



Appeal Decisions

Hearing Held on 13 April and 4 May 2021

Site visit made on 15 April 2021

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 19 July 2021

Appeal A Ref: APP/E5900/W/20/3254441

12 Pier Head, Wapping High Street, London E1W 1PN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Richard Owen against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref: PA/20/00049, dated 8 January 2020, was refused by notice dated 26 March 2020.
 - The development proposed is demolition of the existing rear extension; construction of a three storey rear extension; extension of the basement to accommodate a garage and family room; and restoration works to the external elevations.
-

Appeal B Ref: APP/E5900/Y/20/3254437

12 Pier Head, Wapping High Street, London E1W 1PN

- 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 Richard Owen against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref: PA/20/00065, dated 8 January 2020, was refused by notice dated 26 March 2020.
 - The works proposed are demolition of the existing rear extension; construction of a three storey rear extension; extension of the basement to accommodate a garage and family room; restoration works to the external elevations; internal alterations to include a new kitchen, bathrooms, reinstatement of lost architectural features, new lighting, heating and electrical installations and redecorations.
-

Decisions

1. **Appeal A** and **Appeal B** are dismissed.

Preliminary Matters

2. The two appeals concern the same scheme under different, complementary legislation. I have dealt with both appeals together in my reasoning.
3. Following the determination of the applications and during the course of the appeals, the London Plan (the LP 2021) was formally adopted in March 2021. This replaces the London Plan 2016. I have therefore determined the appeals having regard to the relevant policies within the LP 2021. The main parties have had the opportunity to comment on the implications of this for the appeals. I am satisfied that no interested party has been prejudiced by this approach.

4. As agreed by the main parties at the hearing, I have used the descriptions of the proposed development and works as stated in the Council's decision notices in the headings above as they are more precise.
5. A number of additional documents were submitted by the main parties before, during and after the hearing, as detailed at the end of these Appeal Decisions. At the hearing both parties confirmed that they were able to respond to all of the submitted documents and agreed that they could be accepted. On this basis, and having regard to the 'Wheatcroft Principles', I have accepted the information and taken it into account in my determination of the appeals. In doing so, I am satisfied that no parties' interests have been prejudiced.
6. Signed and dated Deeds of Unilateral Undertaking pursuant to section 16 of the Greater London Council (General Powers) Act 1974 (Deeds of UU) relating to parking permits were submitted by the appellant prior to, during and after the hearing. I return to these below.
7. Subject to the imposition of appropriately worded conditions to control the detail of the development and works, it is agreed between the main parties that the removal of the existing single-storey ground floor rear extension; the extension of the existing basement area; the external repair/restoration works to the elevations and roof; the restoration of the historic interiors and provision of new/upgraded services; and the creation of a pedestrian opening through the rear boundary wall, would preserve the significance of the listed building and preserve or enhance the character or appearance of the Wapping Pierhead Conservation Area (the CA). Having regard to the submitted written and verbal evidence and my observations on site, I have no reason to disagree.
8. Therefore, I have focused my considerations of the appeals on the effects of the construction of a single-storey ground floor rear extension; the construction of a three-storey rear extension; and the creation of a vehicular access opening through the rear boundary wall.

Main Issues

9. The main issues are:
 - The effect of the proposal on the special interest of the Grade II listed building, Nos 12-14, Wapping Pier Head, and the character and appearance of the Wapping Pierhead Conservation Area (Appeals A and B); and,
 - The effect of the proposal on the safe and efficient operation of the local highway network and the use of the private car (Appeal A only).

Reasons

First Main Issue: Listed building and conservation area

Special interest and significance

10. The appeal site (the site) is located on the western side and at the northern end of Pier Head, near to the former entrance of the Wapping Basin and London Dock, which is now filled in and forms community gardens. Wapping High Street lies to the south and Knighten Street lies to the west. The site is within the CA.

