



Appeal Decision

Site visit made on 21 October 2020

by Simon Hand MA

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

Decision date: 30 October 2020

Appeal Ref: APP/N5660/F/19/3242102

29 Cardigan Street, London, SE11 5PE

- 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 Sharon James against a listed building enforcement notice issued by the Council of the London Borough of Lambeth.
 - The enforcement notice was issued on 14 October 2019.
 - The contravention of listed building control alleged in the notice is without Listed Building Consent, the removal of the ground floor original, single glazed, white painted, timber sash window with round headed interlaced glazing bars from the front façade and its replacement with a double glazed timber window of a similar style and design ("the unauthorised double glazed window").
 - The requirements of the notice are: a) remove the unauthorised double glazed window from the premises and replace with a white painted, single glazed, timber sash window with round headed interlaced glazing bars - to precisely match that which existed prior to the breach of listed building control; and b) make good any damage (with materials to match existing) to the building as a result of compliance with requirement a) above, and remove any resultant waste, rubble or debris from the premises.
 - The period for compliance with the requirements is 3 months.
 - The appeal is made on the grounds set out in section 39(1) (a), (c) and (d) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. The appeal is dismissed and the listed building enforcement notice is upheld. 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.

Background to the Appeal

2. The appellant is a tenant of a housing association (HA). The window in question was old and had become seriously deficient so that, after some prompting, the HA replaced the window with the one subject to the listed building enforcement notice.
3. I note the listed building enforcement notice has been served on the London and Quadrant Housing Trust, but only the tenant has chosen to appeal. I should point out that s7 of the Act states that "no person shall execute or cause to be executed any works for its [a listed building's] alteration or extension in any manner which would affect its character as a building of special architectural or historic interest....". The responsibility thus lies with those who authorised the works to be undertaken.

The Appeal on Ground (a)

4. No 29 is a part of a terrace of similar properties and the whole terrace is listed grade II. It also lies in the Kennington Conservation Area. As the Council point out the importance of the terrace lies in its uniformity of design and the repeated arched windows at ground floor form an integral part of that design. The appellant suggests the building isn't unique or eye-catching or has no interesting historical associations. This may be true – although to my eye the sweep of the terrace is certainly visually arresting – but nevertheless the listing process is not only for one-off buildings, but for any historic structures that are worthy of preservation. The listing describes the terrace as built in 1913-14, although it is in the Regency style, and lists various features of importance. There is nothing in the appellant's arguments to suggest the listing is inaccurate or the building is in any way unworthy of preservation. De-listing a building is a significant step that requires the agreement of the relevant Secretary of State. It would suggest that either something went fundamentally wrong at the listing stage or the building has been so badly damaged or altered it is no longer worthy of listing. Neither are the case here and the appeal on ground (a) fails.

The Appeal on Ground (d)

5. I have seen the evidence concerning the appellant's health and have every sympathy with her situation. However, to succeed on ground (d) it has to be shown that the only way to secure the future of the building was to undertake the works subject to the appeal. Obviously, the old window needed to be repaired, but there is no evidence that replacement with the modern, double glazed unit now in place was the only solution or that the responsible HA undertook any investigation into alternatives or discussed any with the Council. They were obviously aware that to make alterations to a listed building without consent was potentially a criminal offence but seem to have gone ahead anyway. The appellant is in no way responsible for the outcome, but that does not mean the works were urgently necessary and the appeal on ground (d) fails.

The Appeal on Ground (c)

6. This ground is that listed building consent is not required, because, in this case, the new window is indistinguishable from the old so there has been no contravention of s9(1) or (2) of the Act.
7. I accept that the design of the window is very similar to that of the original but it takes only a cursory glance to see that it does not have the subtle detailing and profile of the original windows in the neighbouring houses. The central bar and the tracery elements are thicker and noticeably smoother than the originals and the window as a whole stands out as a modern insertion.
8. The differences may be fairly subtle, but it is surprising the impact this has on the look and feel of the building. Buildings are listed to protect their historic and architectural quality and especially in domestic buildings the windows are one of the most important features. Consequently, even minor changes to windows in prominent locations can have a disproportionately harmful impact. There is also the question of precedent. If this window is acceptable then it would be difficult to argue one further down the terrace was not, until

eventually much of the historic character of the fenestration of the terrace would be lost.

9. In my view therefore, the replacement window does harm the historic and architectural character of the listed building so there has been a contravention of section 7.
10. Although no appeal has been made on ground (e), that listed building consent should be granted, I should note that had there been, I would have found there had been less than substantial harm to the listed building and that harm was not outweighed by any public benefits, as there are a number of options open to replace the window that do not involve uPVC. I shall therefore dismiss the appeal and uphold the notice.

Simon Hand

Inspector