
Appeal Decision

Site visit made on 28 November 2016

by Peter Rose BA MRTPI DMS MCMi

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

Decision date: 11th January 2017

Appeal Ref: APP/E5900/Y/16/3155709
42 Arnold Road, London E3 4NU

- 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 Daniel Pitt against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref: PA/16/01299, dated 14 May 2016, was refused by notice dated 28 July 2016.
 - The works proposed are demolition of rear lean-to and erection of new single storey Orangery extension.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Whilst an application was made to the local planning authority for both planning permission and listed building consent, this appeal relates to listed building consent only.
3. The appellant draws attention to the relevant statutory List Entry as being headed 'Area Railings' rather than in reference to the associated dwellings. Even so, the accompanying narrative clearly relates to Nos 35-49 Arnold Road E3 (consecutive). References to the properties as listed buildings are also made in the Council's Tomlins Grove Conservation Area Character Appraisal and Management Guidelines 2007 (the Guidelines) and in accompanying documentation. I agree that the presentation of the List Entry is not as clear as it might be, but have no doubt as to the status of the appeal site as part of a listed building as set out in the List Entry narrative.
4. The Council's decision notice refers to Policies 7.4 and 7.8 of the London Plan, 2011. That particular version of the London Plan has been updated by the Revised Early Minor Alterations published in October 2013, the Further Alterations published in March 2015, and by the Minor Alterations published in March 2016. I consider the appeal on the basis of the policies as subsumed and set out in the current London Plan March 2016 (the London Plan).

Main Issues

5. The appeal site forms part of a Grade II listed building and lies within the Tomlins Grove Conservation Area. The main issues to be considered are therefore:
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a) the effect of the proposed works upon the special architectural and historic interest of the listed building and, in particular, whether the scheme would preserve the listed building or its setting or any features of special architectural or historic interest which it possesses, and;

b) the effect of the proposed scheme upon the character and appearance of the Tomlins Grove Conservation Area and, in particular, whether the scheme would preserve or enhance the character or appearance of the Conservation Area.

Reasons

Listed building

6. The appeal site comprises a large mid-terrace dwelling forming part of a Grade II listed building at Nos 35-49 Arnold Road. The significance of the appeal site as part of a building of special architectural and historic interest relates to its contribution towards a resplendent early nineteenth century terrace of London houses. The listed building is a distinct and impressive entity of similar dwellings outwardly displaying a wealth of architectural and historic features. Dwellings are characterised by two main storeys, plus lower basement levels with front lightwells, and attic dormers. Other external features include use of stock bricks, parapets and slate mansard roofs. The building is also enclosed to the front by iron area railings with finials.
7. Whilst the impressive frontage is a very important contribution to the significance of the listed building, the rear of the terrace is an integral part of the asset and reflects a similar distinct nineteenth century local design. The rear is less ornate in its detailing, but reflects original form and features in-keeping with the designated status. The appeal site, in common with other dwellings in the terrace, contains an external staircase on one side of the rear elevation leading into the garden. On the other side is a small out-building with pitched roof, parapet and original stock brick finish complementary in design to the main dwelling, albeit that the structure is now largely painted. Similar out-buildings and staircases are characteristic of the other dwellings. Whilst some minor alterations have been made to the appeal site and to the structures at other dwellings, this broad overall pattern of staircases and out-buildings is repeated across the rear of the terrace and so contributes to a distinctive and harmonious historic character and to a relatively uniform appearance. In turn, I find this architectural and historic unity to the rear contributes to the terrace's overall significance.
8. The proposal would remove the out-building and introduce a single-storey orangery extension between the staircase and other side boundary.
9. No other similar extensions appear to have been added to the terrace, and nor do I have evidence of the historic presence of other comparable structures. I therefore find the scheme, by reason of its design, scale and exposure, would appear intrusive and as an unsympathetic, discordant feature. It would thereby undermine the original form and style of the rear of the terrace which have been broadly retained.
10. I acknowledge attempts have been made to introduce a quality, albeit highly contrasting, addition. Nonetheless, the reality is that an extension as proposed would not be in-keeping with the architectural and historic form of the listed

building and would appear highly conspicuous. The works would be such that they would appear neither subservient to, nor consistent with, the historic character and architectural form of the host property and, in turn, of the wider listed building.

11. I do not accept that the listing details imply an effort solely to preserve the front elevation of the listed building, or that the rear elevation is of little significance. The front elevation is undoubtedly of particular importance, but the rear still contributes to the asset's significance for the reasons described. The appellant also suggests the description in the Guidelines of a flat back rear without recognition of the out-buildings is further evidence of the lesser importance of those structures. Again, I do not dispute the secondary importance of the out-buildings relative to some other matters, but I am clear they remain integral parts of the heritage asset and make for a significant collective feature across the terrace.
12. In summary, the scheme would seriously undermine the architectural uniformity of the rear of the listed building, and the resultant relationship would harm the heritage significance of the asset by reducing its visual integrity, by detracting from its historic form and character, and by incurring associated loss of historic fabric.
13. Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) places a duty upon the decision-maker, in considering applications for listed building consent, to have special regard to the desirability of preserving the listed building. There is a clear presumption in this duty that preservation is desirable, and I find that the special interest of the Grade II listed building in this instance would be harmed by the proposed scheme such that it would fail to preserve the significance of this designated asset. I find the degree of harm relative to the overall listed building to be significant but less than substantial. This accords with the government's Planning Practice Guidance which advises that works which are moderate or minor in scale are likely to cause less than substantial harm. Substantial harm is seen as a high test proportionate to the degree of harm to the asset's overall significance.
14. The National Planning Policy Framework (the Framework) similarly makes a distinction between development causing substantial harm to the significance of a designated heritage asset, such as a listed building or Conservation Area, and development that would lead to less than substantial harm. The Framework requires less than substantial harm to be weighed against the possible public benefits of the scheme. Whilst the scheme would provide a significant enhancement of the existing internal accommodation through provision of an extension to the dining/kitchen area, I have found no overall public benefits sufficient to outweigh the harm which would be incurred to the listed building.
15. I therefore conclude that the proposed works would be harmful to the special architectural and historic interest of Nos 35-49 Arnold Road, a Grade II listed building. Accordingly, to the extent that the development plan is a material consideration, the scheme would be contrary to Policy SP10 of the Core Strategy 2025 Development Plan Document Adopted September 2010 (the Core Strategy), contrary to Policies DM24 and DM27 of the Managing Development Document Development Plan Document Adopted April 2013 (the DPD), and contrary to Policies 7.4 and 7.8 of the London Plan.