11. The appeal property, No 12 Pier Head (No 12) is positioned in the middle of a short terrace of dwellings, Nos 12-14 Pier Head (Nos 12-14), which is Grade II listed. Nos 12-14 also possess group value with other listed buildings in the Pierhead area.
12. A comprehensive architectural history of No 12 is detailed in 'The One-Time Home of a Warehouse Keeper' by Oliver C Bradbury. The building was originally built as part of a pair with No 13, circa 1811-1812. No 14 was added later, stated to be sometime around 1819. The houses are thought to have been designed by Daniel Asher Alexander, architect to the London Dock Company (the LDC). They accommodated employees of the LDC with No 12 being built for a, mid-ranking, warehouse keeper. The buildings were, and still are, the only original houses left in Pier Head on the North side of Wapping High Street.
13. The buildings are declared to be relatively low-grade late Georgian Houses (third-rate according to the 1774 Building Act classification). They are of 'considerable pared-down elegance', unlike the much larger and grander houses at 1-10 Pier Head located closer to the river, also designed by Daniel Alexander, which were occupied by higher ranking employees of the LDC.
14. No 12 is a three-storey with basement dwelling, constructed of yellow stock brick with a slate roof. It has a stucco cornice and blocking course and a stone band above ground floor. At the rear it possesses a later, small, single-storey extension and a courtyard (that also incorporates the original courtyard to No 14) which is bounded by a brick wall. The wall is about 13m in length and of varied height due to the level changes along Knighten Street. The external elevation of the wall at the rear of the courtyard to No 12 is stated to vary from approximately 3.7m to 4.3m above Knighten Street, whilst the internal elevation measures approximately 2.1m to 2.4m above the current yard surface.
15. The submitted evidence confirms that the existing wall is not the original boundary to the courtyard. It is likely to date from around the 1820s with subsequent alterations, but has remained unchanged since the mid-20th century¹. Whilst not listed in its own right, it was agreed by the main parties at the hearing that, for the purposes of section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), the wall should be treated as part of the listed building – 'curtilage listed'.
16. Internally, although the building has been altered over its history, including the loss or alteration of many of its original features of interest, the original plan form and hierarchy survives to a large extent and remain legible. The property is currently not occupied.
17. From the evidence before me, the special interest and significance of the listed building is largely derived from its historic and architectural interests, as a domestic property of early-19th century date, which is an integral element of the historic residential and wider maritime townscape in this part of the London Docklands area. The building's age and close association with Daniel Alexander and the commercial operation of the LDC, directly support its heritage values. Furthermore, its architectural form, possessing a formal but very modest design; surviving historic fabric; legibility of its extant historic plan-form; and,

¹ Built Heritage Recording of The rear boundary wall at No. 12 Pier Head, Wapping, London Borough of Tower Hamlets PCA report no: r13531 January 2019, Revised February 2019.

the surviving elements of its original plot form at the rear along with its historic unbroken walled enclosure, all make important contributions to its heritage interests.

18. The site is located just inside the western boundary of the CA which runs along Knighten Street. The character and appearance of the CA as a whole, and thus its special interest and significance, mainly stems from the area's historic layout in connection with the LDC; surviving historic structures within the townscape, including walls, bollards and cobbles; the built backdrop of significant architecture, both residential and commercial, which is intimately linked with the activity of the LDC and its employees; and the open areas which provide immediate settings to the buildings and enable the historic townscape to be experienced and appreciated. Together, these elements directly inform the prevailing character and appearance of the unique townscape within the CA and combine to create a distinct sense of place.
19. The heritage interests and value of the Pierhead area's historic residential properties, their curtilages and their boundary enclosures, including Nos 12-14, contribute positively to the character and appearance of the CA as a whole and thereby to its special interest and significance as a designated heritage asset.
20. Nos 12-14 are clearly not as architecturally grand as the properties forming the terraces closer to the river. Even so, I do not accept that they, and particularly their rear elevations, are of any lesser significance because of this. Their role and merit in the historic development of the area and contribution to the townscape are just as noteworthy. Similarly, even though the rear boundary wall is not listed in its own right, I am not persuaded by the appellant's argument that its heritage significance and contribution to the character and appearance of the CA are limited. Its age and materials along with its solid and formal continuity, which generally characterise boundary enclosures in the Pierhead area, meaningfully add to the building's and the CA's heritage interests and thus their special interest and significance.

Effects of the proposal

21. The single-storey ground floor extension would be lesser in height than the existing addition, but would be of greater width and of markedly greater length, projecting the full depth of the plot. The infill of this space with built form at ground floor level, resulting in the physical connection of the rear elevation to the boundary wall, would adversely disrupt the relationship between the main house and the original extent of the courtyard and its formal enclosure. This would diminish the legibility of the building's original plot form and weaken its special interest and significance.
22. I recognise that, historically, the building had a large, full-width single-storey extension (dating before 1872). However, it is evident that this did not extend up to the boundary wall. Although the appellant contends that the design of the extension would mean that its full projection would not be readily apparent in the townscape and that it would provide structural support to the wall, these factors would not satisfactorily moderate its impact and do not justify the development and works.
23. The rear elevation of the terrace does not display a wholly 'flat backed consistency' as contended by the Council. Nevertheless, it is apparent that the

