
Appeal Decisions

Site visit made on 18 February 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 27 February 2020

Appeal A: APP/V5570/W/19/3239951

78 St Peter's Street, Islington, London N1 8JS

- 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 J Hamon and N Stewart against the decision of the Council of the London Borough of Islington.
 - The application Ref P2019/0989/FUL, dated 28 March 2019, was refused by notice dated 13 August 2019.
 - The development proposed is alterations and refurbishment including new conservatory and retrospective listed building consent for replacement of internal staircase.
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Appeal B: APP/V5570/Y/19/3239949

78 St Peter's Street, Islington, London N1 8JS

- 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 J Hamon and N Stewart against the decision of the Council of the London Borough of Islington.
 - The application Ref P2019/1050/LBC, dated 28 March 2019, was refused by notice dated 13 August 2019.
 - The works proposed are alterations and refurbishment including new conservatory and retrospective listed building consent for replacement of internal staircase.
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Decision Appeal A

1. I allow the appeal and grant planning permission for alterations and refurbishment including new conservatory at 78 St Peter's Street, Islington, London N1 8JS in accordance with the terms of the application, Ref P2019/0989/FUL, dated 28 March 2019, and conditions 1) to 6) on the attached schedule.

Decision Appeal B

2. I dismiss the appeal insofar as it relates to the lowering of the pavement vault floor level. I allow the appeal insofar as it relates to the replacement staircase, the adjustment of floor levels and the installation of underfloor heating, the replacement of rotten or life-expired windows, the rear conservatory and access arrangements, the works to the front render and damp-proofing of pavement vaults, along with the basement area door and screen, and I grant listed building consent for alterations and refurbishment including new conservatory and retrospective listed building consent for replacement of internal staircase at 78 St Peter's Street, Islington, London N1 8JS in accordance with the terms of the application, Ref P2019/1050/LBC, dated 28 March 2019, and the plans submitted with it, namely 00.003 and 00.004;

78SP-004B, -005.02B, -007B, -009B, -011B, -013B, -015B and -016, and the Heritage, Design and Access Statement, so far as relevant to that part of the works hereby permitted and subject to conditions 1) to 4) on the attached schedule.

Main Issue

3. The building is listed Grade II and is within the Duncan Terrace/Colebrooke Row Conservation Area. The main issue in both appeals is the effect of the works on the significance of designated heritage assets.

Reasons

Policy and Background

4. Policies 7.4, 7.6 and 7.8 of the London Plan 2016 concern respectively local character, architecture and heritage assets, while Policies CS8 and CS9 of the Core Strategy set out requirements for enhancing the Borough's character, and protecting and enhancing the built and historic environment. Development Management Policies DM2.1 and DM2.3 seek high quality design and the conservation and enhancement of heritage assets.
5. The Council have published the Supplementary Planning Document '*Urban Design Guide*' and a supplement to the Unitary Development Plan '*Conservation Area Guidelines*'.
6. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the same Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
7. Paragraph 124 of the 2019 National Planning Policy Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 193 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.
8. The premises were listed in 1994, and the appellants refer to works of varying quality that were carried out prior to that date; it is surmised that some of the works would not have been permitted had the building been listed at the time. The building seen at the appeal site inspection was part-way through a refurbishment scheme, albeit apparently started without consent. The result is that other than some historic photographs, the evidence as to the extent of significance at the time of listing, or at the start of the works, is sketchy.
9. The property had been uninhabited for 2 years prior to the appellants purchasing, and they describe it as being uninhabitable at that time. A programme of works to make the building secure, wind and weatherproof and which it is stated did not require consent, apparently moved on to encompasses works that should have been the subject of consent, but prior to that consent being granted.

10. The Council and the appellants identify areas of work in their submissions and these will be adopted in the following analysis.

Staircase

11. Both the more recently employed architect for the appellants, and the Council view the loss of the original staircase as an unfortunate situation, but one that cannot be retrieved other than by attention to the standard of the replacement. An enforcement case was opened but these Appeals under section 78 and section 20 are not concerned with that.
12. Given the loss of the original staircase, there could be 2 viable alternatives, each having merit. One would be to produce an exact replica, and there must have been a pattern available somewhere in this terrace of listed buildings. The other would be to install a contemporary staircase which did not attempt to mimic what was lost, although admittedly that solution is more usually accepted in buildings where either a new stair location is required or the need is for a stair of a completely different going and rise is indicated by functional or regulatory requirements. Unfortunately, the stair now in place at the appeal premises meets neither of these aims, not being an exact replica.
13. It appears that the handrail and newel posts had been reclaimed for re-use, but there are discrepancies over their positions, resulting in the handrail not following the angle of the stair as newly installed. There is also some discrepancy in the going which would have had a cumulative effect and has resulted in the balusters not being correctly sited. Also, aspects of the bottom tread profile and the design of the string are not historically correct for this class of house. The use of oak treads would be wrong, although it is acknowledged that readily available kiln-dried softwood has its limitations. The appellants offer remedial work to bring the staircase nearer the historically correct design.
14. The appellants warn against removal due to possible adverse effects on the structure, and some steel ties were already in place in the outside wall of the top half-landing. Removal would also result in a loss of resources and use of funds that could be better spent within the house. Conditions could go some way to rectify the failings, but the merits of painting the oak treads is questionable and they do at least signal that the item is not original. Having mind to the group value listing and the unfortunate history of the staircase, it is concluded that the best use of resources is to accept the situation and rectify those faults that are readily dealt with.
15. Less than substantial harm occurs but the public benefits of allowing the use of the building outweigh that in the unfortunate circumstances of this case.

Adjustment to Floor Levels

16. It is proposed to install electric underfloor heating to the ground, first and second floors and to achieve that, a new engineered floorboard system would be required on top of the heating cables, said to result in the floor finish being raised by 40 to 50mm. It is intended to lift and re-fix skirtings where they are re-usable, and to cut architraves, frames and the like. There would be some minor changes to the depth under window cills, but since that would be the obvious place for a wet-system radiator, that would be acceptable in the

alternative, and the effect on the proportions of rooms would be minimal. It appears that the staircase has been designed to suit the new floor levels.

17. There are advantages in placing low-temperature heat where it is most beneficial and the environmental conditions within the house would be better controlled and more conducive to the care of the building than the temperature gradient associated with higher-temperature radiators on one wall only. Electric heating can be from renewable sources, unlike the more usual fossil fuel for a boiler and wet system.
18. Whilst such an intervention may not be appropriate where a building is in otherwise good condition, and where intact features would be affected, the balance of harm to benefit in the case of this building and the condition in which it was purchased indicate that the adjustment to floor levels would be justified.
19. The Council's concerns over there being gaps under skirtings and frames, were the floor to revert to its original level, is academic as with the staircase suiting the new levels, the cost and hence likelihood of them being changed back appears low. Existing floorboards would be re-fixed under the heating, but in many places it appear that they had long ago been replaced with chipboard or plywood.
20. A limited degree of less than substantial harm would be caused but the public benefits of a sustainable and unobtrusive heating system outweigh that harm.

Windows

21. Those to the front appear to have been repaired previously resulting in a mix of glazing bar profiles and attempting to replace just those bars would risk weak joints, water ingress to end-grain and a short effective life. The proposal to replace sashes complete would have an initial embedded energy cost, but whether the whole-life costs would be more than an ineffective repair and subsequent replacement is doubtful.
22. To the rear there is evidence of rot and the frames reaching the end of their life, and it is not unreasonable to replace them complete. Drawing 16 shows a 16mm total double-glazed unit (6/4/6) whereas there is reference to a total of 9mm elsewhere. A condition could require clarification of this matter and the significance of the listed building would not be jeopardised by the resulting work to the secondary elevation. The conservation of energy is an important consideration, and the equation is not just a matter of cost and pay-back periods.
23. Doubts remain over the precise proposal to the front elevation and the condition could address that area as well. Subject to receipt of details and approval, no harm would occur.

