



Appeal Decisions

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 18 February 2021

Appeal A - Ref: APP/X5210/F/19/3240885 Flat 2, 52 Stanhope Street, London NW1 3EX

- 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 Ahmed Miah against a listed building enforcement notice issued by the Council of the London Borough of Camden.
 - The listed building enforcement notice is dated 3 October 2019.
 - The contravention of listed building control alleged in the notice is: Without listed building consent: Installation of a partition in the first floor front room.
 - The requirements of the notice are: Completely remove the modern partition in the first floor front room.
 - The period for compliance with the requirements is three months.
 - The appeal is made on the grounds set out in section 39(1)(g) and (h) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Appeal B - Ref: APP/X5210/Y/19/3240886 Flat 2, 52 Stanhope Street, London NW1 3EX

- 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 Ahmed Miah against the decision of the Council of the London Borough of Camden.
 - The application Ref 2019/2983/L, dated 10 June 2019, was refused by notice dated 11 September 2019.
 - The works proposed are described as 'Listed Building application to regularise past internal alterations, to remove recent 1st floor partition and to provide instead two coherent 1st floor front rooms to improve housing accommodation in accordance with policy.'
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Decisions

1. Appeal A is dismissed and the enforcement notice is upheld.
2. Appeal B is dismissed and listed building consent is refused.

Preliminary Matters

3. In view of the coronavirus restrictions on travel during the course of the appeal, I wrote to the main parties to ask if they would be satisfied that I consider the appeals on the basis of photographic evidence and the written evidence. The parties agreed, and helpfully submitted further photographs of the appeal site for consideration. In view of these circumstances, I did not carry out a site inspection.

4. With regard to Appeal A, although the appellant states that the notice has been complied with, the appeal has not been withdrawn. It therefore falls to be determined on the grounds stated above.

Appeal A on ground (g)

5. Ground (g) is that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out. In this case, the works comprise the insertion of a partition in the front room of the flat. The requirement is to remove the partition completely.
6. It seems to me that the requirement would achieve the aim of restoring the listed building to its previous condition, and that no lesser steps would be sufficient for this purpose. I note that the appellant's comments on ground (g) relate to the time frame for the works, which I consider more fully below under ground (h).
7. However, I am satisfied that the requirements of the notice are not excessive in this particular case, and so the appeal on ground (g) fails.

Appeal A on ground (h)

8. Ground (h) is 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.
9. The enforcement notice gave a period of three months for the requirements to be carried out. The appellant wished to carry out the work in September 2020, as this date coincided with the end of a residential tenancy, thereby avoiding any disadvantage to the occupants of the flat. Due to the timing of the appeal process, this date has now passed. Although, as noted above, it is suggested that the requirements of the notice have been carried out, the appeal has not been withdrawn.
10. It is therefore necessary to consider whether three months is reasonable. The requirements are limited to the removal of a single partition, which would not be particularly onerous or time consuming in practical terms. The appellant has alluded to no difficulty other than the inconvenience that would be caused to the tenants of the property.
11. I am therefore satisfied that the period specified in the notice is reasonable, and the appeal on ground (h) therefore fails.

Appeal B – s20 appeal

Main Issue

12. The main issue is the effect of the works on the special architectural or historic interest of 52 Stanhope Street, a grade II listed building.

Reasons

13. The appeal site at 52 Stanhope Street was previously a terraced house but has since been divided into flats. Dating from around 1804, it stands at three storeys high with a basement below. According to the list description, the second floor has been rebuilt. Externally, the property is built of yellow stock brick with features including a round arched doorway, gauged brick flat arches

above sash windows, and a first floor sill band. The attached cast-iron railings with urn finials are specifically included in the list entry. These factors contribute to the significance of the building.

14. The interior was not inspected at the time of the listing survey. However, the Council's document entitled 'Camden Planning Guidance – Design' (CPGD) confirms that the original layout of the rooms of a listed building contributes to its historic significance. In this case, the floorplans show a larger principal room at the front of the building, with two windows and a fireplace. At the back is a smaller room adjacent to the stairwell. In my experience, this appears to be a typical layout for a townhouse of this age and style, and so the historic floorplan forms an intrinsic part of the special interest of the listed building.