- plain and, as declared by the appellant, 'largely blank' nature of the elevation, historically and architecturally corresponds to the building's ranking in the hierarchy of residential terraces within the Pierhead area. Although stated to be of the minimum size required to provide bathrooms, the three-storey extension would introduce substantial built form onto the rear elevation of No 12. This would fundamentally alter the building's basic form and inherent simplicity and result in an increase in its prominence in the terrace and the townscape. Consequently, the property's standing within the terrace and in the hierarchy of the other residential terraces on Pier Head would be disturbed. This, in turn, would undermine the architectural and historic interests of the listed building.
24. The loss of historic fabric due to the creation of new openings in the rear elevation would be minimal. However, the extension would alter the original plan form and layout of the property and lessen the legibility of the original staircase through the formation of additional openings and rooms off the stair winders. This compounds the harm I have found above.
 25. The minimalist design, complementary roof form and matching materials of the extension would not be sufficient to mitigate its visual and physical prominence in the centre of the terrace. Furthermore, the perceived gains of the extension masking historic alterations on, what is asserted by the appellant to be, an unsightly rear elevation, would be negligible when compared to the harm to its significance.
 26. Closet wing extensions are a common feature of Georgian properties and the rear of a Georgian terrace is generally easier to alter without compromising architectural integrity². However, it is apparent that the form of extensions as proposed are not evident as an architectural development on this short terrace. In any event, their presence on other properties of the same period does not, of itself, support the acceptance of the proposal.
 27. The creation of a vehicular entrance into the rear boundary wall would involve the irrevocable loss of historic fabric and the introduction of an uncharacteristically large opening into this stretch of the defined boundary to the listed terrace. Even though the opening would be at a point where the wall is at its tallest when viewed from Knighten Street and would be closed with sliding doors, it would still weaken the strong and formal continuity of the existing brick boundary enclosure. On this basis, it would dilute the heritage merit of this element of the listed building. The appellant's grounds that the existing wall is of poor appearance and condition, described as a 'mongrel wall' during the hearing, and that the proposed opening would reflect others in the area, are not sufficient to validate or overcome the fundamental objections to the creation of an opening of this size and in this location.
 28. Even though the views of the disputed development and works at the rear of the property would be restricted to those from Knighten Street and Wapping High Street, this would not diminish their adverse impact when viewed from these very public routes. In any event, listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the building can be gained.
 29. Change to a heritage asset does not automatically result in harm to its significance and change can also be positive or neutral and it only becomes

² Historic England 2020 Conserving Georgian and Victorian terraced housing.

- harmful if the identified special interest is eroded. Also, conservation is an active process of managing change to heritage assets in ways that sustain, reveal or reinforce their heritage interests. However, in all of the respects outlined above, the proposal would markedly weaken the heritage interests of the listed building and erode its identified special interest and significance.
30. The proposal would preserve identified key elements of the CA's character and appearance, such as the area's historic layout and the open spaces. However, it would harmfully affect a vital element of the built backdrop of significant architecture within the area. If the special interest and significance of such an important and prominently located building would be harmed in this way, it follows that there would be some residual and incremental harm to the area. Therefore, it would not preserve or enhance the character and appearance of the CA as a whole.
 31. Drawing all of the above together, I find that the proposal would fail to preserve the special interest of the Grade II listed building, Nos 12-14, Wapping Pier Head. It would also fail to preserve or enhance the character and appearance of the Wapping Pierhead Conservation Area. This would be contrary to the requirements of sections 16(2), 66(1) and 72(1) of the Act. As a result, the proposal would harm the significance of these designated heritage assets.
 32. I have had regard to the extension to the adjoining property, No 13 Pier Head (No 13), that was approved by the Council on 2 March 2012³ and which is contended by the appellant to be the 'baseline' against which to assess the proposal. There are significant differences in the details and circumstances of the two proposals. Principally, that the addition to No 13 replaced a Victorian two-storey extension which had substantial structural issues that were also affecting the main property. Moreover, even though the addition to No 13 is considerably larger than the previous structure and is prominent within the townscape and the CA, its projection is mainly to the side rather than to the rear. Additionally, although the legislative context within which the proposals were considered may not have changed, the national and local policy context has been revised with the adoption of the National Planning Policy Framework (the Framework) on 27 March 2012 and the Tower Hamlets Local Plan 2031: Managing Growth and Sharing the Benefits (the THLP) in 2020. These are material changes in circumstances in relation to the assessment of the proposal.
 33. Consequently, the extension at No 13 is not directly comparable to the appeals proposal and its approval some years ago does not justify the acceptance of the scheme before me. I have assessed the proposal on its own planning and conservation merits against the current legislative and policy context and found that it would cause harm.
 34. In coming to my decision, I have also given careful consideration to the Palmer and Bramshill Judgements which were deliberated at the hearing⁴. The Palmer judgement confirmed that 'where a proposed development would affect a listed building or its setting in different ways, some positive and some negative, the decision maker may legitimately conclude that although each of the effects has an impact, taken together there is no overall adverse effect on the listed