16. Policy SP10 seeks to protect and enhance statutory listed buildings and Conservation Areas. Policy DM24 states that development will be required to be designed to the highest quality standards, including design that is sensitive to and enhances the local character and setting of the development. Policy DM27 requires development to protect and enhance the borough's heritage assets, their setting and their significance. A proposal will only be approved where it does not result in an adverse impact on the character, fabric or identity of the heritage asset or setting, is appropriate in terms of design, scale, form, detailing and materials in its local context, and enhances or better reveals the significance of the asset or its setting. Policy 7.4 requires development to provide high quality design and which is informed by the surrounding historic environment. Policy 7.8 requires development affecting historic assets to conserve their significance by being sympathetic to their form, scale, materials and architectural detail.
17. I consider these development plan policies to be broadly consistent with the Framework which recognises that heritage assets are an irreplaceable resource and requires them to be conserved in a manner appropriate to their significance. The Framework further states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Conservation Area

18. Section 72 of the Act places a duty upon the decision-maker in considering applications for, amongst other things, listed building consent, to pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas.
19. The Tomlins Grove Conservation Area is an area of rich historic and architectural heritage, significantly characteristic of this part of nineteenth century London, and this is further detailed in the Guidelines. The document sets out how the local area benefits from a number of distinguished historic houses and terraces, including Arnold Road.
20. The appeal site forms an integral part of a listed building and the characteristic features described above, in turn, similarly make important contributions to the highly impressive and historically significant character and appearance of the wider Conservation Area.
21. The Guidelines identify the flat back and absence of rear extensions as a feature of particular note to properties in Arnold Road, albeit not referring to the presence of original out-buildings and external staircases. The Guidelines also state that the uniformity of the elevations contributes to the character of these terraces and identify the Arnold Road terrace as one of a number of collective townscape merit. From the evidence submitted and my observations on site, I concur with that assessment.
22. Although not as exposed to public views as the main front elevation, the harmonious composition and rhythm of the rear of the listed building contribute significantly to the local townscape, and thereby to this part of the Conservation Area, and the rear is particularly evident as such in views from other neighbouring properties.

23. The scheme would harm the listed building as described and, similarly, in turn, the character and appearance of the wider Tomlins Grove Conservation Area. Views of the Conservation Area would be significantly undermined by the proposed works, and the scheme would thus fail to preserve or enhance its character or appearance.
24. As with the impact upon the listed building, my assessment of the effect of the scheme upon the Conservation Area as a designated heritage asset is that it would similarly fail to accord with the same policy expectations of the Framework, and there would be no overall public benefits sufficient to outweigh the less than substantial harm likely to arise to the Conservation Area. The Framework also recognises the importance of local distinctiveness. These considerations all contribute towards the Framework's various expectations of sustainable development.
25. I therefore conclude that the proposed scheme would be harmful to the character and appearance of the Conservation Area. Accordingly, the development would also be contrary in that regard to Policy SP10 of the Core Strategy, contrary to Policies DM24 and DM27 of the DPD, and contrary to Policies 7.4 and 7.8 of the London Plan.

Other Matters

26. I note that the proposal would extend the open plan layout to the lower ground floor which appears to contrast with the more self-contained historic plan form of the building. This has not been raised as a matter of objection and is not a consideration of my decision.
27. The appellant refers to alleged inconsistency with other planning decisions by the Council. I appreciate the importance of consistency in terms of both fairness and expectation, but each proposal is ultimately to be determined with reference to its own specific merits, and each decision will be necessarily fact and context sensitive. The factors leading to my conclusion in this instance are clear, and I have little reason to find them to be negated by the particular circumstances of other sites and developments elsewhere.
28. I have considered all other matters raised, and noted the external condition of the out-building, but I find nothing of sufficient weight, individually or cumulatively, to outweigh the harms identified.

Conclusion

29. At the heart of the Framework is a presumption in favour of sustainable development. For decision-making, this means approving proposals that accord with the development plan without delay. Whilst only a material consideration, I find the scheme would not meet with that expectation. Moreover, it would not accord with the specific duties to have special regard to the desirability of preserving the listed building and Conservation Area under sections 16 and 72 of the Act, and these are particular matters to which I am required to attach considerable importance and weight.
30. For the above reasons, the appeal is dismissed.

Peter Rose
INSPECTOR