



Appeal Decision

Site visit made on 19 November 2019

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 4th December 2019

Appeal Ref: APP/H5960/W/19/3236382

98-100 Tooting Bec Road, London SW17 8BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by A Dada against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref 2019/2720, dated 20 June 2019 was refused by notice dated 15 August 2019.
 - The application sought planning permission for the installation of temporary weldmesh fence and 4 x temporary CCTV cameras without complying with a condition attached to planning permission Ref 2018/5692, dated 05 March 2019.
 - The condition in dispute is No 3 which states that: *Prior to the installation of the weldmesh fence, the existing timber hoardings and plastic nettings are to be removed and not to be installed on the weldmesh fence. Any other similar structures that would prevent views to the Lodge shall not be installed in any way on the weldmesh fence.*
 - The reason given for the condition is: *To safeguard the character of the building, in accordance with Council policy DMS1 and DMS2 of the Development Management Policies Document (adopted March 2016).*
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Decision

1. The appeal is dismissed.

Procedural Matters and Background

2. Planning permission was granted in 2019 for the installation of temporary weldmesh fencing and CCTV cameras. The permission includes a condition requiring the existing hoarding and plastic netting (the netting) to be removed in order that views of the appeal property, which is a listed building, would not be blocked.
3. The planning permission has been implemented and the weldmesh fencing has been installed. However, the netting has not been removed and the views of the building have been obstructed. A subsequent application (ref 2019/1237) which sought to vary the condition to allow retention of the netting was refused.
4. The application the subject of the appeal proposed to vary the condition to allow the retention of the netting until 30 September 2019. At the time of my visit, I saw that the netting remained in place. Accordingly, I have dealt with this appeal on the basis that neither Condition No 3 of the original permission nor the proposed variation of the condition have been complied with.

Main Issue

5. The main issue is the effect of varying the condition on the significance of the listed building, including its setting.

Reasons

6. The appeal property is a Grade II listed building in a prominent corner location. It is an early 19th century stucco lodge, with a 3-bay modified triumphal arch facing the street. It has a central 2 storey part with single storey wings to either side and decorative detailing, including to the windows and a bandcourse at first floor level. The listing includes iron gates and railings to the street.
7. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
8. The National Planning Policy Framework (the Framework) advises 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. The significance of the asset can be harmed or lost as a result of the alteration or destruction of the asset or from development within its setting.
9. The glossary to the Framework defines the setting of a heritage asset as the surroundings in which that asset is experienced. Accordingly, elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate the significance or may be neutral.
10. In this case, the temporary fencing separates the appeal site from the adjacent footways and roads. The fence is more than 2m high and it is therefore a conspicuous feature in the foreground, and consequently the setting, of the building. The weldmesh fence is permeable and it would not prevent views of the building. However, the netting does not allow views through it and it partially hides the building from public view. Consequently, it is visually obtrusive and it detracts from the ability to appreciate the listed building. Therefore, the netting makes a negative contribution to the setting of the listed building.
11. I conclude that the appeal scheme fails to sustain or enhance the setting, and hence the significance, of the designated heritage asset. It conflicts with policies in the Framework which recognise that heritage assets are an irreplaceable resource and which seek to ensure that they are conserved and enhanced in a manner appropriate to their significance. However, the harm would be less than substantial. The proposal would conflict with Policies DMS1 and DMS2 of the Wandsworth Local Plan Development Management Policies Document Adopted March 2016. These require, among other things, that development responds positively to local character and conserves the significance, appearance, character and setting of heritage assets.
12. Paragraph 196 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposals.

13. In this case, the justification for the netting is on the grounds that it will prevent the escape of building dust and it will make it more difficult for the public to gain access to the site. However, there is no evidence before me that the masonry repairs or external works would result in significant dust sufficient to justify the netting. Moreover, while I appreciate the need to secure the site during works, I am not persuaded that the netting contributes to making the site any more secure than is achieved by the weldmesh fence. While I do not dispute that securing the future of the listed building will be a public benefit, those works are not dependent upon the presence of the netting. Therefore, on the basis of the evidence, there are no public benefits arising from the retention of the netting.
14. Taking account of the considerable importance and weight that must be given to any harm to heritage assets, and notwithstanding the temporary nature of the netting, I find that the harm to the significance of the heritage asset would outweigh the benefits of the scheme.
15. Given that I have found that the proposed variation of the condition conflicts with the relevant policies in the development plan and the Framework, it therefore follows that Condition No 3 of planning permission 2018/5692 is both necessary and reasonable to protect the character of the listed building.

Conclusion

16. The appeal scheme results in significant harm to the Grade II listed building. In respect of the statutory designated heritage asset, I must attach great weight to that harm and there are no material considerations to outweigh that harm and the consequent conflict with the development plan.
17. Therefore, for the reasons set out above, the appeal is dismissed.

Sarah Manchester

INSPECTOR