³ Application Refs: PA/11/03530 and PA/11/03532.

⁴ R. (Palmer) v Herefordshire Council [2016] EWCA Civ 1061 and City & Country (Palmer Judgement); and Bramshill Ltd v. SSHCLG [2021] EWCA Civ 320 (Bramshill Judgement).

building or its setting’ (para 29 Palmer Judgement). This approach of carrying out an ‘internal heritage balance’ is advanced by the appellant.

35. Whereas the Bramshill Judgement concluded that ‘it is not stipulated, or implied, in section 66(1), or suggested in the relevant case law, that a decision-maker must undertake a ‘net’ or ‘internal’ balance of heritage-related benefits and harm as a self-contained exercise preceding a wider assessment of the kind envisaged in paragraph 196 of the NPPF. Nor is there any justification for reading such a requirement into NPPF policy’ (para 71 Bramshill Judgement).
36. Whilst the Palmer Judgement remains good in law and there are differences in the details of the cases, the Bramshill Judgement is clear in concluding that ‘there is no prescribed single, correct approach to the balancing of such harm against any likely benefits- or other material considerations weighing in favour of a proposal’ (para 72 Bramshill Judgement). In addition, the Court could not see how this approach could ever make a difference to the ultimate outcome of an application or appeal.
37. In line with the method advocated by the Inspector in the Bramshill case, I have undertaken a straightforward application of the approach as outlined in the Framework. In finding harm to the significance of the designated heritage assets, the requirement to carry out a balance as prescribed in the Framework is engaged.
38. I am aware that Historic England confirmed ‘Authorisation to Determine the Application for Listed Building Consent as Seen Fit’ and I note that the Greater London Archaeological Advisory Service suggested conditions to mitigate any harm to any archaeological remains. However, these are neutral considerations in the assessment of the proposal.

Public benefits, planning balance and conclusion on the first main issue

39. Paragraph 193 of the Framework advises that when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 194 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.
40. With reference to paragraphs 195 and 196 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given the fairly localised nature of the proposed development and works in relation to the listed building and the CA, I find the harm to be ‘less than substantial’ in this instance but, nevertheless, of considerable importance and weight. Under such circumstances, paragraph 196 advises that this harm should be weighed against the public benefits of the proposal.
41. In undertaking the overall balance, I have also had regard to the Kverndal Judgement⁵ cited by the appellant which held that section 72 of the Act did not amount to a duty to maximise the enhancement of a conservation area, and that if the overall effect is neutral or beneficial, it is not right for the development to fail on individually harmful elements considered in isolation.

⁵ Kverndal v London Borough of Hounslow [2015] EWHC 3084 (Admin).

