The Planning Inspectorate

Appeal Decisions

Site visit made on 19 November 2019

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2019

Appeal A: APP/E5900/W/19/3233955
106 Mile End Road, London E1 4UN

- 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 Arif Mahmood Shah Bukhari against the decision of the Council of the London Borough of Tower Hamlets.
- The application Ref: PA/18/03008, dated 12 October 2018, was refused by a notice dated 16 May 2019.
- The development proposed is described as 'retention of UPVC rear windows, roof terrace, extractor and air conditioning condenser units.'

Appeal B: APP/E5900/Y/3233951
106 Mile End Road, London E1 4UN

- 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 Arif Mahmood Shah Bukhari against the decision of the Council of the London Borough of Tower Hamlets.
- The application Ref: PA/18/03009, dated 12 October 2018, was refused by a notice dated 16 May 2019.
- The works proposed are described as 'retention of UPVC rear windows, roof terrace, extractor and air conditioning condenser units.'

Decision – Appeal A

1. The appeal is dismissed.

Decision – Appeal B

2. The appeal is dismissed and listed building consent is refused for UPVC rear windows, roof terrace, extractor and air conditioning condenser units.

Procedural Matter

3. The development and works to the listed building are described as being for the retention of UPVC rear windows, roof terrace, extractor and air conditioning condenser units. It was clear from my site visit that the rear roof terrace has been constructed and that the UPVC rear windows, extractor and air condenser units have been installed. I have therefore determined the appeal on the basis that the development/works have already occurred.

Main Issues – both appeals

4. A main issue in both appeals is whether the proposed development/works would preserve the grade II listed building known as Nos. 90 to 196 (even) Mile End Road, including railings and overthrow at No 102, and the extent to which it would preserve or enhance the character or appearance of Stepney Green Conservation Area.

Additional Main Issue – Appeal A only

5. A further main issue in this appeal is the effect on the living conditions of neighbouring occupiers, with particular regard to privacy and outlook.

Reasons

Heritage Issues

6. 106 Mile End Road forms part of a terrace of early 19th Century stock brick predominantly three storey properties, the majority of which have had shops added to their frontage at ground floor level. They were first listed for their group value in 1973. From the evidence before me, including the Council's Conservation Area Character Appraisal for Stepney Green (CACA), the list description and my own observations, I consider the significance of the appeal property as a heritage asset to be mainly attributable to the consistent building line and scale, reinforced by the fenestration and materials of this terrace, including their traditional sash windows, all of which provide a harmonious built form.

7. The building and terrace make a positive contribution to the street scene and significance of Stepney Green Conservation Area (SGCA). The significance of this heritage asset is, in particular in so far as it relates to this part of Mile End Road, in my opinion, largely derived from the scale, quality and character of the buildings and trees along Mile End Road which give it the appearance of an urban boulevard. Mile End Road retains its original functional importance as a transport route which is also an important part of its historic character and significance as a heritage asset.

8. The development and works include the installation of uPVC windows to the rear elevation of the first and second floor, the creation of a roof terrace at first floor level above an existing outrigger and the installation of a substantial extractor and flue, plus air conditioning condenser units on the roof of a ground floor rear extension in connection with the ground floor restaurant/takeaway. The upper floors of the property are in residential use.

9. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which is possesses. Section 72(1) of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

10. Windows are often the most prominent features and an integral part of the design of traditional buildings. The existing classical sash windows which have been retained within the front elevation of the building make a positive contribution to the significance of the CA and the listed building. Whilst I do not know the precise details of the windows that have been replaced, it is clear

that the original windows within this property would have been timber and of sash proportions.

11. In contrast, the windows that have been installed are constructed from a non-traditional material and their sections are much bulkier, smoother and flatter than traditional timber windows. They have a more modern and less refined appearance, lacking the fine detailing and depth of the timber frames. In addition, the bulk and incongruity of the uPVC frames is heightened where the casements have storm seals. Consequently, the overall design and materials of the uPVC windows frames fail to preserve the listed building or the character or appearance of the CA. Similarly, the blockwork parapet walls that have been constructed around the edge of the rear roof terrace are unsightly. In particular, the materials do not match nor are they sympathetic in appearance to the traditional brick host property, and consequently these works also fail to preserve the special architectural interest of the building.

12. The air conditioning condenser units are located on the flat roof area of the ground floor rear extension. Their size and positioning on this part of the roof means that they are concealed from public view. In addition, they are situated away from the original rear façade of the property and for these reasons do not have a harmful effect on the significance of the heritage assets. However, the extractor unit and flue are substantial, and their bare metal finish significantly heightens their visual incongruity. Furthermore, the overall scale and positioning of this piece of plant means that the first floor window is obscured and the original composition of this façade is disrupted. Its overall appearance has a harmful effect on the character and appearance of the CA and fails to preserve the heritage significance of this listed building.

13. The requirement for works to preserve or enhance the special interest of the listed building applies with equal force whether or not the works are prominent or in public view. However, although not visually prominent at the rear of the property, the new windows and flue are visible from Assembly Passage which links Mile End Road to Redmans Road and they have a harmful effect on the appearance of the CA as well as the host property.

14. The overall impact of the works/development is, in the context of the significance of the assets as a whole, and in the language of the National Planning Policy Framework (the Framework), less than substantial. In those circumstances, paragraph 196 of the Framework says that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

15. The proposed works fail to preserve the special architectural and historic interest of the grade II listed building 106 Mile End Road. Even though I have found that the harm to the designated heritage asset is less than substantial, it is not to be treated as a less than substantial objection to the proposal. Although no public benefits have been put before me by the appellant, it is clear that the operation of the hot food establishment within the ground floor shop is dependant on the provision of a suitable extractor unit. However, it has not been demonstrated that alternative technical solutions or designs have been investigated and therefore there may be alternative and less visually intrusive solutions. This benefit would not therefore outweigh the considerable importance and weight to the given to the harm to the heritage assets.

16. I conclude that the proposal fails to satisfy the requirements of the Act and paragraph 192 of the Framework. I also find conflict with the development plan, in particular the design and heritage aims of Policies 7.4, 7.6 and 7.8 of the London Plan, 2016 and those of Tower Hamlets Core Strategy Policy SP10 (adopted 2010) (CS) and Managing Development Document Policies DM24 and DM27 (adopted 2013) (MDD).

Living conditions – Appeal A only

17. The terrace has been constructed on the roof area of a first floor outrigger and it is in close proximity to the windows of neighbouring residential occupiers. At the time of my visit there were chairs on the terrace which appeared to be used for sitting out. The terrace is enclosed by a parapet wall but given its low height it does not provide any screening and there are clear views into the adjoining properties. Given the proximity of the terrace to neighbouring first floor windows, and in particular to the rear windows at No 108 Mile End Road, there is no doubt in my mind that the use of this area for sitting out would have a significant and harmful effect on the occupiers of neighbouring residents, both by reason of loss of privacy and noise/disturbance.

18. The extractor unit has been positioned directly in front of the bedroom window of the first floor flat. In this location it obscures views from this window and reduces the amount of daylight to it. Furthermore, its bulk and stark appearance means that it is visually dominant and in such close proximity to neighbouring residents it undoubtedly has a harmful effect on their outlook.

19. I conclude that the terrace and extractor unit have a harmful effect on the living conditions of neighbouring residents. There is therefore conflict with the development plan, and in particular with Policy SP10 of the CS and Policy DM25 of the DMM which seek to ensure that development protects and, where possible, improves the amenity of surrounding existing and future residents and building occupants by, amongst other things, not resulting in an unacceptable loss of privacy or outlook.

Conclusion

20. For the reasons given above and taking into account all other matters raised, I conclude that the appeals should be dismissed.

Elizabeth Pleasant

INSPECTOR