
Appeal Decisions

Site visit made on 18 October 2016

by J Flack BA Solicitor

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

Decision date: 01 November 2016

Appeal A: APP/F5540/W/16/3151055 **35 Bath Road, London W4 1LJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ben Burdsall against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00084/35/P4, dated 11 January 2016, was refused by notice dated 1 March 2016.
 - The development proposed is installation of conservation-style attic roof light to rear roof slope.
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Appeal B: APP/F5540/Y/16/3151057 **35 Bath Road, London W4 1LJ**

- 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 Ben Burdsall against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00084/35/L4, dated 11 January 2016, was refused by notice dated 29 February 2016.
 - The works proposed are installation of conservation-style attic roof light to rear roof slope.
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Decisions

1. **Appeal A:** the appeal is dismissed.
2. **Appeal B:** the appeal is dismissed.

Applications for costs

3. Applications for costs were made by Mr Ben Burdsall against the Council of the London Borough of Hounslow. These applications are the subject of a separate Decision.

Main Issues

The main issues in this case are a) whether the proposed development and works would preserve the Grade II listed building known as 33 and 35 Bath Road or any features of special architectural or historic interest that it possesses and b) whether or not they would preserve the character or appearance of the Bedford Park Conservation Area.

Reasons

4. The listed building is a pair of houses dating from the late C19. They are part of the Bedford Park estate, which now forms the Bedford Park conservation area. The houses within the estate have a distinctive and shared design language which is a notable exemplar of the Queen Anne style, but there are variations in scale, complexity of form and detailing. In this context the subject houses have a relatively simple form and modest appearance within the estate; these qualities do not render them any less appealing, but do in my view render them more sensitive to alteration.
5. The listing entry is very brief, and makes no mention of the roof. However, the entry is merely a description and is not to be regarded as a statement of the reasons for designation. In this case, the roof was clearly designed to provide habitable rooms within the roof space and its consequent height and large scale make it a prominent feature. Large dormer windows to the lower parts of the roof slopes, complementing windows at this level in the flank wall, were a feature of the original design. The modifications that the Council has permitted to the rear dormer at No 35 are, in this context, not harmful to the listed building.
6. However, there is no suggestion that roof lights were an original design feature. The large and plain expanse of the rear upper roof slope at the appeal house, complemented by tile hanging on the flank elevation, forms a distinct and important element of the simple pitched roof form and makes a materially positive contribution to the special interest of the listed building.
7. The proposed roof light would be of a "conservation" type, and its materials and design could be further controlled by condition. Nevertheless, it would occupy a significant proportion of the height of the upper roof slope, and in my view it would be a substantive and discordant intervention. It would harm the integrity of the upper roof slope and materially diminish the contribution which this makes to the listed building.
8. The appellant draws attention to a roof light positioned in the rear roof slope of the No 33. However this roof light does not benefit from planning permission or listed building consent. It cannot be therefore be considered to have been found acceptable under those regimes. Nor is it lawful, as there is no time limit for the issue of a listed building enforcement notice, and whilst the Council has not taken enforcement action to date, it appears that it was not previously aware of this roof light. In any case, it does not set a positive precedent, being instead a jarring addition which should not be compounded by a further example.
9. The appellant has also put forward examples of various roof lights which have been installed in nearby houses, together with other consented schemes of works. However, many of the cited roof lights do not benefit from planning permission or listed building consent. As to those which do, and the associated works referred to, a precautionary approach is appropriate given that the qualities, circumstances, and history of every listed building are unique. In some of the cited cases the context was clearly materially different from the appeal proposal: the roof lights at 6 Priory Gardens would have provided light to a rather dark bedroom, the roof light at 3 Priory Avenue was a replacement, and the roof lights at 37 Bath Road are to a non-original single storey rear extension.

10. The remaining examples do not appear to possess such obvious and clear distinctions, but the Council draws attention to various differences. No plans are before me and the information I do have is insufficiently comprehensive to convince me that the size, location and context of the relevant roof lights were substantially similar to the appeal proposal. There is also no indication that the Council has permitted roof lights which would serve a hobbyist room or non-habitable space of an equivalent nature. Moreover, the focus of any assessment of works to a listed building is the effect on the subject building, and I have here identified material harm. Whilst therefore I have noted the roof lights and other works cited by the appellant, I am not persuaded that they amount to a justification for the appeal proposal.
11. The appellant also refers to a high court decision¹, but I do not consider it directly analogous. The case did not involve listed buildings, and it concerned replacement upvc windows to a house in a conservation area where the Inspector found that a very high proportion of the properties had installed such windows: the evidence before me does not demonstrate that a very high proportion of the houses in this conservation area have roof lights to the extent that they form part of the area's character.
12. For the reasons given above, I conclude that the proposed works and development would fail to preserve the special architectural interest of the listed building, the desirability of which is a matter to which I am required to have special regard by sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). For the same reasons, the proposal would also diminish the contribution that the listed building makes to the conservation area, and its intrusive presence would be apparent in views from Addison Grove, despite that it would be partially obscured by a chimney stack. I therefore conclude that the proposed works and development would fail to preserve the character and appearance of the conservation area, the desirability of which is a matter to which special attention must be paid pursuant to section 72 of the Act.
13. For the purposes of the National Planning Policy Framework, the listed building and the conservation area are designated heritage assets. Within their overall context, I consider that the proposal would lead to less than substantial harm to their significance. Paragraph 134 of the Framework requires that such harm be weighed against the public benefits of the proposal.
14. The roof light would provide natural light and ventilation to a small loft area with very limited head height. It is not a habitable room, nor could it be used as such given its cramped confines, very limited head height and that it is accessed by a retractable ladder. It is at present used by the appellant as an occasional hobbyist room. The light provided by the roof light would not be sufficient to render artificial lighting unnecessary, and I am not convinced by the evidence before me that ventilation could not adequately be secured by other less intrusive means. The appellant points to energy savings which would result from the use of a roof light, but these would be very minor. In any case, the justification for the roof light centres on the particular use which the appellant makes of the loft space. The very limited benefits of the proposal would thus be essentially private in nature. The roof light would be a permanent alteration to the listed building, and in this context the evidence

¹ R v Brown, ex parte Waveney District Council [2002] EWHC 2397 Admin

does not demonstrate that the beneficial use of No 35 as a dwelling would be threatened if the appeal proposal does not succeed.

15. The balancing exercise required by the Framework is to be undertaken in the context of the statutory duties mentioned above. These require that considerable importance and weight are to be given to the desirability of preserving the listed building and the conservation area, and paragraph 132 of the Framework requires that great weight be apportioned to the conservation of designated heritage assets. In that context, I conclude that the public benefits of the proposal do not, by some margin, outweigh the material harm which would be caused to the designated heritage assets in this case. It follows that the proposal would be contrary to the historic environment policies of the Framework. The proposal would be also be contrary to Policy CC4 of the Local Plan², which aims to conserve the significance of the borough's heritage assets, and it would be contrary to the similar objective of Policy CC1 that new development conserves heritage, and to Policy CC2's objective of retaining and promoting high quality urban design and architecture. As these are the policies identified as relevant to the proposal by the evidence before me, I further conclude that the proposal would not be in accordance with the development plan.
16. I have taken into account all other matters raised in the evidence before me, but nothing arises which disturbs my conclusions on the main issues. The appeals are therefore dismissed.

J Flack

INSPECTOR

² London Borough of Hounslow Local Plan 2015 - 2030