42. Mindful of what is stated to constitute a public benefit within the Planning Practice Guidance⁶, there are aspects of the scheme that would undoubtedly be positive and of public benefit. Heritage benefits would accrue from the removal of the existing extension; the restoration of the building's interior and reinstatement of lost internal features; the repair and restoration of the building's exterior; and ensuring the long-term stability of the rear boundary wall. These would, of themselves, sustain and enhance the listed building and the character and appearance of the CA in which it sits and contribute to their long-term conservation.
43. There would be some economic benefits brought about through the investment into the property and the construction phase. Also, social benefits would be gained in improvements to the local housing stock, including accessibility and fire safety. These would contribute to the continued regeneration of Wapping. Other environmental benefits would be achieved from the enhancement of the utilities in the property and improving the fabric efficiency of the premises, both of which would reduce carbon emissions; incorporation of the ability to use sustainable modes of transport such as an electric car and cycles; and increasing the biodiversity of the site. Although I consider, of itself, it would not deliver the benefit of improving the public realm.
44. I accept that these outcomes would facilitate the delivery of the main objectives of the planning system as outlined in the Framework and, whilst much of the improvements would not be accessible to the general public, they would represent benefits to the public at large. The extent of the benefits is tempered by the limited scale of the proposal, but still carry moderate weight in favour of the appeals.
45. Nonetheless, even though I find the harm in this instance to be 'less than substantial', this should not be equated with a less than substantial planning objection. A number of the outcomes cited by the appellant, such as provision of additional accommodation and facilities; provision of high quality amenity space; and secure car parking with an electric vehicle charging point would be exclusively of private benefit.
46. Furthermore, although I appreciate the natural desire of the appellant to adapt the building to his needs, particularly in terms of its existing layout and facilities, this should not involve development and works that would compromise the building's conservation to an unacceptable degree and would not conserve it in a manner appropriate to its significance.
47. From the discussion during the hearing and my observations on site, I am not convinced that the development and works, as proposed, are fundamentally necessary to facilitate the building's reuse as a family home consistent with modern living standards. Nor am I persuaded that the only way of securing such benefits would be via the particular development and works proposed.
48. The building's residential use could still occur without the addition of the extensions or the creation of a garage. I recognise that the property is currently vacant and that the building and rear boundary wall would undeniably benefit from some repair and renovation. I am also cognisant of the CA Management Guidelines which state that 'The most effective way to secure the historic environment is to ensure that buildings continue to contribute to the

⁶ Planning Practice Guidance Paragraph: 020 Reference ID: 18a-020-20190723.

- life of the local community, preferably funding their own maintenance and refurbishment.’ However, no substantive evidence has been put before me which verifies that the property would not be useable or viable as a dwelling or that its conservation as a designated heritage asset would be at risk if the appeals were to fail and the proposal, as submitted, was not implemented.
49. Whilst I give moderate weight to the recognised public benefits, these are not sufficient to outweigh the considerable importance and weight I attach to the identified harm to the significance of the designated heritage assets.
50. At the hearing the appellant highlighted that, unlike paragraph 172(b) of the Framework⁷, there is no requirement under paragraph 196 for the determination of applications to assess ‘meeting the need for it in some other way.’ Nevertheless, paragraph 194 of the Framework is explicit in its requirement that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification, which, in all of the respects outlined above, I find this not to be the case in the appeals before me.
51. I have had regard to the appellant’s agreement to the imposition of a condition which would ensure that the proposal would not be occupied until all of the development and works shown on the approved plans, including the internal refurbishment works, have been completed. However, this would not mitigate or justify the harm.
52. Accordingly, I conclude that the proposal would fail to preserve the special interest of the Grade II listed building, Nos 12-14, Wapping Pier Head. It would also fail to preserve or enhance the character and appearance of the Wapping Pierhead Conservation Area. In doing so it would cause ‘less than substantial harm’ to the significance of these designated heritage assets. In the absence of sufficient public benefit that would outweigh the considerable importance and weight which is given to this harm, the proposal would fail to satisfy the requirements of sections 16(2), 66(1) and 72(1) of the Act and paragraphs 192, 193 and 194 of the Framework.
53. The agreed Statement of Common Ground and submitted evidence cite a number of policies in the LP 2021 and the THLP which are stated to be relevant to the proposal under this main issue. Whilst I accept that some aspects of the proposal would comply with local development plan policy in some respects, by virtue of my findings above, it would conflict with policies which were agreed at the hearing as the most relevant to this main issue.
54. Namely, the proposal would not comply with Policies HC1 and D3 of the LP 2021 in so far as they require development proposals to conserve the significance of heritage assets by being sympathetic to the assets’ significance and appreciation within their surroundings; and enhance local context and respond to the existing character of a place. It would also conflict with Policies S.DH3, S.DH1 and D.DH2 of the THLP which, amongst other things, require that proposals must preserve or, where appropriate, enhance the borough’s heritage assets in a manner appropriate to their significance; be of an appropriate scale, height, mass, bulk and form in its site and context; and

⁷ National Planning Policy Framework: Paragraph 172....Consideration of such applications should include an assessment of: b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way.

positively contribute to the public realm. Consequently, it would not be in accordance with the development plan.

