



Appeal Decisions

Site visit made on 30 June 2020

by Simon Hand MA

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

Decision date: 03 July 2020

Appeal A: APP/J1535/F/18/3217016

Hainault Hall, 173 Lambourne Road, Chigwell, Essex, IG7 6JU

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr A Singh against a listed building enforcement notice issued by Epping Forest District Council.
 - The enforcement notice was issued on 5 November 2018.
 - The contravention of listed building control alleged in the notice is without listed building consent the following unauthorised works: the installation of wooden windows as shown and numbered WI to W23 on the attached drawings labelled "Drawing Number 1" and "Drawing Number 2" ("the Unauthorised Windows").
 - The requirements of the notice are:
 - (i) Remove the Unauthorised Windows from the Building.
 - (ii) Following compliance with (i) above, reinstate 23no. single glazed timber sash windows to the Building in accordance with the following (by reference to the windows marked on Drawing Number 1 and Drawing Number 2): (a) WI to W7 (inclusive), W11, W14, W15, W17, W21 to W23 (inclusive) insert 3-over-3 pane sash (b) W8, W10, W16, W18 to W20 (inclusive) insert: 6-over-6 pane sash, (c) W9, W12, W13: insert 4-over-4 pane sash,
 - (iii) The sashes referred to in (ii) above are to be double-hung timber sashes with weights and pulleys, constructed in accordance with the drawings attached marked "Window Drawings". Window linings must be constructed according to the profile of the window reveal/embrasure. New sashes must be set back a minimum of 90mm into reveal.
 - (iv) Following compliance with (i) to (iii) above remove all resultant debris from the Land.
 - The period for compliance with the requirements is 6 months.
 - The appeal is made on the grounds set out in section 39(1) (b), (c), (d), (e) and (h) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Appeal B: APP/J1535/Y/18/3212253

Hainault Hall, 173 Lambourne Road, Chigwell, Essex, IG7 6JU

- 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 A Singh against the decision of Epping Forest District Council.
 - The application Ref EPF/1888/18 LB, dated 6 July 2018, was refused by notice dated 3 September 2018.
 - The works proposed are retention of double glazed windows (Retrospective application).
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Decisions

Appeal A - 3217016

1. It is directed that the listed building enforcement notice be varied by extending the compliance period from 6 to 9 months. Subject to this variation the appeal is dismissed and the listed building enforcement notice is upheld, and listed building consent is refused for the retention of the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Appeal B - 3212253

2. The appeal is dismissed and listed building consent is refused for retention of double glazed windows (Retrospective application).

The Appeal on Grounds (b)/(c)

3. Ground (b) is that the matters alleged have not occurred. As the appellant admits the windows have been replaced then ground (b) cannot succeed. Ground (c) is that there has been no contravention of s9(1) or (2). In essence the appellant argues that there has been no effect on the character of the building as one of special architectural or historic interest. The appellant has replaced all the windows on the rear and the left hand (western) elevations and two of the three windows on the right hand (eastern) elevation. On the front façade the basement and attic dormers have also been replaced but not the main windows on the ground and first floors.
4. The listing describes the building as late 18th century, extended in the 19th century. It is a typical late Georgian mansion and as described by the Council is a prominent and elegant building in the streetscene. The listing goes on to describe in detail the front façade, its pediment, entrance and the windows on the ground and first floors and the dormers but not the basement. No mention is made of the other windows on the rear or side elevations.
5. I would accept, that in common with many historic buildings, the grand front façade is where the builders placed the most decorative effort, the side and rear are more utilitarian. I also agree that there are clear views of the front façade from the road, but only very limited views of the rest of the building. Nevertheless, although the listing should be a clear guide to what is important, it is not necessarily a guide to what is not. The fact that the other windows are not mentioned does not mean they are somehow not integral to the quality of the building. A listed building, particularly in this case, is a whole entity and ground (c) is concerned with its character, which is not just those parts that are visible from the public realm. In my view the major influence on character is the front façade, but the other elevations also have a role to play.
6. The windows that have not been altered are not original but were themselves installed in the 1990s. However, they clearly followed the pattern one would have expected of Georgian sash windows. They are single glazed, with moulding detail to the chamfered frame, have slim frames and fit comfortably within the brick surrounds. The replacements all suffer from being heavier with chunky frames that immediately stand out and some are also poorly positioned within the openings. Double glazing is always a controversial element in listed buildings. It does create a different reflection and being thicker requires

different sash bars so that it can alter the appearance of a façade, albeit in a relatively subtle manner.

