



Appeal Decision

Site visit made on 17 March 2022

by Thomas Shields DipURP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2022

Appeal Ref: APP/Y5420/F/21/3284803

Flat A, Elm Court, 15-16 Bruce Grove, London, N17 6UU

- 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 Anne Braithwaite against a listed building enforcement notice issued by the Council of the London Borough of Haringey.
 - The listed building enforcement notice was issued on 7 September 2021.
 - The contravention of listed building control alleged in the notice is, without listed building consent, the installation of a boiler in the interior of the property and the installation of a flue, condensing and overflow pipes on the front façade.
 - The requirements of the notice are:
 1. Remove the unauthorised boiler, flue, condensing and overflow pipes;
 2. Reinstate the walls to their condition prior to the carrying out of the unauthorised works referred to in the second schedule of this notice.
 - The period for compliance with the requirements is 2 months.
 - The appeal is made on the grounds set out in section 39(1) (d), (e) and (j) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. The appeal is allowed and the listed building enforcement notice is quashed. Listed building consent is granted for the retention of the works already carried out, namely the installation of a boiler in the interior of the property and the installation of a flue, condensing and overflow pipes on the front façade, at Flat A, Elm Court, 15-16 Bruce Grove, London, N17 6UU.

Appeal site and background

2. The appeal property, Flat A, Elm Court, is the basement flat within No. 15 Bruce Grove, having its own separate front door access from the main front parking area. A gas combi-boiler has been installed on the interior wall just inside the doorway with a flue and condensing and overflow pipes projecting through the exterior surface of the front wall.

Appeal on ground (d)

3. An appeal on this ground argues that the works to the listed building were urgently necessary.
4. For this ground of appeal to be successful three tests must all be satisfied. Firstly, that the works to the listed building were urgently necessary in the interests of safety or health or for the preservation of the building; secondly, that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording

temporary support or shelter; and thirdly, that the works carried out were limited to the minimum measures immediately necessary.

5. The appellant's case in summary is that the previous and aged gas boiler in the flat broke down in March 2020. Since it was beyond repair it needed to be replaced in the interests of health as soon as possible given the seasonally cold time of the year. The former location of the boiler meant that its flue (and expulsion of fumes) projected over the neighbouring occupier's land, in conflict with latest gas safety regulations. As such, it is argued, the new boiler had to be located in the only other available location, that being on the interior of the wall at the front of the property, with flue and pipes projecting out of the front façade.
6. I acknowledge that the boiler failure occurred in March 2020 when it was cold and hence that it would have been highly desirable for a replacement to be installed as quickly as possible. However, highly desirable does not equate to "urgently necessary" and there is no evidence before me that alternative forms of heating and for obtaining hot water were not possible at least for a temporary period of time. Given these factors I am unable to conclude the works undertaken were limited to the minimum measures immediately necessary, and hence that they were *urgently* necessary. Consequently, the appellant's arguments fail to satisfy two of the tests set out previously.
7. The appeal on ground (d) therefore fails.

Appeal on ground (e)

8. An appeal on this ground is that listed building consent ought to be granted for the works carried out.
9. The main issue is whether the works subject to the notice preserve the listed building or its setting or any features of special architectural or historic interest it possesses.
10. The Grade II listed building, 15 and 16 Bruce Grove, was first listed in 1949 and is located within the Bruce Grove Conservation Area (BGCA). It comprises a matching pair of late 18th or very early 19th century three storey houses with basements, constructed in traditional yellow stock brick with plain banding at first floor level, decorative cornice and block work, and stone coping parapets at the sides. Each house has a set-back two storey side wing with tripartite first floor windows. The main front projecting block has flat brick arches to sash windows with glazing bars in stucco lined reveals, with those on ground floor having round arched recesses. Stone steps lead to main front doors under column supported porches. All of these factors contribute to the special architectural and historic interest of the listed building.
11. The listed building also forms part of a group listing comprising Nos 1 to 16, together forming an imposing sequence of similarly designed house pairs with associated coach houses.
12. Notwithstanding the subdivision of some of the houses into flats and some erosion of their special interest resulting from loss of boundary walls, railings and some later additions and extensions, the group, including Nos 15 and 16, nonetheless retain significant value and contribute greatly to the character and appearance of the BGCA.

13. The smaller condensing/overflow pipes by themselves have little if any effect on the character and special interest of the listed building. However, I agree with the Council that taken together with the white plastic flue pipe there is some combined effect, albeit resulting in quite limited harm overall to the listed building and to the character and appearance of the BGCA.
14. During my inspection of the appeal property I saw that there were only two possible places where an external boiler flue could be located, those being its former location and the current location. I saw that the former location was very close to the external wall of the neighbouring property. In this regard the appellant's submissions include a letter from the gas installation engineer who fitted the new boiler. It states that since the former boiler flue terminated over the neighbouring property, being very close to and facing that occupier's door and window, the fumes could enter that property creating a risk to life. It goes on to state that current regulations do not permit products of combustion to terminate in this way. I have no reason to doubt the credibility of this evidence and it is not disputed by the Council.
15. Drawing all of the above factors together, it seems to me that the low level of harm I have identified was limited to the minimum necessary in order to make the flat habitable. In the language of the Framework¹ I find this harm to the listed building and BGCA to be *less than substantial*. Moreover, this harm is far outweighed by the benefit of making the property habitable, thereby securing the long term use of the property as a dwelling, being its optimum viable use.
16. The appeal on ground (e) therefore succeeds and listed building consent is granted for the works carried out.
17. In these circumstances there is no need for me to consider the appeal on ground (j).

Thomas Shields

INSPECTOR

¹ The National Planning Policy Framework (2019), paragraph 202.