Second Main Issue: The safe and efficient operation of the local highway network and the use of the private car

55. My findings on this main issue are notwithstanding my conclusion that the creation of a vehicular opening in the rear boundary wall would cause harm to the significance of the listed building and would not preserve or enhance the character and appearance of the CA.
56. The proposal includes the creation of a basement garage within the rear curtilage of the site with access from Knighten Street. The revised basement floor plan as proposed⁸ illustrates space for the off-street parking of one private vehicle, an electric car charging point, up to four cycle storage spaces and a store/studio area, in which the appellant intends to store a vintage vehicle. Whilst I note the Council's contention that the space could be used to park two standard private cars, having regard to the space constraints within the garage, which the Council highlighted during the hearing, and the likely difficulty in manoeuvring a second car in and out of the space, I have assessed the proposal on the basis of providing space to primarily house one private car.
57. Knighten Street is a straight and rather narrow road with single yellow lines on both sides, a footpath adjacent to Hermitage Court and a slim cobbled strip adjacent to the rear boundary wall of the terrace. There are two on-street car parking spaces within the London Borough of Tower Hamlets Council Controlled Parking Zone (CPZ) available to local permit holders only between Monday to Friday 08.30 to 17.30.
58. A vehicle/bus gate initiative along Wapping High Street was introduced in November 2019. It is not disputed between the main parties that this initiative has led to a reduction in the volume and movement of vehicular traffic on Knighten Street. The Council has confirmed that it is to be made permanent and therefore these conditions will continue.
59. The position of the garage entrance would be adjacent to the access of Hermitage Court's basement car park. Driver visibility would be restricted by the rear boundary wall when exiting the garage, particularly if done in reverse gear. I have given careful consideration to the representations by interested parties highlighting the potential for conflict with other highway users, including service and emergency vehicles.
60. Nonetheless, in all probability, the number of daily trips by the appellant or any future occupier in and out of the garage space would be limited. In addition, any manoeuvring would be done at very slow speeds which would give time to other road users to act accordingly and avoid collisions. This combined with the general low traffic volumes and movement in the area, would lessen the possibility of conflict with other vehicles and cyclists.
61. Furthermore, the availability of an adequate footway on the opposite side of the street to the garage entrance would mean that any potential for conflict with pedestrians would similarly be low. As such, the proposal would not have an unacceptable impact on highway safety, nor a severe residual cumulative impact on the road network.

⁸ Plan Ref: 627/GA001A.

62. Even if I were to accept that there would be an undesirable level of harm in relation to highway safety, this could be sufficiently mitigated by the use of CCTV, the details of which could be controlled by an appropriately worded condition.
63. The site lies within a Public Transport Accessibility Level of 3. The property and the appellant currently benefits from three parking permits. Two are permits for use within the Wapping Pierhead Estate which is currently managed by Tower Hamlets Homes. One is a permit for use within the London Borough of Tower Hamlets CPZ (C2), although the Council's parking permit policy allows residents to apply for up to three on-street parking permits per dwelling.
64. The proposal would create one additional parking space for the private use of the appellant or any future occupier. In these regards, the proposal would not have car-free development as the starting point or comply with the Council's residential parking standards and would not directly promote sustainable modes of transport.
65. However, I am mindful that the proposal is to extend and renovate an existing residential property with existing access to car parking permits within the area. It is not new residential development and would not create any additional separate residential units. As such, it is unlikely that, of itself, it would significantly increase any existing on-street parking stress or inconvenience to the wider neighbourhood from additional demand for parking in the locality. Furthermore, although it would provide the ability to park an additional private car at the site, the inclusion of a private electric vehicle charge point and the ability to store up to four cycles would also allow for alternative and more sustainable modes of transport.
66. Additionally, the appellant has submitted signed and dated Deeds of UU pursuant to section 16 of the Greater London Council (General Powers) Act 1974 relating to the parking permits which the owner and any occupier of the appeal property is able to apply for. The Court of Appeal has confirmed that, in Greater London, section 16 is effective to secure car free development. This is because the wider wording of section 16 does not require a restriction on land, but only that an undertaking or agreement has a 'connection' with the land/property⁹.
67. I have assessed the proposal on the basis of providing space to primarily house one private car. The Deed of UU signed and dated 9 April 2021 is an undertaking from the owner not to apply to the Council for more than two residents' parking permits in connection with the Land, nor to knowingly permit any occupier of the Land to do so.
68. This reduction in the entitlement from three to two parking permits in connection with the Land would mean that the proposal would not result in an increase in the car parking capacity available to the owner or any occupier of the Land and would not generate any additional traffic.
69. In this respect, the Deed of UU signed and dated 9 April 2021 would sufficiently address any harm arising from the provision of one additional car parking space within the proposed garage. However, it would be no more than

⁹ Paragraph 38 of judgment in *R (oao Khodari) v Royal Borough of Kensington and Chelsea & Cedarpark Holdings Inc* [2017] EWCA Civ 333: "In my judgment if the obligations about parking permits fall within section 16 they will be legally valid".

mitigation to maintain the status quo in terms of the number of parking permits and spaces available to the appellant as a result of the proposal.

