission on the 25th June 2018 go:

"Replace the timber casement windows with uPVC sash windows on the front dormer at roof level (retrospective." (Ref: 2018/1239/P)

1.3. The statement addresses the principal issues arising from the LPA's reason for refusal, namely:

- *"The replacement dormer windows, by reason of their inappropriate uPVC materials, are detrimental to the appearance of the host building and the character and appearance of the Mansfield Conservation Area. This is contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017, and the Mansfield conservation area appraisal and management strategy 2008".*

1.4. The statement proves the proposal is not contrary to the London Borough of Camden Local Plan 2017. The proposal complies with the Policies D1 (Design) and D2 (Heritage) of the Local Plan 2017 and the Mansfield conservation area appraisal and management strategy 2008.

1.5. On the basis of our consideration of the facts, practical considerations and in addressing the reason for refusal with the supporting evidence set out within this

statement, we urge the Inspector to allow this appeal for the reasons set out in the “Grounds of the Appeal” chapter.

2. Site and Surroundings, Character and Appearance

- 2.1. The application site comprises the second and third floor of a three-storey terraced building located on the western side of Estelle Road.

- 2.2. The building is not listed but it is situated within the Mansfield Conservation Area and particularly in within the Sub Area 2: Late Victorian core; a predominantly residential in character and where the main building is the three-storey house generally forming part of a terrace. *“Front dormer windows of varying size which pepper the roofscape are numerous in some streets whilst others are unaltered”.*

- 2.3. The subject dormer is not a characteristic of the original building but a later addition constructed in late 1970s (see Appendix 1 for the relevant planning application Ref: 17751). Most of the existing dormers at Estelle Road are not original as they were constructed in late 1960s and onwards when the residents where converting the houses to self-contained flats (see Appendix 2 for examples). Even after the designation of Mansfield Conservation Area in 1990, permissions were granted for the erection of dormers.

3. Planning History

- 3.1. **Ref: 17751** – Conditional Permission was granted on 27th February 1974 for: “*The change of use of the second and third floors of 7, Estelle Road, N.W.3 into a maisonette, involving works of conversion, and the erection of a second floor extension to provide a bathroom, and the provision of new dormer windows at the front and the rear of the property”.*

4. Proposal

- 4.1. The development proposes the replacement of non-original and poorly designed front dormer window by a similar new window in terms of design and of higher quality.
- 4.2. In detail, the proposed development includes the removal of bad quality front dormer window which was a latter addition, constructed in late 1970s. The new dormer window is of the same size and location as the old one and same materials as some of the dormer windows in the surrounding area.
- 4.3. The proposed uPVC material will be of much improved appearance to the pre-existing timber casement windows of poor design and maintenance.

5. Ground (a) Appeal

- 5.1. The only reason set out for refusal in the decision notice is the inappropriate uPVC materials that would harm the appearance of the hosting building and the character of the Mansfield Conservation Area.
- 5.2. The first thing that must be highlighted is that the pre-existing timber casement dormer windows were a later addition constructed in late 1970s. Therefore, they cannot be

considered as original as according to the established test for “original” as defined in the General Permitted Development Order 2015 (as amended) "original" means:

“(a) in relation to a building, other than a building which is Crown land, existing on 1st July 1948, as existing on that date”.

5.3. “Original building” is also defined in the same way in the NPPF: *“A building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally”.*

5.4. Therefore, as the original building was already altered, the proposal not only does not harm the appearance of the host building, but by replacing the bad quality windows with new of higher quality, it improves the appearance of the building.

5.5. The LPA argues that the proposal will also harm the character of the Mansfield Conservation Area. For assessing the impact of the proposal to the CA, it is crucial to determine the role and the importance of the pre-existing dormer windows within it.

5.6. According to the Mansfield conservation area appraisal and management strategy 2008:

“A key element of the distinctive character and appearance of the Mansfield Conservation Area is the area’s high quality and unified architectural style and form.”

Regarding new development and smaller alterations, *“successful modern design (...) can enhance the conservation area, by (...) responding to the (...) qualities of surrounding buildings”*. The council encourages maintenance works *“to help ensure the preservation of the special character and appearance of the Conservation Area”*.

