



Heritage Statement

14-16 New End
Square, London

January 2023 | Project Ref 6622



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1. Statement

Introduction

1.1 This Heritage Statement has been prepared by Dr Jonathan Edis, Director of HCUK Group, on behalf of Mr A. Jacobs. It relates to the party wall of an approved roof extension at 14 New End Square, which is a modern (unlisted) building within Hampstead Conservation Area. The Statement should be read in conjunction with the Statement by Dominic McKenzie Architects (DMA) and the relevant drawings.

1.2 The author of the Statement has more than forty years of continuous employment in the heritage sector, including a decade as a conservation officer advising local planning authorities on change affecting listed buildings and conservation areas. He is a founder-director of HCUK Group, a company that specialises in change affecting the historic environment, including archaeology and landscape. He holds the degrees of BA, MA, and PhD, and he is a Member of the Chartered Institute for Archaeologists and a Member of the Institute of Historic Building Conservation. He has given expert heritage evidence at more than 150 public inquiries, and in the civil and criminal courts.

Background

1.3 The background is more fully set out in the Statement by Dominic McKenzie Architects, but the key points can be summarised as follows. Planning permission (2021/4022/P) was granted on 15 November 2021 for a mansard roof extension to 14 New End Square. Dominic McKenzie Architects were the agents, and HCUK Group supplied a Heritage Impact Assessment written by me (Jonathan Edis) following a site visit on 27 July 2021. There was subsequently a non-material amendment to the front dormer window (2022/1543/P) and approval of conditions (2022/3836/P) in which I was not involved. On 22 August 2022 listed building consent was obtained (by others - 2022/0672/L) for a mansard roof extension to 16 New End Square, which is a grade II listed building abutting the left hand party wall of 14 New End Square, the effect of which is to complete a symmetrical or near mirror-image of the previously approved mansard at 14 New End Square. My understanding is that work has begun on site, and that an Enforcement Officer

acting for the London Borough of Camden visited on 12 January 2023 and expressed concerns about the construction detail of the two leaves of the raised party wall. More specifically, there was a concern that listed building consent had not been sought or granted for works being undertaken to that part of the new wall under construction at 14 New End Square.

- 1.4** I was consulted by Dominic McKenzie Architects, and my advice was to apply for listed building consent for the works, as the most effective solution currently available.

The party wall – structural details

- 1.5** My understanding is that my client’s structural adviser placed a weight limit on the additional party wall to be constructed above the original height of 14 New End Square, so as to comply with Building Regulations. The alternative would have been to underpin the party wall, which would have been disruptive, and would (in my opinion) have required listed building consent because the works would have intruded under 16 New End Square, potentially affecting historic fabric. That is not to say that listed building consent would have been withheld. It is simply a more intrusive solution than the one that was adopted, which was to lighten the load of the wall by using alternative materials.
- 1.6** When both mansards are fully constructed, the whole party wall will be hidden from public view within the new private upper rooms of 14 and 16 New End Square, save for a small upstand, which will be formed in traditional brickwork, lapped into the external roof covering with lead flashings.
- 1.7** If, for some reason, the mansard on 16 New End Square (the listed building) is never completed, the exposed party wall of 14 New End Square would already be faced with traditional brickwork, which I understand to have been agreed, and the relevant conditions (2022/3836/P, as mentioned above) discharged.
- 1.8** My understanding is that the Enforcement Officer has two main issues, as follows:
1. The choice of lightweight material chosen to reduce the loading on the old footings, namely thermalite block.

2. The method of bonding the inner leaf of thermalite block to the currently "outer" leaf of facing brickwork, mentioned above (bearing in mind that even the "outer" leaf will also become an inner, hidden, leaf of the eventual party wall, as and when the mansard is built on 16 New End Square). Two methods of bonding are available, one involving steel ties bedded into the mortar, and the other involving internal (hidden) tothing-in.

1.9

The application drawings describe the structural elements of the party wall on 14 New End Square as "*Four inch stock brick skin*" and "*100mm thermalite shield skin (blockwork)*". The inner-facing wall of 14 New End Square will be further finished with "*ThermoShell internal wall insulation system with 7.5mm parge to internal faces of masonry walls*". There are two shared chimneys in the party wall, both of which will be raised entirely in traditional brickwork. Another chimney, belonging to 14 New End Square, will be finished externally in traditional brickwork, but will have a thermalite block component hidden internally.

Listed building consent

1.10

My position is that an application for listed building consent is (subject to an observation about a possible alternative, below) an expedient way of resolving the issue that has been raised. Nevertheless, I am surprised to learn that the works in question have become a listed building control issue at all, since they relate to that element of a new party wall being built on an unlisted building. Relevant considerations are:

1. Listed building consent has already been granted for a mansard and party wall at 16 New End Square (2022/0672/L).
2. The duties in sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, must both have been discharged by the council in granting listed building consent 2022/0672/L. Section 16(2) of the Act reads:

"In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall 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."

Section 66(1) of the Act reads:

"In considering whether to grant planning permission or permission in principle for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall 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."