70. I note that the Deed of UU signed and dated 9 April 2021 has no appended plan defining the 'Land'. This would be required to ensure that the agreement is legally effective in securing the mitigation. In the event that the appeals were to be allowed this matter would appear to be capable of being easily remedied. In these circumstances I have taken the potential mitigation into account. Nevertheless, as I am dismissing the appeals for other reasons, I have not pursued this matter further with the main parties.
71. Therefore, I conclude that the proposal would not have a harmful effect on the safe and efficient operation of the local highway network. Moreover, whilst it would not wholly achieve car free development and directly support sustainable modes of transport, the Deed of UU dated 9 April 2021 (subject to the provision of an appended plan defining the 'Land') would result in no change to the existing car parking capacity available to the owner or any occupier of the Land.
72. Consequently, the proposal would not conflict with Policies T6 and T6.1 of the LP 2021 and Policies D.TR3 and S.TR1 of the LBTH which, amongst other things, aim to control new parking provision; ensure that parking is controlled both on-street and off-street to facilitate sustainable travel patterns and address congestion; and, require development to not adversely impact the capacity, quality and safety of the transport network in the borough.
73. Nonetheless, given my conclusion on the first main issue that the creation of a vehicular opening in the rear boundary wall would cause harm to the significance of the designated heritage assets, a lack of harm in these regards does not amount to a consideration in support of the proposal. Consequently, it does not alter the outcome.

Other Matters

74. I acknowledge that the proposal is the result of the revision of a previous scheme¹⁰ which aimed to address the concerns of the Council. Nevertheless, this does not alter my conclusions on the main issues.
75. My attention has been drawn to other developments in the area, including, Nos 108-110 Wapping High Street and Turner Street/Varden Street. In addition, information has been provided relating to rear extensions to lost buildings in East London. I recognise that the examples cited illustrate extensions to the rear of properties, some modern and granted by the Council and some historic. However, from the evidence provided and the discussion at the hearing, I am satisfied that these developments and examples are not directly comparable to the appeals before me. As such, their presence, currently or historically, does not lead me to a different conclusion on the first main issue.
76. The appellant also makes reference to openings which have been created in listed or historic walls in the locale¹¹. However, I have been given few details regarding the context of the walls, their heritage significance or when the openings were created. Nor do I have any of the details or circumstances which

¹⁰ Applications Refs: PA/19/00704 and PA/19/00705.

¹¹ Document Refs: Historic Walls in Wapping and Appendix 7 of Response to Council's Statement.

led to the openings being accepted. A number of them appear to be pedestrian/cycle entrances or glazed openings rather than vehicular entrances, with some being linked to large modern developments rather than to a single house. Of the larger entrances shown, although some echo the form of the contested vehicular entrance to No 12, I am unable to draw any meaningful comparisons. As such, they do not alter my findings on the first main issue.

77. The Council concluded that the proposal would not harm the living conditions of occupiers of Nos 13 or 14 Pier Head or Hermitage Court, with regard to outlook, light and/or privacy. Whilst some of these matters are contested by interested parties, from the evidence before me, I agree. Nonetheless, this does not represent support in favour of the appeals.
78. I have also given careful consideration to the representations in support of the development and works. However, heritage assets are an irreplaceable resource and the submissions do not justify allowing the irreversible harm that the proposal would cause.
79. I note the appellant's comments on the Council's failure to carry out a proper assessment of harm to the significance of the heritage assets; consider the scale of harm to significance; consider the public benefits associated with the development; or carry out a balancing exercise to consider these benefits against any harm caused. However, these matters, of themselves, are not ones for me to consider in the context of the appeals before me.

Conclusion

80. The proposal would fail to preserve the special interest of the Grade II listed building and would not preserve or enhance the character and appearance of the CA, contrary to the development plan. There would be no harm in relation to the safe and efficient operation of the local highway network and the use of the private car, however, this is a neutral consideration in the balance.
81. The public benefits that would flow from the proposal attract moderate weight in favour of the appeals. Nevertheless, they and other considerations would not outweigh the harm and do not indicate that the decisions should be made other than in accordance with the development plan.
82. Therefore, for the reasons given above, I conclude that **Appeal A** and **Appeal B** should be dismissed.

