
Appeal Decision

Site visit made on 11 October 2016

by Roger Catchpole DipHort BSc(hons) PhD MCIEEM

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

Decision date: 28 October 2016

Appeal Ref: APP/X5990/Y/16/3152956

Harley Street Fertility Clinic, 134 Harley Street, London W1G 7JY

- 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 Mark Fyfe against the decision of City of Westminster Council.
 - The application Ref: 16/02864/LBC, dated 30 March 2016, was refused by notice dated 1 June 2016.
 - The works proposed are to install a liquid nitrogen fill port at ground floor level in a light well at front of property, with piping from lower ground floor to ground floor.
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Decision

1. The appeal is dismissed and listed building consent is refused for installation of a liquid nitrogen fill port at ground floor level in a light well at front of property, with piping from lower ground floor to ground floor.

Preliminary Matter

2. The appellant has suggested that a conditioned consent could be granted to overcome the reason for refusal. However, the appeal process should not be used to evolve a proposal. Consequently, the suggested repositioning of the port and change of appearance should rightly be the subject of a new application.

Main Issues

3. The main issues are whether or not the proposed works would preserve a Grade II listed building, 126-150 Harley Street, and any of the features of special architectural or historic interest that it possesses and the extent to which such works would preserve or enhance the character or appearance of the Harley Street Conservation Area.

Reasons

4. The Harley Street Conservation Area (CA) is characterised by a network of terraced townhouses predominantly dating from the Georgian period. These buildings are of a consistent scale and generally occupy relatively narrow plots. There is an extensive and well preserved range of original railings and other wrought ironwork which includes decorative balconies and lamp brackets. Its quality and diversity makes a significant contribution to the character of the CA and provides an important unifying feature. The properties in and around Harley Street support a variety of uses. Despite this fact, this part of the CA nevertheless retains a strong residential character. Consequently, the

- significance of the CA, insofar as it relates to this appeal, lies in its residential, Georgian townscape and associated architectural features.
5. The appeal property is part of a group of terraced, Georgian townhouses that were built around 1820 by John White for the Portland Estate. The terrace was listed in 1969. It has a simple, channelled stucco ground floor surmounted by London stock brick and a slate roof. The appeal building has four storeys and a lower ground floor with an external access in the light well, in addition to the main entrance. As with the adjoining properties, the light well is enclosed at ground level by iron railings with tasselled, spear heads. Wrought ironwork is also a prominent feature on the first floor with a continuous, balustraded balcony extending across the frontage of the terrace. Consequently, the special interest of the listed building, insofar as it relates to this appeal, lies in the residential quality of its well-preserved façade.
 6. I observed that the filling point has already been installed. Although it is set back from the railings it has a high degree of prominence. This is due to its position above ground level and its uncompromisingly stark industrial appearance. As such, it is a highly incongruent alien feature that disrupts the façade of the listed building and undermines the residential character of the CA.
 7. I accept that the building is not in residential use and that similar filling points have been installed at other properties in the area. However, the appeal property and its environs retain a strong residential character which has been directly undermined by this stark industrial feature. Furthermore, I have no evidence before me that the other filling points are lawful and note that the presence of existing harm is not a justification for further harm.
 8. Given the above, I find that the works have failed to preserve the special interest of the listed building and the significance of the CA. I consequently give these harms considerable importance and weight in the planning balance of this appeal.
 9. Paragraph 132 of the National Planning Policy Framework 2012 (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets. Given there has been no direct harm to the historic fabric of the building, I find the harm to be less than substantial in this instance.
 10. Under such circumstances, paragraph 134 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes securing the optimal viable use of the building. The appellant is of the opinion that the works are beneficial because they allow roadside deliveries of liquid nitrogen which are necessary for medical cryopreservation purposes. I accept that this is necessary and that some public benefit is derived from the associated activities. However, this benefit does not outweigh the harm that has been done and I am not satisfied that this is the only suitable location for an accessible fill port. Indeed, the willingness of the appellant to move the existing port indicates the existence of viable alternatives.
 11. Whilst the harm to the significance of the heritage assets is less than substantial, I have no evidence before me to suggest that the public benefit

outweighs that harm. I therefore conclude that the works have failed to preserve the special architectural and historic interest of the Grade II listed building. They have also failed to preserve or enhance the character or appearance of the Harley Street Conservation Area. This conflicts with paragraph 134 of the Framework and local policies, insofar as they seek to implement the Act.

Conclusion

12. For the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

Roger Catchpole

INSPECTOR