The previous works associated with the change of use to flats

15. As noted above, No 52 was converted from a house into two flats. No planning records exist for this change of use, and it is unclear whether alterations were made prior to the listing of the building on 14 May 1974, or afterwards. The appellant seeks consent for alterations on the ground, first and second floors that were carried out in connection with the conversion to flats where they might have been undertaken after the date of listing.
16. In support, the appellant has provided plans 1802/02, 1802/03 and 1802/04 showing ground, first and second floors as existing. However, it is not clear from the submissions what specific alterations are being applied for. Even if this could be clarified, it would be necessary to understand the condition of the building prior to the alterations taking place and it would be for the appellant to provide such detail.
17. The Council has not addressed this matter, and I note that they have only taken enforcement action against the partition on the first floor.
18. Unfortunately there is insufficient information for me to be certain of the impact of any previous alterations on the historic or architectural character of the listed building. I am therefore unable to reach a conclusion on this element of the appeal and my conclusions relate only to the first floor works.

The proposed partition to the front room on the first floor

19. It is proposed to install a new partition in almost the same location as the unauthorised partition. The new partition would run straight from a point between the two windows to the back of the room. It would be straight-jointed to the walls and trussed between the existing front and central load-bearing walls to relieve any load on the floor.
20. The insertion of the partition would divide a spacious, well-proportioned room into two long narrow rooms each served by one of the front windows. The size of the windows and the chimney breast are commensurate with the historic dimensions of the room, and its higher status within the hierarchy of interior spaces in the building. Conversely, the windows and chimney breast would look disproportionately large within the smaller rooms. The higher status of the front room would be diminished, and the loss of volume and spaciousness would detract from its contribution to the significance of the building as a whole.

21. In addition, it is proposed to form a new partition and re-positioned doorway in the kitchen at the back of the building. The kitchen is smaller than the front room, but appears to retain its historic proportions and is accessed directly from the landing area. The proposal would alter its existing roughly square shape to an L-shape that would not be in keeping with the traditional floorplan of the building.
22. Whilst the newly configured rooms might be legible in the sense of being a practical shape and size to residents, the ability to discern the historic plan form would be eroded. The works would therefore have an adverse impact on the spatial proportions of the rooms, resulting in harm to the special architectural and historic character of the listed building.
23. The appellant's case relies heavily on the assertion that the new works would be removable. Whilst that may be so, there can be no certainty as to when they would be removed. On the contrary, it seems likely that the harm to the layout would persist for an indefinite time, and certainly whilst the use as a flat continued. The disruption to the historic layout, as a result of the proposal, would harm the significance of the heritage asset, and would require robust justification. The proposals would undoubtedly bring advantages in terms of improving and increasing the residential accommodation. However, this would not justify the harm I have identified.
24. My attention has been drawn to other proposed alterations which were granted consent at Hoxton Hall and 20 Southwood Lane. However, I do not have sufficient details of those cases to be certain of the circumstances in which the proposals were found to be acceptable, which limits the weight I can afford them. In any event, each case is to be considered on its individual merits.
25. Accordingly, therefore, the proposed works conflict with the overarching statutory duty as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, which must be given considerable importance and weight, and with the National Planning Policy Framework (NPPF). In addition, the scheme would conflict with Policy D1 and D2 of the London Borough of Camden Local Plan, insofar as they jointly require development to preserve or enhance heritage assets, and with the design principles in the CPGD.
26. Although serious, the harm to the heritage asset in this case would be less than substantial, within the meaning of the term in paragraph 195 of the NPPF. Paragraph 196 requires that, where a proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal. Any improvement in terms of the occupation of the flat would be a private benefit and so would not weigh in favour of the appeal proposal. I accept that the proposals would be unlikely to be particularly noticeable from outside the building, but this would not mitigate the concerns I have highlighted above.
27. I therefore find that insufficient public benefits have been identified that would justify or outweigh the harm I have identified to the heritage asset. The scheme therefore conflicts with the NPPF, which directs, at paragraph 193, that great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Conclusion

28. For the reasons above, Appeal A is dismissed, and the enforcement notice is upheld.

29. Appeal B is also dismissed, and listed building consent for the works is refused.

Elaine Gray

INSPECTOR