5.7. *“The appearance of characterful buildings within the Conservation Area is harmed by the removal or loss of original architectural features and the use of inappropriate materials. For example, the loss of original sash windows (...) can have considerable*

negative effect on the appearance of (...) the area. In all cases the Council will expect original architectural features and detailing to be retained, protected, refurbished in the appropriate manner, and only replaced where it can be demonstrated that they are beyond repair." (WEA Planning emphasis)

- 5.8. As the pre-existing windows were of bad quality and not original their loss will not harm the appearance of the Conservation Area but their replacement with better quality windows will have an improved impact on the preservation of the special character and appearance of the Conservation Area.
- 5.9. At the same time, the proposal not only responds to the qualities of the surrounding buildings but the high-quality windows improve the streetscene of Estelle Road especially compared to many other properties on the street which feature low quality dormer windows since 1970s and onwards when all the conversions and additions took place.
- 5.10. Therefore, the proposal is in accordance with **Mansfield conservation area appraisal and management strategy 2008**, as by considering the character of the property and the surroundings, it enhances the character of the Conservation Area.
- 5.11. Although the LPA states that the proposal is contrary to Policies D1 and D2 of Camden's Local Plan, the reasons are not explained in the delegated report.
- 5.12. Policy D1 Design requires alterations to consider the wider context and to use materials of high quality. Windows replacement is regarded insensitive only when it spoils the appearance of buildings especially when those form part of uniform group.
- 5.13. The appeal site is not part of a uniform group but the entire Estelle Road has no uniformity on the front elevations. The dormer windows located on the surrounding

properties as latter addition differ in both scale and design while their poor construction of bad quality materials have altered the appearance of the wider area.

- 5.14. The proposed windows due to their durability, visual attractiveness and their similar design and colour with those on neighbouring properties, respect the local context and character and therefore comply with **Policy D1**.
- 5.15. When a development is proposed in a Conservation Area, the Council should take into consideration the scale of the harm and the significance of the asset according to Policy D2 Heritage.
- 5.16. The LPA, by characterising the pre-existing window “traditional” failed to assess accurately the significance of the dormer which was a latter addition which harmed the original character of the Conservation Area. The LPA instead of trying to improve the streetscene, asked the appellant to imitate a non-original window of bad quality which would continue to have a diverse impact on the Conservation Area.
- 5.17. Therefore, the proposal by enhancing the character of the Mansfield Conservation Area follows the requirements of **Policy D2**.
- 5.18. The LPA also argues that the proposal does not comply with Design CPG 1 2015, which was in use when the application was submitted. According to the design guidance, when “the original or in the style of the originals” windows are to be replaced, the character of the property and the surrounding area should be reserved. “New windows should match the originals as closely as possible in terms of type, glazing patterns and proportions (including the shape, size and placement of glazing bars), opening method, materials and finishes, detailing and the overall size of the window opening”.

- 5.19. Although the pre-existing dormer windows were not original, the proposed ones are of the same size but a much-improved design which improves the character of the property and the surrounding area, in accordance with the window requirements of Design CPG 1.
- 5.20. Regarding the dormers and the windows, *“they should be aligned with windows on the lower floors and be of a size that is clearly subordinate to the windows below”*.
- 5.21. As the previous timber sash window had a negative impact on the Mansfield Conservation Area and the host building and as non-original feature, the requirement of Design CPG 1 to not replace timber sash windows with uPVC ones cannot be applied at this case. The proposed window aligns with the windows on the lower floors and due to its design and materiality improves the appearance and functionality of the host property and enhances the character of the conservation area.
- 5.22. The LPA also objected to the replacement of the previous of slimmer line timber windows with the proposed ones with thicker proportions, arguing that a bulkier appearance will be given to them. However, as can be seen at **Appendix 3** the slightly thicker frame of the proposed windows would not constitute a material difference which would harm the appearance of the building.
- 5.23. The proposal is therefore in accordance with **Design CPG 1**.
- 5.24. The appeal attached at **Appendix 6** show various examples whereby new uPVC framed windows were considered acceptable in heritage locations.

Local Context and Precedents

- 5.25. The LPA has discussed the local area context with the appellant and suggest other examples have not been enforced against because houses have permitted development rights and are a result of government relaxation. This is not true.

