



Appeal Decision

Site visit made on 10 March 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 3 April 2020

Appeal Ref: APP/K5600/Y/19/3239382 29 Bedford Gardens, London W8 7EF

- 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 & Mrs D Albert against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref LB/19/02318, dated 1 April 2019, was refused by the Council by notice dated 17 May 2019.
 - The works proposed are glass security panel and canopy to front area window and door.
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Decision

1. I dismiss the appeal.

Preliminary Matters

2. The Council had also refused a parallel planning application and that decision was appealed along with the listed building refusal. That appeal was turned away by the Planning Inspectorate by letter dated 21 October 2019 through being out of time (Refs: PP/19/02317 & APP/K5600/D/19/3239384).

Reasons

3. The building is listed Grade II and the main issue is the effect of the works on the architectural or historic significance of the building. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the primacy of the Development Plan do not apply to applications and appeals made under the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 16(2) of the latter Act requires special regard to be had to the desirability of preserving the listed building or its setting or any special architectural or historic features it possesses. These duties are reflected in Policy CL4 of the Local Plan.
4. In the first instance the appellant argues that listed building consent is not required, based on the view that the proposal does not significantly affect the character or setting. Section 7(1) of the 1990 Act states that authorisation is required under section 8 for, among other things, alterations which would affect a building's character. The extent of that effect and any balancing benefits are matters for the decision maker, but the conclusion following the site inspection is that the test in section 7(1) is met, and that consent is required.

5. The proposal is in 2 separate parts, either of which could be implemented alone, or both together. This Decision will deal with them separately as well as considering the cumulative effect.

Glass Security Panel

6. The lower ground floor window in question is a double-hung vertical sliding sash window giving light and ventilation to a bedroom. The formation of steps and cutting back of the basement area outside has provided a good level of lighting and ready access to fresh air, and it was noted that the window is capable of being opened with a socket for a security insert, presumably to prevent it being opened wide enough for access. The window is visible from the street, but the setting of the building has been altered previously by work to the garden and basement area, as is the case with many of the houses in the terrace.
7. The glass panel is made up of two leaves of toughened glass sandwiching a plastic interlayer and is held to the masonry reveals by 4 metal patch fittings with the bolts and removable part being towards the sash. A gap is maintained to the sides and cill, with a larger gap at the head where the glass is flat across under the arch. As an item, the installation is simple, and the glass has a high degree of transparency.
8. The flat glass allows a reflection that would not be present with the traditional individually glazed 6 over 6 sash windows, where minor variations in line and trueness of the glass imparts a fractured reflection, and that property is a matter of historic and architectural significance. In addition, the patch fittings are conspicuous and alien features, and the conclusion is that the installation causes harm to the listed building and its setting.
9. The level of harm would be 'less than substantial', a differentiation required between paragraphs 195 and 196 of the Framework. In this case the latter applies, and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The web-based Planning Practice Guidance makes clear at Reference ID: 18a-018-20190723 that within each category of harm, the extent of the harm may vary and should be clearly articulated, and in this case the harm is towards the lower end of the range. Nevertheless, paragraph 193 of the 2019 National Planning Policy Framework 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.
10. There would be benefits in deterring crime and the use of public resources that would result from any incident, although it is unclear whether the same objective could be achieved in a way less harmful to the significance of the building or at least the external manifestation of that significance, by internal works.
11. The other claimed benefit is through the removal of the pre-existing security bars, and they were seen at the site inspection lying to one side of the steps. The appellant refers to the addition of burglar bars in differing materials and styles, with and without listed building consent, to basement windows in the area. On written enquiry of the Council after the visit, their view is that the bars on the appeal property were in place unlawfully and no weight should be attached to any benefit of their removal in favour of the glazed security panel.

12. The appellants were given the final word on this matter and they say that the bars were in place prior to listing and hence are lawful, but the 1999 drawing that purports to be a survey of the existing building does not show or annotate them. There is no firm evidence on this, and a section 20 appeal is not the right process for making a definitive decision as to lawfulness. In the absence of reasonable certainty and on the basis that an internal solution could be acceptable, it is concluded that the harm is not outweighed by public benefits.
13. The Conservation Officer requested when writing about the lawfulness of the bars, that a condition be added so that they are not reinstated after the removal of the unauthorised glass panel and canopy. That is a matter for the Council's further action as deemed appropriate.

Canopy to Front Area Window and Door

14. The canopy was in place as a 'mock-up' at the time of the site inspection, it being a frameless toughened glass sheet held in channels fixed to the front house wall, the front door 'bridge' and a short section of the return. The glass then spanned onto temporary supports on the right-hand side. The gutter and downpipe referred to on the drawing had not been put in place.
15. Whilst slim and transparent, and whilst the casual view from the street may not readily take in its presence, it is an alien feature of the listed building which, similar to the security glazing, imparts a reflection and barrier to the appreciation of the building from close views. The addition of the rainwater goods would further emphasise the inappropriate nature of the works, while their permanent omission could risk concentrating run-off and causing harm to the fabric of the building.
16. Again, the level of harm caused is 'less than substantial' and moderately low down the scale, although the risk of water ingress to the front wall through there being no upstand flashing cannot be discounted. In this case there are no public benefits, protection of users from rain not being enough.

Conclusions

17. Each element of the proposed works would cause some harm, but neither is outweighed by public benefits, and the cumulative effect of proceeding with both elements would be particularly harmful. The proposals would fail the statutory test in the 1990 Act and would be contrary to Policy CL4 of the Local Plan and the aims of the Framework on the preservation of designated heritage assets. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR