



Appeal Decision

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 10 March 2021

Appeal Ref: APP/V5570/F/19/3226990

Flat A, 59 Canonbury Park North, London N1 2JU

- 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 Ms Suzanne Claydon against a listed building enforcement notice issued by the Council of the London Borough of Islington.
 - The listed building enforcement notice is dated 12 March 2019.
 - The contravention of listed building control alleged in the notice is: Without Listed Building Consent, unlawful alterations to the first floor north east elevation of the host property, by way of enlarging the window opening to create a double door opening, creating access to an unauthorised roof terrace.
 - The requirements of the notice are: i. Cease the use of the flat roof, at first floor level, as a roof terrace; remove all paraphernalia associated with the use of the flat roof as a roof terrace, including all waste materials therefrom. ii. Remove the unlawful doors at first floor level on the north eastern elevation of the property and reinstate the window opening, by rebuilding the lower part of the wall and reinstating a timber sash window to match the original. iii. Upon completion of (i) and (ii) remove all debris and waste materials from the Land.
 - The period for compliance with the requirements is three months.
 - The appeal is made on the grounds set out in section 39(1)(a) and (e) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice be corrected by:
 - 1) The deletion of the text 'creating access to an unauthorised roof terrace' from the allegation.
 - 2) The deletion of the text 'i. Cease the use of the flat roof, at first floor level, as a roof terrace; remove all paraphernalia associated with the use of the flat roof as a roof terrace, including all waste materials therefrom.' from the requirements paragraph.
2. Subject to these corrections, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

3. In view of the coronavirus restrictions on travel during the course of the appeal, I wrote to the main parties to ask if they would be satisfied that I consider the appeals on the basis of photographic evidence and the written evidence. The parties agreed, and helpfully submitted further photographs of

the appeal site for consideration. In view of these circumstances, I did not carry out a site inspection.

The enforcement notice

4. The enforcement notice makes reference to the unauthorised use of the roof terrace, and the allegations require the cessation of this use. However, a material change of use of the land would be a matter for planning enforcement, and would not comprise works that would contravene listed building control. I have therefore directed that the notice be corrected to remove these references. I am satisfied that these corrections do not cause any injustice or make the notice more onerous.

The appeal on ground (a)

5. The appeal on ground (a) is that the building is not of special architectural or historic interest. An appeal on this ground implicitly challenges the listing of a building. To be successful, it must either be shown that the building which is the subject of the listed building enforcement notice is either not listed at all, or that it no longer merits its listed status.
6. The property at No 59 is one of three buildings within a single list entry comprising 55, 57 and 59 Canonbury Park North. Dating from 1841-3, they are arranged as a block, with Nos 55 and 59 forming lower wings to the central No 57. No 57 stands at three storeys high, with a grand central entrance. By contrast, No 59 is a two-storey building whose frontage sits slightly forward of No 57. It is entered by a doorway in a side section whose flat roof sits just under the eaves of the main two-storey block. This arrangement is mirrored by No 55 at the far end of the block. A later extension which appears to date from the 20th century is attached to the flat-roofed section of No 59.
7. Materials include warm brown brick for the facades with white door and window surrounds, plus white bands and eaves detailing. The roofs are slate with prominent rows of chimneys. These features are common to No 59 and its neighbours and add to their significance as a group.
8. The list description specifically refers to 'Dormers to nos 55 and 59; C20 extension to side of no 59.' The next phrase says 'Included for group value.' The appellant takes this to mean that the later side extension is included for group value. However, in my view, it is not possible to infer this from the wording and punctuation of the description. It is clear that 'Included for group value.' is a new sentence that refers to the whole group of three buildings, and not specifically to the side extension. I note that the Council makes the same interpretation of this wording.
9. In any event, the extension was part of the structure of No 59 at the time of listing. That being the case, it would not make sense for it to be 'included' because it was already an indivisible part of the listed building.
10. Drawing these threads together, I am satisfied that No 59 is relatively unaltered and is still worthy of its listed status. It remains a building of special architectural and historic interest, and it continues to contribute to the value of the group of three buildings as a whole. I do not consider that it ought to be removed from the statutory list. It remains a listed building and the appeal on ground (a) must fail.