- 5.26. Some of the examples of dormers are flats as sub-conversions are common in this area.
- 5.27. Many of these examples, even in the context of single dwellinghouses, would be defined as development. Burroughs Day v. Bristol City Council [1996] 1 PLR 78 confirms:
1. What must be affected is "the external appearance", and not just the exterior of the building;
 2. The alteration must be one which affects the way in which the exterior of the building is or can be seen by an observer outside the building;
 3. The degree to which the alteration must be capable of being seen by observers is all roof alterations which can be seen from any vantage point on the ground or in or on any neighbouring building; and
 4. The effect on the external appearance must be judged for its materiality in relation to the building as a whole, and not by reference to a part of the building taken in isolation.
- 5.28. If the dormer is entirely new and facing the highway, it could not be considered permitted development. Condition A.3 of Class A Permitted Development states alterations to dwellinghouses is permitted by Class A subject to the following conditions-
- "the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;"*
- 5.29. This Condition has been in existence throughout the multiple variations of the General Permitted Development Order.
- 5.30. It is unlikely any of the examples hereby cited would be immune from enforcement. In this context, it provides context to show that LB Camden are inconsistent in the application of its enforcement and clearly has less regard for other comparable uPVC windows.

- 5.31. In this part of the Mansfield Conservation Area, there are numerous dormers featuring poorly maintained windows at Estelle Road resulting to a negative impact of the appearance of the buildings. Estelle Road does not benefit of uniformity on the front roof extensions with the dormer windows being different in both scale and design (see **Appendix 4**).
- 5.32. At the same time, many properties were found to have uPVC windows on the surrounding area (see **Appendix 5**)
- 5.33. It must also be highlighted that while the LPA is trying to preserve the 'originality' of timber framed windows to the area, approved an application for their total replacement at 45-61 Estelle Road:
- Ref: 2010/1071/P – Certificate of Lawfulness (proposed) was issued on 5th May 2010 for: *“Replacement of existing timber framed windows and doors on all elevations to block of flats (Class C3)”*.
- 5.34. The proposal was for the replacement of all timber framed windows and doors with aluminium framed, double glazed windows and doors. Although the proposed material was different to the existing with different frame section size, the change in material was regarded de minimis and that it did not constitute development. At the same time the proposed replacement of the existing single glazed windows and doors with double glazed windows and doors would not materially affect the appearance of the building and therefore was not considered as development.
- 5.35. This is an odd decision as the material is different in the same way uPVC is. It again highlights the inconsistency of decision making by LB Camden.

6. Conclusions

- 6.1. This statement sets out the ground (a) justification for retaining the replacement of the non-original windows with new ones of a higher quality. The areas of disagreement are desired by the appellant to improve the living conditions of the loft space while not compromising the overall character and appearance of the host building and the Conservation Area.
- 6.2. The arguments outlined in this appeal statement conclude that the material considerations of functionality and higher quality window versus the fallback of a poorly designed window (EN requirement 1) outweigh the aspirational ambitions (EN requirement 2).
- 6.3. There are many examples of uPVC windows in the Conservation Area which were capable of control by the LPA.
- 6.4. Set against the context of the fallback window design and the local area uPVC disruption, the impact versus the existing windows does not have a material impact on the conservation area and appeal should therefore be allowed.
- 6.5. Whilst the proposed replacement window cannot be said to be of traditional type because of the modern characteristics of the one it seeks to replace, it would not result in any material harm to the character or special architectural interest of the building. It would also be of a more traditional format compared to the clumsy original design.
- 6.6. It is clear to therefore that the desirability of preserving the special architectural interest of the building fully anticipated by the Act would be fully achieved through this proposal. Such an outcome would also accord with the NPPF. For the same reasons the proposals would also preserve the character and appearance of the conservation area, so according with section 72 (1) of the Act.

7. Ground (f)

Paragraph 5 sets out Requirement 2)

