
Appeal Decisions

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 30 April 2021

Appeal A - Ref: APP/N5090/F/20/3265505
148 Hampstead Way, London NW11 7XH

- 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 Mrs Sylwia Sawa against a listed building enforcement notice issued by the Council of the London Borough of Barnet.
 - The enforcement notice is dated 16 November 2020.
 - The contravention of listed building control alleged in the notice is: Without Listed Building Consent, internal works comprising of the widening of an existing opening in a ground floor wall.
 - The requirements of the notice are: Reinstate the ground floor wall between the dining area and sitting room to its original height, width, design and specifications, as shown in the ground floor plan in drawing number 445/1A from planning application reference C04670C/06, dated 18.12.2006.
 - The period for compliance with the requirements is two months.
 - The appeal is made on the grounds set out in section 39(1)(c), (e) and (i) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Appeal B - Ref: APP/N5090/Y/20/3263018
148 Hampstead Way, London NW11 7XH

- 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 Mrs Sylwia Sawa against the decision of the Council of the London Borough of Barnet.
 - The application Ref 20/3788/LBC, dated 17 August 2020, was refused by notice dated 13 October 2020.
 - The works are 'internal works only comprising the widening of an existing opening in a ground floor wall'.
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Decisions

1. Appeal A is dismissed and the enforcement notice is upheld.
2. Appeal B is dismissed.

Preliminary matters

3. In view of the prevailing coronavirus restrictions, I wrote to the main parties to ask if they would be satisfied that I consider the appeals on the basis of the submitted documentary and photographic evidence. The parties agreed, and so I have not carried out a visit to the appeal site.

Appeal A on grounds (c) and (e) and Appeal B

4. Appeal A is made on three grounds including ground (c), which is that those matters alleged do not constitute a contravention. As the arguments under ground (c) are closely aligned to those made on ground (e), which is that listed building consent ought to be granted for the works, I have considered these grounds together in the interests of avoiding unnecessary repetition.

Main Issue

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

Reasons

The heritage asset

6. The appeal site is located in a terrace of artisans' cottages built by Parker and Unwin around 1907 in the Vernacular Revival style. The list entry comprises Nos 144-152, which taken together are designed to resemble a double-ended hall house. No 148 is a two-storey dwelling finished in painted pebble dash with brick and tile dressings. The roof is tiled with swept eaves, and the first floor windows are set just below the eaves to give the impression that the upper floor is taller than the ground floor.
7. The interiors of the buildings are not mentioned in the list description, presumably as they were not inspected. Nonetheless, I have been provided with an original ground floor plan. No 148 sits in the centre of the block. Its main entrance and stairway are located on the left, with a larger living room at the front and a smaller scullery at the back. These rooms are divided by a cross wall which adjoins the wall enclosing the staircase. A doorway within the cross wall connects the living room and scullery.
8. It is well established that interior layouts and features, where they survive, are important components of the historic or architectural interest of heritage assets. This is the case whether or not they are mentioned in the list description. I note also the advice of the Council's document entitled 'Hampstead Garden Suburb Character Appraisal – Design Guidance' (DG) which states, at paragraph 7.5, that 'interior plans and individual features of interest should be respected and left unaltered as far as is possible'.
9. Here, the floor plan denotes a simple dwelling in keeping with the modest status of its intended artisan inhabitants. The front door leads directly into the living room as the house is not grand enough for a separate hallway. The traditional hierarchy of spaces is followed, with the more spacious and better lit living room at the front of the house. The scullery at the back is smaller, with smaller windows, and is the more workaday space. The even more lowly spaces, the covered shed, the WC and the fuel store, are out at the back in their own block.
10. It is clear that the building has been altered in a number of different ways over the years. For example, the original doorway in the cross wall has been removed and a new arched opening has been formed between the front and back rooms. However, on comparison of the original and later plans, I am satisfied that the historic plan form is still clearly discernible and adds to the significance of the listed building. No 148 is an attractive example of a

cottage-style dwelling whose significance also derives from its relatively unaltered external appearance and its contribution to the understanding of the Hampstead Garden Suburb.

The effect of the works

11. The appellant states that when she carried out the work, it was found that the cross wall was constructed of modern material and was therefore not part of the original structure of the house. Whilst that may be so, the wall remained on or very close to the position of the original cross wall. It therefore tangibly maintained the original layout of the ground floor rooms.
12. The removal of the wall has fundamentally altered the plan form of the building and the intended design of the ground floor rooms. It therefore amounts to works that have altered the character of the building and so listed building consent is required.
13. The appeal on ground (c) thus fails.
14. The removal of the wall has had the effect of opening up the two cell layout into a single volume space on the ground floor. This is at odds with the original design intent of providing two distinctly separate rooms on the ground floor. The historic integrity of the rooms has therefore been eroded, and their proportions harmed. The hierarchy has been diluted, and there is no longer the sense of progressing from the higher status room to the more humble service room.
15. 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 DM06 of Barnet's Local Plan Development Management Policies (DMP), insofar as it requires all heritage assets to be protected in line with their significance, and Policy CS5 of Barnet's Local Plan Core Strategy, which amongst other things seeks to protect listed buildings.
16. 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.
17. The works have created an open plan ground floor which undoubtedly reflects the tastes of the appellant, but cannot be considered essential for modern day living. Any perceived benefits from the changes are private and so do not weigh in favour of the appeal scheme. Whilst I agree that a family home is the optimum use for the building, there is little evidence to show that the works will ensure that this use continues. As a result, this matter is neutral in my consideration.
18. I note that nibs have been left at either side at the room which show the previous location of the wall. It is also the case that the works have had little to no impact on the external appearance of the listed building. However, these factors have not led me to a different conclusion on the main issue.
19. 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.

Appeal A on ground (i)

20. Ground (i) is that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose.
21. In this case, it is required to reinstate the cross wall in accordance with the approved drawings attached to listed building consent ref: C04670C/06. From the photograph and sales particulars prior to the appellant's purchase of the building in 2019, it appears that the cross wall was largely intact and included the central archway. I am therefore satisfied that this was the condition and appearance of the appeal site prior to the breach, and that it reflects the changes consented in 2006.
22. It therefore follows that the requirements will achieve the aim of restoring the character of the building to its former state. I have taken into account the appellant's concerns that the wall was not historic and was constructed of modern materials. However, accepting that this was the condition of the wall, it again follows that this condition will be restored by the requirements. It is of course the case that the historic wall cannot be recreated exactly. Nevertheless, the works will restore the character of the rooms as two separate spaces and mitigate the harm that I have found to the significance of the building.
23. Drawing these strands together, I am satisfied that the steps required by the notice will result in the restoration of the character of the building to its former state, and so the appeal on ground (i) fails.

Conclusion

24. For the reasons above, Appeals A and B are dismissed, listed building consent is refused, and the enforcement notice is upheld.

Elaine Gray

INSPECTOR