7. Considering the windows in detail the impact on the main façade of the dormer and basement replacements is clearly harmful. The original builders took most care with this facade and it is here that the smallest change can have a disproportionate affect including the introduction of double glazing. The right (eastern) elevation is most instructive as the original 1990s window remains to directly compare with the new lower windows. This shows quite starkly the impact of the thick and clumsy frames which stand out in even the most casual glance to be incongruously harmful. The same is true of the left (western) elevation. In the rear elevation the windows have been set flush with the outer brickwork which further adds to their incongruity and harm. Thus the replacement windows do harmfully affect the historic character of the listed building and the appeal on ground (c) fails.

The appeal on ground (d)

8. This ground is that the works were urgently necessary for health and safety reasons. I saw the remaining windows from the 1990s were in a poor state of repair, although this did seem more a question of some filler and repainting than anything fundamental. However, even if the other windows were worse, and were in danger of falling out and therefore they had to be replaced, there was no need to replace them with the windows subject to the notice, which, as I have identified above are harmful to the historic character of the building. The appeal on ground (d) fails.

The Appeal on ground (e) and Appeal B

9. Saved policy HC10 of the 1998 Local Plan forbids any change to a listed building that detracts from its historic interest or architectural character, while policy DM7 of the emerging local plan is more in line with the NPPF and seeks to protect heritage assets from development that harms their significance unless the public benefits clearly outweigh the harm. There is also an overarching statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
10. I have determined above that the replacement windows harm the historic character of the building, and so they are contrary to DM7. In my view the windows are generally an important part of the character and significance of any building, whether listed or not, and that is clearly the case here. The significance of the building has been harmed by the works. The appellant claims public benefits in that the appearance of the building has been improved because the old windows were in such a poor state and rather than spending money on replacements that money would be better spent on the upkeep of the building. However, I have no evidence that replacing the windows would be so onerous as to leave the building at risk. It would, in any event, seem to have been recently renovated and the improved windows did not need to be these particular types so I attach little weight to these arguments. The benefit of better heat retention, improved living conditions and security are private benefits and could mostly be realised by the well-designed traditional windows preferred by the Council. The windows are thus also contrary to DM7 and to paragraphs 193 and 196 of the NPPF.

11. The appellant accepts the frames are clunky and that the windows on the rear elevation could be repositioned. He suggests this could be secured by conditions. I am not sure how the frames could be altered without replacing the entire window, and it is also not clear that the window openings at the rear are deep enough to accommodate the suggested repositioning. Drawing no 04 provided with the listed building application suggests the double glazed windows would take up the full thickness of the wall. I would need to be certain these suggested changes could be accommodated before considering conditions to require them. However, if practicable, they would lead to a considerable improvement to the rear and side façades.
12. In my view windows W-1 to W-6 on the front façade should be replaced as required by the notice with single glazing, but if that were done and slimmer framed double glazed windows could be created for the side, and rear and the rear windows could be set back as the side ones are, then overall the effect on the listed building would be satisfactory. There would then be no harm to the buildings historic character or its significance. Although, as explained above, I do not consider I can allow the listed building appeal in part to effect these changes, it might be possible for an acceptable scheme to be drawn up. In order to provide time to do so, and as there is an appeal on ground (h), I shall extend the compliance period to 9 months.

Conclusions

13. I shall dismiss the appeal on ground (e) and the listed building appeal and uphold the notice, subject to varying the compliance period in order to give the opportunity for a suitable alternative scheme to be drawn up.

Simon Hand

Inspector