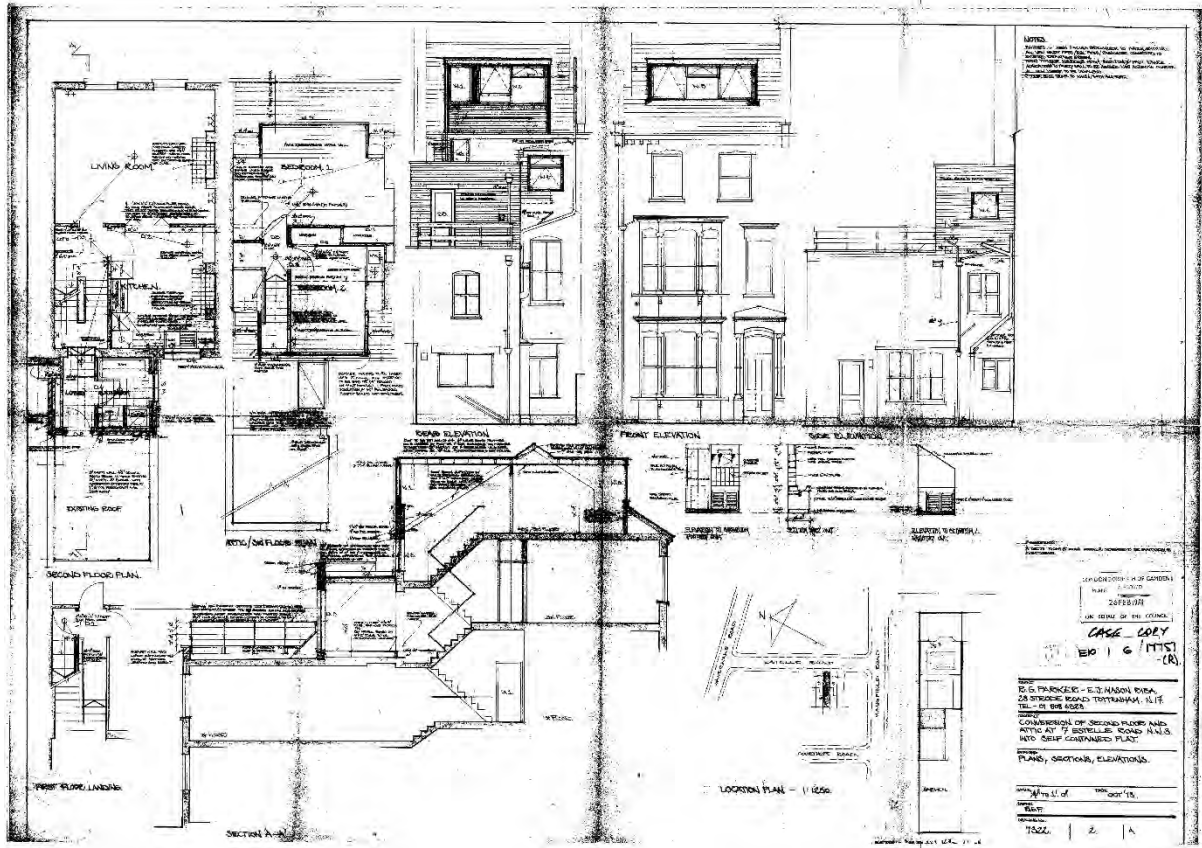
“Remove the uPVC framed windows and install timber framed single glazed sash opening windows.”

The requirement for single glazed windows is excessive. There are perfectly adequate manufacturers of double-glazed windows which offer much greater thermal insulation features.

Appendix 7 highlights an example of an appeal whereby a double-glazed wooden sash design was allowed thus proving it is unacceptable for the LPA to demand it has to be single glazed without reasoned justification.

Appendix 1

Planning Ref: 17751 – Plans



Appendix 2

Non-original dormers on Estelle Road

15 Estelle Road – Ref: 5638 – Conditional Permission was granted on 22nd August 1968 for: *“Alterations to and the conversion of 15 Estelle Road, Camden to form self-contained flats on the ground floor and first floor ?? self-contained maisonette on the second and attic floors, and the formation of two dormer windows”*.

36 Estelle Road – Ref: 9910 – Permission was granted on 14th January 1971 for: *“Formation of a dormer window on front elevation at 36, Estelle Road, Camden”*.

1 Estelle Road – Ref: 11445 – Conditional Permission was granted on 11th November 1971 for: *“Conversion of 1, Estelle Road N.W.3. into 5 self-contained flats, including new kitchen/bathroom extensions and new front and rear dormer windows”*.

16 Estelle Road – Ref: 13499 – Permission was granted on 14th June 1972 for: *“Conversion of existing dwelling at 16, Estelle Road, N.W.3. into 3 self-contained units incorporating new front and rear dormer windows”*.

3 Estelle Road – Ref: E10/1/5/16621 – Conditional Permission was granted on 23rd August 1973 for: *“Conversion of 3 Estelle Road, NW3 into 2 self-contained flats and 1 maisonette, the addition of single storey extension at the rear of the ground floor and formation of a new dormer window at the rear”*.