First Floor Lobby

24. Drawing 7b shows the door from the landing to what would have been the rear first floor room to be removed, giving access to a newly formed shower room. That formation replaces an already harmful subdivision of the room, and is acceptable, but there is no justification for the harmful removal of the door; privacy from both rooms being provided for in any event. The appellants accept that the door should remain in place by condition and no harm occurs.

Rear Conservatory and Access Arrangements

25. The Council confirm that the erection of the conservatory in this location would be acceptable in listed building and conservation area terms, but object to the associated works to the rear wall of the house, while the appellants express the view that the opening-up would allow more light into the combined rooms. There have been changes to the rear wall through the removal of the one-time closet wing, but this part remains largely intact. Nevertheless, this is not an uncommon intervention at basement level and rather than moving the south jamb, the work could be designed to indicate the previous presence and location of the window and door, by changes in the threshold materials on the floor, or the retention of a section of wall at cill level. Those features would not block light but would provide evidence of the previous arrangement.
26. There would be some loss of fabric and hence less than substantial harm, but as this assists the beneficial use of a listed building, the public benefits are sufficient to balance against that harm.

Works to the Pavement Vaults and Front Basement Area

27. The Council state that unaltered pavement vaults are becoming rare in London, but the reasons for their presence has largely gone, it is not unreasonable on this group listed building to seek to improve the damp-proofing. The Council appear to accept that in their response to the listed building consent Appeal Decision cited by the appellants (Ref: APP/V55670/Y/16/3160549) which was also in Islington. The work in that case did not however include the reduced floor level proposed in the present case.
28. Improving the damp situation would allow the vaults to be used for storage and the like, but there is no justification for lowering the floor that outweighs the harm that this causes to the historic evidential significance of the listed building.
29. The proposed door and screen to the basement area, under the entrance stairs, is acceptable in principle but a condition would be required to ensure a suitable design. Similarly, a condition should be attached to ensure that works to the front basement wall render is carried out as specified.
30. Whilst these interventions would be largely benign, the raising of the floor level would cause less than substantial harm which in this case is not outweighed by public benefits, as the damp-proofing alone allows beneficial use.

Conclusions

31. As set out in detail above, some of the works are acceptable while other items cause harm and are not justified by public benefits. Where they are separable and capable of being carried out, approval should be given for the acceptable works. This approach does not prejudice the interests of either party but is in the best interests of getting the uninhabitable building back into good condition, and able to receive the care that only beneficial occupation can give.
32. To be clear, listed building consent should be granted, subject to conditions, for all works other than the lowering of the pavement vault floors, as a result of which a split Decision is appropriate. Planning permission is only required for the windows, the basement area door and screen, the rear conservatory and

the formation of the rear wall openings, and all of that development is acceptable so that a split Decision is not required.

Conditions

33. The need for various conditions has been referred to under the different sections of this Decision, and the Council supplied a list of similar requirements. Conditions would be needed in the planning permission and the listed building consent to clarify the window repairs or replacements, the rear wall opening, the detailed design of the conservatory and the front basement area door and screen. In addition, the listed building consent would require further clarification of the remedial works to the staircase, fixing of skirtings, work to the front render, to control the quality of new works and works of making-good, to ensure the retention of the first floor door and to seek details of the fireplace.
34. The Council's suggestions were based on the planning permission not being retrospective, and so a commencement time limit was included along with the list of drawings, both of which would not be appropriate if it were retrospective. In view of the items permitted and those covered in more detail within the listed building consent, that appears a reasonable approach and is adopted.
35. Conversely, the listed building consent has to be retrospective and hence a commencement condition is not appropriate, and since the provisions for greater flexibility in planning permissions do not apply to listed building consents in any event, it is sufficient to name the drawings in the formal consent.
36. Lastly, the suggested condition to prevent vents, pipes or grilles on the front elevation of the property is unnecessary as listed building consent would be required for such works, and they are not proposed in these applications.