3. Condition 3(c) on the grant of listed building consent (2022/0672/L) requires *"Manufacturer's specification details of all facing materials including brickwork and mortar and samples of those materials"*. It is materially similar to condition 4(b) which was applied to the grant of planning permission for the mansard on 14 New End Square, and which reads: *"Notwithstanding the details shown in the approved plans and documents, before the relevant part of the work is begun, detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority:...b) Details of brickwork and brick type"*, and which has been discharged (2022/3836/P).
4. Condition 3(c), relating to the listed building, specifies only that "facing" materials need be approved. Although condition 4(b), relating to the unlisted building at 14 New End Square, is the relatively more onerous of the two, it has the benefit of already having been discharged. No issue was made by the council, in discharging that condition, about the internal (hidden) matrix of the wall. Moreover, council officers must have been acutely aware that the new work was proximate to a listed building, and they would surely have had the exhortations of section 66(1) of the Act in mind at all times.

1.11 It seems to me that the further grant of listed building consent is not needed for the proposed works, or, if it is needed, that it has already been so fully conditioned and considered that it falls within the orbit of what has already been approved and consented. Even the works to the two chimneys shared by both properties within the party wall benefit from (1) the grant, in principle, of listed building consent 2022/0672/L, in the case of 16 New End Square, and (2) the discharge of the more onerous condition 4(b) on the grant of planning permission, in the case of 14 New End Square - which must have given rise to the discharge of the council's duty

under section 66(1) of the Act, a similar duty to that under section 16(2) of the Act relating specifically to listed building consent.

1.12 A further consideration is that the works in question, even if they are physically bonded to part of the listed building, do not appear to affect the character of the building within the context of section 7(1) of the abovementioned Act, as amended, which reads as follows:

"Subject to the following provisions of this Act, no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised under section 8."

1.13 I reiterate that, even if the works do affect the character of the building, they already appear to have been approved both in principle and in detail.

Merits of the case

1.14 In the event that the council takes the view that listed building consent is needed for the proposed works, it is my opinion that:

1. The use of thermalite block in these circumstances is acceptable. No harm will be caused to the significance of the listed building, or any other heritage asset, within the context of paragraphs 201 or 202 of the National Planning Policy Framework (NPPF), or within the context of local or regional planning policy.
2. The method of bonding the thermalite block to the outer skin of facing brickwork is primarily a technical constructional matter on which the structural and architectural advisers should be consulted. In my experience, the two available methods (steel ties or toothing-in) are equally appropriate alternatives. Neither option would affect (still less harm) the significance of the listed building.
3. The use of thermalite block to lighten the load of the additional wall is preferable to strengthening the foundations by underpinning, which would be more disruptive.

1.15 In summary, it is my view that there is no reason to withhold the grant of listed building consent – if listed building consent is needed.

Certificate of Lawfulness of Proposed Works

1.16 It is possible that the council, having read the Statements accompanying this application for listed building consent, may shortly come to the view that listed building consent is not needed. In such case, the most expedient course of action would be to confirm the position in writing, and to let the matter rest. An alternative course of action would be to indicate to my client that the present application for listed building consent could be withdrawn and instead be resubmitted as an application for a Certificate of Lawfulness of Proposed Works under section 26H of the abovementioned Act, as amended, which reads as follows:

"(1) A person who wishes to ascertain whether proposed works for the alteration or extension of a listed building in England would be lawful may make an application to the local planning authority specifying the building and describing the works.

(2) For the purposes of this section works would be lawful if they would not affect the character of the listed building as a building of special architectural or historic interest.

(3) If on an application under this section the local planning authority are provided with information satisfying them that the works described in the application would be lawful at the time of the application, they must issue a certificate to that effect; and in any other case they must refuse the application.

(4) A certificate under this section must—

(a) specify the building to which it relates;

(b) describe the works concerned;

(c) give the reasons for determining that the works would be lawful; and

(d) specify the date of issue of the certificate.

(5) Works for which a certificate is issued under this section are to be conclusively presumed to be lawful, provided that—

(a) they are carried out within 10 years beginning with the date of issue of the certificate, and

(b) the certificate is not revoked under section 26I.”

1.17 The provisions of section 26I are also relevant, but I do not recite them here.

1.18 The issue of a Certificate under section 26(H) of the Act would be an alternative way of resolving the issue.

Conclusion

1.19 In conclusion, the works to the party wall of 14 New End Square would appear not to need listed building consent, or if they do, they are already approved and consented in principle by way of the existing permissions (for listed building consent and planning permission) and have been the subject of the discharge of onerous conditions, which have involved the discharge of the council’s statutory duty in respect of listed buildings. The proposed works will not harm the significance of the listed building or any other heritage asset, and it is submitted that there are no grounds for withholding listed building consent – if it is needed at all. An alternative and potentially more expedient way of proceeding would be to indicate to the applicant that a Certificate of Lawfulness of Proposed Works might be issued instead, or better still, the return of the application for listed building consent with written confirmation that no further action is to be taken.

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18 January 2023.