22 Estelle Road - Ref: 20099 – Conditional Permission was granted on 19th April 1975 for: *“Change of use to a self-contained flat and a self-contained maisonette including works of conversion, and the construction of a front dormer window”*.

11 Estelle Road – Ref: 8803691 - Permission was granted on 24th November 1988 for: *“Change of use to form two self-contained flats and a self-contained maisonette including works of conversion the erection of a single-storey rear extension the formation of a roof*

terrace at rear second floor level and the installation of dormer windows in the front and rear roof as shown on drawing nos. 0003/1 2. revised on 31st May 1988”.

41 Estelle Road – Ref: 8804206 – Permission was granted on 14th February 1989 for: *“Change of use of second and third floors into self- contained maisonette including construction of dormer roof extension to the front and rear as shown on un-numbered plans dated July 1988 and Jan 1989 as revised on 16.01.89”.*

27 Estelle Road – Ref: 2005/2729/P – Permission was granted on 26th August 2005 for: *“Loss of original hipped roof form of main roof to provide front and rear dormer windows, including installation of rooflights; and alterations to rear roof at second floor level to provide roof terrace”.*

14 Estelle Road – Ref 2007/1905/P – Permission was granted on 12th June 2007 for: *“Installation of a front and rear dormer window and erection of a single storey rear extension to the dwelling house”.*

28 Estelle Road – Ref 2007/5566/P – Permission was granted on 15th January 2008 for: *“Erection of front and rear dormers and erection of 2nd floor rear extension to provide additional accommodation for dwellinghouse, and installation of balustrade around 2nd floor flat roof to create a roof terrace”.*

Appendix 3

7 Estelle Road – Pre-existing



7 Estelle Road – Existing



Appendix 4

Dormers of different size and design to the area

5 Estelle Road



13 Estelle Road



26 Estelle Road



Appendix 5

Examples of uPVC windows to the area

Courthope Road















Estelle Road







Roderick Road







Rona Road













Savernake Road









Appendix 6



Appeal Decision

Site visit made on 14 October 2013

by Mrs A L Fairclough MA BSc(Hons) LLB(Hons) PGDipLP(Bar) IHBC MRTPI

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

Decision date: 18 November 2013

Appeal Ref: APP/T2350/E/13/2196242

Hodder Bank, Hodder Court, Knowles Brow, Stonyhurst, Lancashire BB7 9PP

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Darren Turner against the decision of Ribble Valley Borough Council.
 - The application Ref: 3/2012/0792, dated 3 September 2012, was refused by notice dated 12 October 2012.
 - The works proposed are "the replacement of a wood front door and two side panels with a UPVC front door and side panels. UPVC material to be an antique wood grain effect i.e. the same as the other windows and doors at the property".
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Decision

1. The appeal is allowed and listed building consent is granted for the replacement of a wood front door and two side panels with a UPVC front door and side panels. UPVC material to be an antique wood grain effect i.e. the same as the other windows and doors at the property at Hodder Bank, Hodder Court, Knowles Brow, Stonyhurst, Lancashire BB7 9PP in accordance with the terms of the application, Ref: 3/2012/0792, dated 3 September 2012, subject to the following conditions:
 - 1) The works hereby authorised shall begin not later than 3 years from the date of this consent.
 - 2) The works hereby permitted shall be carried out in accordance with the submitted plans and photographs dated 3 September 2012.
 - 3) Notwithstanding condition 2 no works shall take place until details of the proposed door have been submitted to and approved writing by the local planning authority, which shall include full details of the colour and finish of the door, sections of the frame and details of the glazing and ironmongery. The works shall be carried out in accordance with the approved details.

Background and Main Issue

2. Hodder Bank is a relatively modern rear wing of a larger building which together with Hodder Court, the Old House, Hurst Bank and Hodder Place make up a grade II Listed Building known as Hodder Place in the Statutory List of Buildings of Special Architectural or Historic Interest. The building was formerly a house, of late C18th origins with early and late C19th and early C20th extensions, and then it became the preparatory school for Stonyhurst

College. I understand that it became listed in 1983. The Council states that the building was listed around the time of its conversion to houses and flats. However, the appellants state that it was listed after the buildings conversion. I have no conclusive evidence when the building was converted. Nonetheless the building is listed building and I am required to assess the impact of the proposed works on the special architectural and historic interest of the listed building.

3. The Council refers to the proposal having an impact on the character, significance and setting of the listed building. In this case the works comprise the replacement of an entrance door. Thus what is proposed here is an alteration to a listed building, not development in its setting. On this basis the main issue is the effect of the proposed replacement door on the special architectural and historic interest (significance) of the listed building.

Reasons

4. Hodder Bank, a 3-storey house, forms part of the listed building and is located at the rear. It was built around 1927. I understand from the submitted evidence that it was originally part of the infirmary attached to the preparatory school. It is of modern construction and appearance with a rendered finish. The late 20th century conversion was undertaken when the building was in a derelict state and the evidence submitted indicates that parts of the building were demolished to accommodate the new residential use.
5. The proposed works comprise the replacement of an existing modern timber door at the main entrance. This is a modern off-the-peg door. The proposed door would be similar to the existing door in terms of its proportions and finish in that it would have a wood grain effect and it would have a central doorway and a non opening side window on each side. The replacement door would be a simple modern design, which would be an improvement over the clumsy modern design of the existing timber door. However, the proposed door would be made in UPVC with a UPVC frame and side windows.
6. The 19 windows and 2 glazed doors on the front and side elevations of the appeal property are all finished in wood effect UPVC. Consent was granted for these in 2006¹. The proposed door would be in a similar colour and finish to these so would create homogeneity in the appeal property. In addition there is a great variety in the finish, material and design of the other windows within the apartments/other houses in the listed building. Many of these are also UPVC finished in wood effect or white.
7. Given the location in a modern extension at the back of the listed building when combined with the variety of window materials within the other modern rear extensions of the listed building and the fact there is a large projecting first floor balcony immediately above the entrance, which casts shadow over the entrance area, the type of material would not easily discernible from the public footpath nearby especially in the context of the simple fenestration in a similar finish and design.
8. Overall whilst UPVC material is not normally favoured in heritage assets, it would not harm the significance of this heritage asset in this location.

¹ Application Ref: 3/2006/0278

Conditions

9. In addition to the time limit condition, the Council has suggested a condition relating to the specification of the doorway in terms of materials and appearance. I consider that such a condition is reasonable and necessary to ensure that the character and significance of the listed building is safeguarded. However, in the interest of precision I will alter the wording to include details and colour of finish and sections of the frames so that the works will reflect the existing UPVC windows and doors at the appeal property.

Conclusion

10. Therefore, I conclude that the proposed works would not harm the character or significance of the heritage asset. For the reason given above and having regard to all matters raised the appeal is allowed.

Mrs A Fairclough

Inspector

Appendix 7

Appeal Decision

Site visit made on 21 January 2014

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 10 February 2014

Appeal Ref: APP/A5840/E/13/2204689

44 West Square, London SE11 4SP

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mrs Gita Brochard against the decision of the Council of the London Borough of Southwark.
 - The application Ref 13/AP/2016, dated 21 June 2013, was refused by notice dated 15 August 2013.
 - The works proposed are to replace non-original sash windows with new sash windows with slimline double glazed panes, matching the traditional period profiles and sections and putty glazed.
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Decision

1. I allow the appeal and grant listed building consent to replace non-original sash windows with new sash windows with slimline double glazed panes, matching the traditional period profiles and sections and putty glazed at 44 West Square, London SE11 4SP in accordance with the terms of the application Ref 13/AP/2016, dated 21 June 2013 and the plans submitted with it subject to the following conditions:
 - 1) The works hereby authorised shall begin not later than three years from the date of this consent.
 - 2) The outer pane glazing shall be in 'restoration glass' only and that shall be retained thereafter and any breakages re-glazed as such.
 - 3) All replaced sashes are to be made and installed as shown on the generic detail 122/P/12 whether or not presently hung with cords and weights.

Procedural Matters

2. The appellant had referred in their written representation to a sample being available for the site inspection. In the event that was a complete sash with glazing, although not the type of glass proposed, and it had been put within the boxes of an existing window opening, in place of a previous sash. It is understood that the previous sash was retained for reinstatement after the inspection. Subsequent to the site inspection the Council wrote saying that this represented unauthorised works to a listed building, and was in any event new evidence. On the former, this is for the Council to deal with, but on the latter, it is apparent that a sample had been offered to the Council to view, and that offer had not been taken up, as the Council were aware of the glazing material and maintained their objection to it. Nevertheless, to avoid prejudice to either

case, the Council were permitted to comment further, on the sample seen, with the appellant having the final word on the matter.