Conclusions

37. These Decisions do not condone the actions taken, particularly with regard to the staircase, but the proposals are a reasonable solution to the situation. In the balance required under paragraph 196 of the Framework, the less than substantial harm identified in some areas of work would be outweighed by the public benefits of the proposal, including securing its optimum viable use as a habitable dwelling once again. Where that was not found to be the case, the consent specifically excludes that work.
38. Special regard and attention has been paid in these Decisions to the duties within the Planning (Listed Buildings and Conservation Areas) Act 1990 with regard to the preservation of the listed building and the character and appearance of the Duncan Terrace/Colebrooke Row Conservation Area. The proposals satisfy the requirements of the Framework in the balance of harm and benefits and the resulting works would accord with the cited policies of the Development Plan. For the reasons given above it is concluded that Appeal A should be allowed in its entirety, and that Appeal B should be allowed in part and dismissed in part.

S J Papworth

INSPECTOR

Schedule of Conditions Appeal A – Planning Permission

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the following approved plans: 00.003 and 00.004; 78SP-004B, -005.02B, -007B, -009B, -011B, -013B, -015B and -016, and the Heritage, Design and Access Statement.
- 3) No work is to commence on the conservatory until full details of glazing bars, doors and method of fixing and flashing to the main building have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out only in accordance with the approvals given.
- 4) No work is to commence on the opening-up of the rear wall until full details of the elevational treatment, and a method of indicating the original layout, together with structural details of the wall support to the main building have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out only in accordance with the approvals given.
- 5) No work is to commence on the door and screen to the front basement area until full details including half full-size joinery details have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out only in accordance with the approvals given.
- 6) Notwithstanding the details shown on drawing 78SP/016, no further work to windows is to be carried out until amended details have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out only in accordance with the approvals given.

Schedule of Conditions Appeal B – Listed Building Consent

- 1) The following works hereby granted consent, shall be completed in their entirety in accordance with the approved plans within 5 months of the date of this consent, unless the Local Planning Authority give written agreement to any extension, and the works shall thereafter be maintained as installed.
 - a) all works relating to retention and modification of the staircase, to include modification of the bottom step and newel junctions.
 - b) all works relating to the retention and re-fixing of skirting boards.
 - c) all works relating to re-rendering the front elevation at lower ground floor level as detailed in the Heritage Design and Access Statement dated 28 March 2019.
- 2) All new works and works of making good to the retained fabric, whether internal or external, shall be finished to match adjacent work with regard to methods used and to colour, material, texture and profile.
- 3) Notwithstanding the details shown on drawing 78SP/007B, the door between the landing and the rear room lobby on the first floor is to be retained.

- 4) Detailed drawings or samples of materials, as appropriate, in respect of the following shall be submitted to and approved in writing by the Local Planning Authority, before the relevant part of the work is begun and the works shall not be carried out other than in accordance with the details so approved and shall thereafter be so maintained:
- a) Notwithstanding the drawings, detailed drawings of the door and the treatment of the new screen wall at lower ground floor front lightwell including half full-size joinery details.
 - b) Detailed drawings of the new sash windows which shall be painted timber with a bevelled putty finish and no trickle vents.
 - c) Detailed drawings of the ground floor front fireplace showing the proposed gas fire and its fitting
 - d) Detailed drawings of the new conservatory including details of glazing bars, doors and method of fixing and flashing to the main building.
 - e) Detailed drawings of the elevational treatment of the opening-up of the rear wall, method of indicating the original layout, together with structural details of the wall support to the main building.