



Appeal Decision

Site visit made on 9 June 2021

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2021

Appeal Ref: APP/U5360/F/20/3252546

Land at 41 Kingsland High Street, Hackney, London E8 2JS

- 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 Andrew Yiu against a listed building enforcement notice issued by the Council of the London Borough of Hackney.
 - The enforcement notice was issued on 3 April 2020.
 - The contravention of listed building control alleged in the notice is: Without listed building consent, the installation of a solid metal shutter to the front of the property.
 - The requirements of the notice are:
 1. Remove the metal shutter box, metal shutter and side fixtures and fittings from the front of the property, as shown in the photo in appendix 1.
 2. Completely make good any damage caused to the Building resulting from compliance with the requirement one (1) of this Notice using appropriate materials to match the existing building, returning the Property to its appearance before the unauthorised works were carried out.
 - The period for compliance with the requirements is nine (9) months.
 - The appeal is made on the grounds set out in section 39(1) (e) 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 (the Act) as amended.

Appeal on ground (e)

2. Sections 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
3. The appeal premises comprise the former F.Cooke's Eel, Pie & Mash Shop which is Grade II listed. It is currently in use as a café/bar where board games can be played. The building was constructed by James Hood in 1902-3 and the original shop and restaurant use commenced in 1910. The front elevation is painted brick with stucco columns and dressings and the renovated shop front comprises central part glazed doors with overlight, flanked by large sashes above marble risers, which were for the dispensing of eels.

4. Based on the evidence before me, including the list description and my own observations on my site visit, I consider the significance of the appeal property as a heritage asset is mainly attributable to its historic interest as a rare surviving example of a common type of establishment in London. It also has considerable architectural and artistic interest derived from its architectural detailing, proportions and fine interior. The shop frontage, which was designed for the display and dispensing of eels, contributes to the building's special interest.
5. The building is situated within Dalston Conservation Area (CA). The CA is urban in character and appearance, and along Kingsland High Street, which is part of the Roman Ermine Street, there is an almost unbroken line of buildings on both sides of the street. This part of the CA contains a high proportion of late 19th and early 20th Century buildings, many of which, including the appeal property, are of architectural or historic interest and make a positive contribution to the character and appearance of the CA. At ground floor level, there is a wide variety of commercial and retail outlets, including banks, restaurants and shops. These all contribute to the activity that forms an important component of the character of this part of the CA.
6. The roller shutter and its box housing have been affixed to the front of the premises. The shutter box is situated just below fascia level and the recently restored signage. Its solid steel projecting box form not only appears as an incongruous addition to the building, but it also obscures the small transom windows which form part of the shop front. Consequently, it has a harmful effect on the overall architectural composition of the shop frontage.
7. In the lowered position the roller shutters totally obscure the shop front. They therefore detract from the character and appearance of the host building and fail to preserve its special interest. This in turn detracts from the positive contribution that this building makes to the character and appearance of the CA. In addition, in the lowered position the roller shutters present a hostile appearance, and this creates 'dead' area in the retail frontage. I appreciate that the roller shutters are most likely to be lowered outside normal hours, and that the existing use of the building stays open into the late evening. However, the use of the premises may change over time and the 'dead' area created by the hostile appearance of the shutters reduces visual interest for pedestrians and therefore activity outside of premises. This detracts from one of the components that make up the character of the CA.
8. I have also taken into consideration the number of other shutters on buildings close by. However, I do not know the exact circumstances of their installations and they too fail to preserve the character and appearance of the CA. Those other shutters do not therefore set a precedent that should be repeated.
9. I recognise that the premises are situated in an area where crime levels are high, and the shutters provide some security for the premises. However, the Council's Shop Front Design Guide recognises that the prevention of crime is a major concern to shop keepers. It advises that solid roller shutter blinds will normally be unacceptable and suggests that open roller grilles fixed internally, or removable grilles would be more acceptable solutions. I am not therefore persuaded that the external box and solid shutters installed are the only measure available to prevent or minimise crime. This consideration does not

- outweigh the harm I have identified to the listed building and character and appearance of the CA.
10. The appellant has recently refurbished the original fascia sign, and in doing so understood from the Council that they may look more favourably on any application to retain the shutters. However, those discussions are not a matter for my consideration in this appeal. In addition, although the appellant has offered to forego the listed building and advertisement consents granted to install new signage to advertise their current business, I have not been provided with any mechanism that would secure that offer. In any event, the signage that has been approved¹ was considered to preserve the special architectural and historic interest of the building, and the character and appearance of the CA. The restoration of the original sign does not outweigh the harm I have identified to the listed building. I therefore give this consideration little weight.
 11. Paragraph 193 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed through alteration or destruction of those assets.
 12. I appreciate that the interior of the listed building has remained unchanged and that no part of the fabric of the building has been lost. However, for the reasons set out in the paragraphs above, the overall impact of the roller shutters and shutter box have a harmful impact on the special interest of the building and on the character and appearance of the CA. In the context of the significance and special interest of the assets as a whole, and in the language of the Framework, the harm would be less than substantial. Because the harm is less than substantial, paragraph 196 of the Framework says that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
 13. There are no public benefits which would outweigh the considerable importance and weight to be given to the harm to the heritage asset. As such, the works do not comply with paragraph 196 of the Framework and would conflict with the design and heritage aims of Policies LP1 and LP3 of Hackney Local Plan 2033, adopted 2020. I also find conflict with Policy HC1 of the London Plan, 2021 which requires development proposals affecting heritage assets, and their settings to conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings.
 14. For the reasons set out above, and taking into account all other matters raised, I conclude that the appeal on ground (e) fails and listed building consent is refused, and the enforcement notice shall be upheld.

Elizabeth Pleasant

INSPECTOR

¹ Listed Building Consent Ref: 2019/3197, dated October 2019.