Reasons

3. The building is, with its neighbours, listed Grade II and is within the West Square Conservation Area and the main issue is the effect of the works on the historic or architectural interest of the listed buildings and their setting.
4. The Council has cited the London Plan Policy 7.8 on heritage, Local Plan Strategic Policy 12 on design and conservation, and saved Local Plan Policies 3.15 on the conservation of the historic environment, 3.16 regarding conservation areas and 3.17 on listed buildings. Whilst Section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply to applications and appeals made under the Planning (Listed Buildings and Conservation Areas) Act 1990, these policies are compatible with the statutory tests in Sections 16(2) and 72(1) of the latter Act, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses and to preserving or enhancing the character or appearance of the conservation area. Section 12 of the National Planning Policy Framework sets out requirements with regard to both forms of heritage asset.
5. It has been the case that replacement glazing within existing sashes has been found incompatible with the preservation of those sashes as historic items, that the use of single units with applied glazing bars has failed to replicate the varied reflections to be found in small-pane glazing, and that the wide spacer, often in bright metal, has been visible and found to provide a double reflection, and thus detract from the interest of the building. However, none of these failings can be said to be an effect of the present proposal and these observations are based on a view of both the premises at 32 Gloucester Circus, Greenwich, referred to by the appellant, and the appeal premises where the single sash had been put in place at the time of the site inspection as referred to earlier.
6. The sashes seen at the premises are mainly modern replacements with the moulding running past the cross members; this is not a correct construction and the proposed new sashes would remedy this. As a result the replacement, whether the existing ones are time-expired or not, is justified and can be detailed to accept the proposed glazing units. In fact there is sign of previous rot caused by condensation, albeit carefully repaired. Sashes in the lower ground floor front do not have cords or weights although boxes are in place, and these features, secured by condition, would be a benefit.
7. The proposal is to retain the glazing bar pattern with individual units to give a varied reflection referred above, and to use restoration glass to more nearly replicate the 'reamy' light pattern of older material. This latter was not a feature of the specimen unit seen at the site inspection, nor is it common on this building, but is discernible in other windows in the terrace and should be secured by condition as a benefit. There would however be a limited reduction in the visible bar moulding depth and this will need to be weighed in the overall balance.
8. The sealed units themselves have a limited overall thickness and a narrow gap with the two panes separated by a dark spacer. It is possible to distinguish

- this in a very acute angle of view, and with some difficulty. In views of the elevation of the building and as part of the group the difference would be hardly distinguishable. The alternative of secondary glazing has advantages of being removable and through not being an integral part requiring alteration of the listed building, but they do have a detrimental effect on the architectural presentation of a building and a group through multiple reflections, and the effect on the room proportions and the appreciation of architectural features and joinery is very marked and detrimental all the time that they are in place.
9. Due to the present window arrangements on this building, the effect proposed here is largely benign, but must however be classed as causing harm, as sealed units are not a truly historic form of glazing. The Framework distinguishes between substantial harm or total loss in paragraph 133, and less than substantial harm in paragraph 134. The latter applies in this case and that paragraph goes on to say that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The conservation of energy is an important consideration and aids the viable use of this listed building, avoiding condensation and the risk of rot, and ensuring the continued comfortable enjoyment of the dwelling. These considerations are of sufficient weight to justify the limited degree of harm that has been identified in the circumstances of this case, such that the requirements of paragraph 133 and the other relevant parts of the Framework are satisfied.
 10. The proposals would preserve that which is of significance in the listed building and the group, and would preserve the character and appearance of the conservation area. Hence, the proposed works accord with the tests in the 1990 Act and the aims of Development Plan policies as material considerations.
 11. Concern had been expressed as to precedent, but the requirements of the Framework paragraph 133 is particular to an individual case, as a balance of what is potentially being lost and what is being gained. In this case the loss is of incorrectly profiled replacement joinery, and the depth of moulding, while the gain is in their further replacement with correct profiles, the reinstatement of the correct hanging system and the installation of a more nearly historic form of glass, together with the more commonly found improvements to thermal performance and comfort and hence preservation of fabric.
 12. Whilst the Council indicated on the Questionnaire that conditions would be sent with the 6 week Statement, the file has a note on it that none were received. In the event, the conditions required in this case are those referred to earlier to ensure that matters to which weight has been attached are delivered. For the reasons given above it is concluded that the appeal should succeed.

S J Papworth

INSPECTOR