



Appeal Decision

Site visit made on 26 July 2022

by J Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 August 2022

Appeal Ref: APP/E5900/C/22/3296068
68-70 Middlesex Street, London E1 7EZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Jamal Uddin Manji against an enforcement notice issued by the Council of the London Borough of Tower Hamlets.
 - The enforcement notice was issued on 21 February 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised replacement of traditional timber framed sash windows to the front elevations of the first, second and third floors of the building at 68 and 70 Middlesex Street, with uPVC double glazed casement windows.
 - The requirements of the notice are
 - a) Remove all fifteen (15) unauthorised uPVC double glazed casement windows, as shown in the locations identified in photographs 2B and 2C in Appendix 2 of this Notice, from the first, second and third floors of the front elevation of the building at 68 and 70 Middlesex Street, shown in the approximate location outlined in red in the site plan in Appendix 1 attached to this Notice.
 - (b) Replace all fifteen (15) windows shown in the location identified by photographs 2B and 2C in Appendix 2 of this Notice, with traditional timber framed sash windows, as shown in photograph 2A, to the first, second and third floors of the front elevations of the building at 68 and 70 Middlesex Street, shown in the approximate location outlined in red on the site plan shown in Appendix 1 attached to this Notice.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The appeal on ground (a)

Main Issue

2. The main issue is whether the development preserves or enhances the character or appearance of the Wentworth Street Conservation Area (the WSCA).

Reasons

3. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
4. The WSCA is centred around Wentworth Street, bound by Middlesex Street to the west and Commercial Road to the east. The built form is dominated by terraces of buildings of two to three storey in height, rising to four storeys in the western area of the WSCA in and around Middlesex Street. These terraces are characterised by narrow, tall frontages with pairs of sliding sash windows on each floor. The significance of the WSCA is largely derived from the historical land use for textiles and the attractive built form, characteristic of its 19th century origins.
5. The appeal relates to two adjoining terraced properties. Both are four storey in height with commercial uses at ground floor – typical of the character of built form in the area. No 70 has three windows on each of the upper floors whilst No 68 has two on each floor. All of the windows are evenly spaced and reflect the continuing pattern of fenestration along this terrace, which reflects the prevailing character of the WSCA. As such, the appeal property makes a positive contribution to the significance of the heritage asset.
6. The development has resulted in the installation of 15 windows in the front elevations of the buildings. The windows comprise double glazed units in UPVC, in stark contrast to the sash windows which they replaced, and which prevail within the WSCA. The smoother finish of the plastic and the apparent greater thickness of the frames appears at odds to the traditional timber windows which are found throughout the WSCA and indeed of those windows which were replaced. Moreover, the windows are highly visible within the public realm from Middlesex Street and the double glazing gives a degree of reflectivity which is not found in the original windows.
7. The appellant points to examples of UPVC windows having been installed across the WSCA. However, they only serve to demonstrate the harm that their installation can have to the significance of the heritage asset. Allowing the development here would only further embellish such harm.
8. I conclude, therefore, that the development fails to preserve or enhance the character or appearance of the WSCA. Consequently, it conflicts with Policies S.DH1, S.DH3 and D.DH2 of the Tower Hamlets Local Plan 2020 which state that development should: meet the highest standards of design; preserve or enhance designated heritage assets; and, positively contribute to the public realm. There is also conflict with Policies D4 and D8 of the London Plan 2021¹ which seek to deliver good design and ensure a well-designed public realm.
9. I afford great weight to the harm to the significance of the heritage asset in accordance with paragraph 199 of the National Planning Policy Framework (the Framework). In finding harm in respect of the significance of a heritage asset, paragraph 202 of the Framework sets out that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In this instance, I find that the harm amounts to less than

¹ The London Plan: The Spatial Development Strategy for Greater London March 2021

substantial. Thus, in accordance with paragraph 202 of the Framework, it should be weighed against any public benefits of the proposal.

10. I note that the provision of double glazed windows will improve the energy efficiency of the building. However, little detail of whether other efficiency measures have been explored to reduce the energy usage of the building has been provided. There are no other public benefits before me.
11. As a result, I find the public benefits do not outweigh the great weight to which I afford the harm to the designated heritage asset. To that end, the balance of paragraph 202 of the Framework falls against the development.

Conclusion

12. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

J Whitfield

INSPECTOR