
Appeal Decisions

Site visit made on 7 October 2019

by Paul Griffiths BSc(Hons) BArch IHBC

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

Decision date: 16th October 2019

Appeal Ref: APP/A5840/Y/19/3226450
45 West Square, London SE11 4SP

- 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 Netherton Property Investments Ltd against the decision of the Council of the London Borough of Southwark.
 - The application Ref.18/AP/3037, dated 17 September 2018, was refused by notice dated 4 January 2019.
 - The works proposed are the replacement of windows to front, side and rear elevations of Grade 2 (*sic*) listed end-terrace dwelling house with new purpose-made painted timber sash windows with historic detailing.
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Preliminary Matters

1. As set out in the material submitted by the parties, the Council and the appellant agreed at a meeting on site, before the application was determined, that the windows in the side elevation of No.45 at ground and first floor level are very likely to be original. Based on observations at the site visit, I agree with that conclusion. The upshot is that as far as the appellant is concerned, the replacement of these two windows was withdrawn from the original application. However, the Council says that no revised drawings were received in confirmation and they determined the application as originally submitted. Given that it is within my remit to make a split decision, no-one would be prejudiced if I determine the appeal on the same basis that the Council determined the original application.

Decision

2. The appeal is dismissed.

Main Issue

3. The terrace formed by Nos.29-45 West Square, which dates from 1794, along with their attached railings, make up a Grade II listed building. The terrace lies within the West Square Conservation Area. Against that background, the main issue to be considered is the effect of the works proposed on the special architectural and historic interest of the listed building and, linked to that, whether they would preserve or enhance the character or appearance of the conservation area.

Reasons

4. There are several aspects of the cases advanced that require careful analysis. The first relates to the age of No.45 and the debate about whether the building

is Victorian or Georgian. The historic maps suggest that No.45 was not part of the original 1794 terrace but might well have been in place by 1813. That appears to be borne out by information gleaned by the appellant from the Survey of London which shows that it was in place in 1808. The 6 over 6 sash windows in the flank elevation, with their distinctive moulded glazing bars, which are agreed to be original, are obviously Georgian. Moreover, I noted aspects of the interior proportions and detailing of the house that point in a similar direction. All this strongly suggests that the pre 1808 date is correct.

5. In many ways though, this debate, while interesting, is academic. Given their 'heavier' detailing, the sash windows proposed for replacement in the front and rear elevations are clearly themselves replacements. However, some (the first and second floor windows on the front elevation) are most likely Victorian in origin. Those to the rear might well be a response to WWII bomb damage. However, all the windows proposed for replacement are part of the way the building has developed over time.
6. The removal of the original flank wall windows would represent a seriously harmful loss of historic fabric that I regard as unacceptable. I do not suggest that the degree of harm that would be caused by the removal of the other windows would be similar, but their removal would still represent a harmful loss of historic fabric that needs to be accounted for before arriving at a decision to sanction their replacement.
7. The second aspect relates to the format of the replacement windows proposed. I agree with the appellant that a return to a 6 over 6 arrangement in the main sash windows on the frontage, with glazing bars that match the originals, would give the frontage a more age-appropriate appearance and provide some enhancement to the listed building itself, and the conservation area. However, while the replacement windows would have some traditional detailing, they would be double glazed; an inauthentic feature that in my view, would cause a degree of harm to the special interest of the listed building.
8. The appellant suggests that this would not be detected but I looked carefully at No.44 adjacent, where a colleague Inspector allowed double-glazed replacement windows¹ with a similar glazing specification to what is proposed here and was able to pick up the presence of sealed units. Again though, whether the double glazing is easily detected is not the point. The special interest of a listed building is an intrinsic quality and unsympathetic additions or alterations that are very difficult to pick up are still harmful changes.
9. Thirdly, I appreciate that the installation of double glazing would no doubt significantly improve the energy efficiency of the building. I do not seek to underplay the importance of that as a consideration, but it seems to me that there are many other, far less invasive, ways in which the energy efficiency of No.45, and the comfort levels of its occupiers, could be improved².
10. Bringing these points together, I acknowledge that the proposals would bring some benefits but those would only be realised through what I regard as considerable harm to the special architectural and historic interest of the listed building, and a consequent failure to preserve or enhance the character and the appearance of the conservation area.

¹ APP/A5840/E/13/2204689

² The Historic England publication: *Energy Efficiency and Historic Buildings* refers

11. In the light of my ability to issue a split decision, I recognise that the balance is different in relation to each window, ranging from the original windows in the flank, through the Victorian windows on the frontage, to the much later replacements elsewhere. However, in each case, the benefits would not outweigh the harm that would be caused.
12. There is a strong presumption against works that would have such harmful impacts through the workings of s.16(2) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990³. Moreover, this conclusion renders the proposal contrary to the provisions of the development plan and Policies 3.15, 3.16 and 3.17 of the Southwark Plan (2007), that seek to protect the historic environment generally, conservation areas, and listed buildings respectively, in particular.
13. Turning to the workings of the National Planning Policy Framework⁴, reflective of the Act, paragraph 193 explains that great weight should be given to the conservation of designated heritage assets. In terms of the degree of harm caused, this would be different for different windows, as set out above. However, cognisant of advice in Planning Practice Guidance that substantial harm is a high bar, I am of the view that the harm caused would be less than substantial; at the upper end in relation to the loss of the original windows, but towards the lower end in relation to more recent insertions.
14. Paragraph 196 tells us that less than substantial harm should be weighed against public benefits including, where appropriate, securing its optimum viable use. In carrying out that balancing exercise, consistent with my conclusions above, I find that the balance falls against the proposed works in each case.
15. Finally, the appellant sets great store on the decision of my colleague relating to replacement windows at No.44 that I have referred to above. The suggestion is made that it provides an important precedent. It is relevant, obviously, and of course I have taken it into account, but the balance of considerations is very different in relation to the proposals before me, and I have dealt with those proposals on their own particular merits.
16. For all those reasons, I conclude that the appeal should fail.

Paul Griffiths

INSPECTOR

³ Referred to hereafter as the Act

⁴ In so far as it is material to an appeal under s.20 of the Act