The appeal on ground (e)

11. The appeal on ground (e) is that listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted.

Main issue

12. The main issue is the effect of the works on the character or appearance of the grade II listed building.

Reasons

13. The unauthorised works comprise the removal of a first floor window and the formation of a doorway with double doors giving access to the flat roof of the 20th century side extension to No 59.
14. The existing drawings from planning application ref: P060167 and listed building consent application ref: P060283 show that the previous window comprised a single-paned curved top light over a single-paned bottom light. There is little information regarding the age, materials or detailed design of this window. However, the evidence before me suggests it was of a traditional style that kept in with the general appearance of the listed building.
15. It is therefore likely that the works have resulted in the loss of historic fabric of the previous window. Similarly, a section of walling from underneath the window has been lost. In addition, the new doorway introduces access to a flat roof in a way that was not part of the intent or historic design of the building. It thus departs from the characteristic layout of the building, whereby there was no means of communication to an outdoor space in this location.
16. Taking into account the loss of the window, the likely removal of historic fabric to form the doorway, and the disruption to the historic plan form, I am satisfied that the works have harmed the architectural and historic character of the listed building.
17. In terms of justification for the retention of the unauthorised works, the appellant voices concern over fire safety following the fatal fire at Grenfell Tower. She states that if there was a fire on the ground floor of the property, those on the first and second floors would have no means of escape if the doorway was removed, and that it provides an adequate means of escape.
18. Whilst residents could indeed get out of the main body of the building onto the flat roof, there is a further storey and a half drop to the ground. Therefore, whilst fire safety is a serious consideration, I share the Council's concerns over the adequacy of the current arrangement. Moreover, there is little evidence before me to suggest that any other fire safety measures have been considered.
19. I note that a raised glass roof has been added adjacent to the location of the new doorway. The appellant estimates that this structure was created in the 1970s, although it is not referred to in the list description. Although this structure detracts from the character and appearance of the building, its presence does not justify further harm to the heritage asset.
20. In the event that the appeal were to be allowed, the appellant suggests a condition requiring a glazed balustrade on the terrace, similar to that permitted

at 22 Canonbury Park. The purpose of such a balustrade would be for safety, and to minimise the visual impact of the doorway in views towards the building. However, it is likely that such a proposal would depart still further from the character of the building, and would not mitigate the Council's concerns. In any case, the Council confirm that No 22 is not listed, and state that the roof terrace there is not in such a visually prominent position.

21. I have taken into account the fact that similar works have been carried out at a number of properties in the vicinity of the appeal site. However, of the properties identified, only two, 55 and 58 Canonbury Park North, are listed. Moreover, each case is to be considered on its own merits, and so the existence of other similar works has not led me to a different conclusion.
22. Accordingly, therefore, the works conflict with the overarching statutory duty as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, which must be given considerable importance and weight, and with the National Planning Policy Framework (NPPF). In addition, the appeal scheme conflicts with Policy DM2.1 of the Islington Local Plan: Development Management Policies, which seeks a high quality of design for all development, and Policy CS9 of the Islington Core Strategy, which seeks to protect the built and historic environment.
23. Although serious, the harm to the heritage asset in this case would be less than substantial, within the meaning of the term in paragraph 195 of the NPPF. Paragraph 196 requires that, where there is less than substantial harm, the harm should be weighed against the public benefits of the works. The access to the terrace has benefits in terms of providing outdoor space to residents. However, this is a private benefit and so does not weigh in favour of the appeal scheme. As noted above, the terrace does not provide an adequate fire escape from the building, and indeed more effective measures might be achieved independently of the appeal scheme. As a result, this matter is neutral in my consideration.
24. I therefore find that insufficient public benefits have been identified that would justify or outweigh the harm I have identified to the heritage asset. The scheme therefore conflicts with the NPPF, which directs, at paragraph 193, that great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
25. The appeal on ground (e) therefore fails.

Conclusion

26. For the reasons above, subject to the corrections set out above, the appeal is dismissed and the enforcement notice is upheld.

Elaine Gray

INSPECTOR