F Cullen

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Richard Owen	Appellant
Mrs Ailie Owen	Appellant's wife
Mr Charles Banner QC	Keating Chambers
Ms Valerie Scott	HCUK Group
Mr Jonathan Edis	HCUK Group
Mr David Bird	Vectos Transport
Mr Robert Sandford	Julian Harrap Architects
Ms Georgia Politi	Julian Harrap Architects

FOR THE COUNCIL:

Mr Simon Westmoreland	Team Leader
Ms Kathleen Ly	Planning Officer
Ms Vicki Lambert	Design and Conservation
Mr Matt Kent	Transportation and Highways

INTERESTED PARTIES:

Mr J Taylor	Owner of No 13 Pier Head (Support)
Mr N Shroff	Local resident (Object)

ADDITIONAL DOCUMENTS SUBMITTED.

APPELLANT:

1. Revised plans Basement Floor Plan as Proposed (627/GA001A) and Basement Floor Plan Scope of Works (627/GA017A) to reflect the layout as shown in the Transport Note by Vectos and include the alternative of having a ramp along the basement hallway passage in place of the two steps to enable the basement to be wholly wheelchair friendly (received following determination of application as part of the grounds of appeal).
2. Appellant's Response to Council's Statement of Case with Appendices (received 9 April 2021).

Appendix 1 Delegated officer's report re applications PA/11/03530 and PA/11/03532 (No 13 Pier Head).

Appendix 2 Before and after photographs of extension at No 13 Pier Head.

Appendix 3 Photographs of the rear elevation of Nos 108-110 Wapping High Street.

Appendix 4 Archive photographs showing rear additions to many now lost buildings in East London.

Appendix 5 Delegated planning report and before and after photographs of properties in Turner Street and Varden Street.

Appendix 6 Visuals of rear elevation prior to demolition of the Victorian extension to rear of appeal premises, existing rear elevation and two visuals showing proposed elevation.

Appendix 7 Examples of similar openings in walls around Wapping.

Appendix 8 Summary of relevant policies of the London Plan 2021.

Appendix 9 Bramshill Ltd v. SSHCLG [2021] EWCA Civ 320 (Bramshill Judgement).

Appendix 10 R. (Palmer) v Herefordshire Council [2016] EWCA Civ 1061 and City & Country (Palmer Judgement).

3. Appellant's Response to Council's Statement of Case – Transport Matters (received 9 April 2021).

4. Deeds of Unilateral Undertaking pursuant to section 16 of the Greater London Council (General Powers) Act 1974. All with explanatory notes:

a) Draft Deed relating to an undertaking to the Council by the Appellant and Owner of the appeal premises not to apply to the Council for more than two Parking Permits nor knowingly permit any occupier to apply for more than two Parking Permits (received 9 April 2021);

b) Signed and dated Deed (dated 9 April 2021, received 9 April 2021) relating to an undertaking to the Council by the Appellant and Owner of the appeal premises not to apply to the Council for more than two Parking Permits nor knowingly permit any occupier to apply for more than two Parking Permits;

c) Signed and dated Deed (dated 12 April 2021, received 13 April 2021) relating to an undertaking to the Council by the Appellant and Owner of the appeal premises not to apply to the Council for more than two Parking Permits nor knowingly permit any occupier to apply for more than two Parking Permits; and not to apply to the Council or its Managing Agent for more than one Estate Parking Permit nor knowingly permit any occupier to apply for more than one Estate Parking Permit; and,

d) Signed Deed with amended wording which supersedes Deed c) (dated 7 May 2021, received 8 May 2021) relating to an undertaking to the Council by the Appellant and Owner of the appeal premises not to apply to the Council for more than two Parking Permits nor knowingly permit any occupier to apply for more than two Parking Permits; and not to apply to the Council or its Managing

Agent for more than one Estate Parking Permit nor knowingly permit any occupier to apply for more than one Estate Parking Permit.

5. Revised plans 627/GA008A, 627/GA009A and 627/GA021A to illustrate one car within the garage space and a correction to the annotation (received 21 April 2021).

COUNCIL:

1. Appeal Decision APP/E5900/D/17/3167890 24 Durant Street, London E2 7BP (received 12 April 2021).

INFORMATION REQUESTED BY INSPECTOR

1. Comments on suggested conditions (requested and received during adjournment between 13 April 2021 and 4 May 2021).
2. Update on Council highway initiatives in the area (requested 10 May 2021 and received 12 May 2021).