

Appeal Decisions

Site visit made on 7 June 2022

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2022

Appeal A Ref: APP/E5900/W/21/3271607

11 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 Alfie Yeatman of HGH Consulting against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/21/00023/NC, dated 4 January 2021, was refused by notice dated 17 February 2021.
 - The development proposed is described as "refurbishment & restoration works as previously approved: (PA/20/00459 & PA/20/00460) - Structural and other repairs to existing front and rear elevations; - Alterations and repairs to existing out-building; - Provision of single storey extension, which will connect the main house to the outbuilding; - Minor internal alterations to all floors; - Replacement of all services. Plus: - Minor enlargement of a rear ground floor level window by lowering the sill 300mm (4 brick courses), addition of air conditioning unit to the previously approved extension and to create an opening to the extension at the rear".
-

Appeal B Ref: APP/E5900/Y/21/3271617

11 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 Alfie Yeatman of HGH Consulting against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/21/00024/NC, dated 4 January 2021, was refused by notice dated 17 February 2021.
 - The works proposed are described as "refurbishment & restoration works as previously approved: (PA/20/00459 & PA/20/00460) - Structural and other repairs to existing front and rear elevations; - Alterations and repairs to existing out-building; - Provision of single storey extension, which will connect the main house to the outbuilding; - Minor internal alterations to all floors; - Replacement of all services. Plus: - Minor enlargement of a rear ground floor level window by lowering the sill 300mm (4 brick courses), addition of air conditioning unit to the previously approved extension and to create an opening to the extension at the rear".
-

Decision

1. Appeal A – The appeal is dismissed.
2. Appeal B – The appeal is dismissed.

Preliminary Matters

3. The appeal was originally made in the name of Mr Chris Panes. However, Mr Panes was not the original applicant and therefore has no right of appeal. During the course of the appeal proceedings, it was confirmed that the appeal should proceed in the name of Mr Alfie Yeatman of HGH Consulting, who was named on the

original joint application for planning permission and listed building consent. I have proceeded on that basis.

4. The appellant does not, and has never had, a freehold or leasehold interest in the appeal site. Therefore, the certificate of ownership declaration set out in section 42 of the original application form is incorrect. Pursuant to Article 13 of The Town and Country Planning (Development Management Procedure) (England) Order 2015, requisite notice of the application for planning permission should have been served to any person who is an owner of the land to which the application relates. To remedy this, during the course of the appeal, the appellant made the correct certification and, in doing so, has served the requisite notice, subsequently providing a 21 day period for representations. This complies with the relevant statutory requirements and therefore no one's interests would be prejudiced by this approach.
5. Notwithstanding the description of the proposals set out above, the Council, in its formal decisions, describes the proposals as "refurbishment and restoration works to include: structural and other repairs to existing front and rear elevations; two new rear timber sash windows, new opening created at rear to accommodate a new semi glazed terrace door and new external terrace with privacy screen; alterations and repairs to existing out-building with new roof light; provision of single storey extension, which will connect the main house to the outbuilding; minor internal alterations to all floors; replacement of all services; minor enlargement of a rear ground level window by lowering the sill 300mm (4 brick courses); addition of air conditioning unit to the previously approved extension and to create an opening to the extension at the rear". This is a more accurate description of what is proposed and therefore I have dealt with the appeal on this basis.
6. However, I note that the majority of the proposed works have been approved by the Council under separate grants of planning permission and listed building consent¹, without the provision of the external terrace above the rear extension. During my visit, I observed that most of the approved works were substantially complete. Therefore, the Council's concerns are isolated to the proposed semi-glazed terrace door and external terrace with privacy screen and balustrade. Consequently, my deliberations will be confined to these elements of the proposed scheme.
7. The London Plan 2021 (the LP 2021) was published by the Mayor of London on 2 March 2021. Both parties have made reference to the LP 2021 in their respective submissions. Accordingly, in reaching my decision, I have had regard to the policies of the LP 2021.

Main Issues

8. The main issues in this case are:
 - In relation to both appeals, whether the proposal would preserve the special interest of the Grade II listed building, 11 Wapping High Street, and whether it would preserve or enhance the Wapping Pierhead Conservation Area; and,
 - In relation only to appeal A, the effect of the development on the living conditions of neighbouring occupiers, with regard to their privacy.

¹ Application Ref. PA/20/00459, PA/20/00460, PA/20/020095 and PA/20/02096

Reasons

Special interest and significance

9. The appeal property is a Grade II listed building included on the statutory list as 11 Wapping High Street and located within the Wapping Pierhead Conservation Area. The building comprises a three storey house that was built in the early part of the 19th century at the same time as the adjacent buildings at 1-10 Pier Head. The houses were designed by renowned English architect and engineer Daniel Asher Alexander as part of his comprehensive redevelopment of the area to provide residential accommodation for employees of the London Dock Company (LDC).
10. Built in a well-balanced Georgian style with attractive architectural detailing, No.11 is of notable architectural interest, despite being less ornate than its adjoining neighbours. It is constructed of stock brick with white stone coped parapet and a white stone band above the ground floor. Windows are sliding sashes laid out in an orderly and symmetrical arrangement across the principal elevation. The rear of the building lacks the consistency of its front aspect, presenting a more functional appearance, in clear contrast to the polite formalism of its principal façade. There has no doubt been some alteration due to repairs and remodelling of the property over the years, including a bricked up window that would have historically served the east-side room on the first floor. Nevertheless, this more fortuitous aspect to the rear makes a meaningful contribution to the significance of the building, by displaying a more subdued and less formal arrangement, typical for a building of this period and status.
11. From the evidence before me, and insofar as it relates to these appeals, the special interest and significance of the listed building is largely derived from its historic and architectural interest, as a residential property of early-19th century origin, which is an integral part of the wider maritime townscape of this part of the London Docklands area. Moreover, the building's age and association with Daniel Alexander and the commercial operations of the LDC add to its heritage value.
12. Stretching between Wapping Pierhead to the west, through to Wapping Station to the east, the Wapping Pierhead Conservation Area (the WPCA) comprises a number of 18th and early-19 century buildings primarily associated with the former LDC, the operations of which have heavily influenced the area's townscape character. The architectural quality and historic value of the residential properties at Pierhead, including No.11, make an important contribution to the character and appearance of the WPCA, combining the traditional domestic Georgian style with the more austere and functional attributes of the surrounding warehouse buildings.
13. The appeal property also has group value along with a number of other statutorily listed buildings, especially those at No.'s 1-10 and 12-14 Pierhead, with which it shares much of its distinctive architectural features, and which together these fine Georgian buildings define the character and appearance of the conservation area.

The appeal proposal

14. It is proposed to create an area private amenity space on the flat rooftop of the ground floor extension to the rear of the property, resulting in a rooftop terrace. This would address the fact that the property does not currently benefit from any external amenity space.

15. The terrace would comprise a slender black metal balustrade and a lightweight, frameless opaque glass privacy screen. Both elements would be attached using non-intrusive fixings that could be easily removed without damaging the surrounding historic fabric. To create access from the house, the existing bricked up window would be re-opened and the sill height lowered. A semi-glazed timber-framed door would then be installed within the enlarged opening. It is acknowledged that consent has already been given to re-open the bricked up window.

The effect of the proposal

16. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require me to have special regard to the desirability of preserving the building, or its setting or any features of special architectural or historic interest it possesses. Section 72(1) of the Act also requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. I have therefore considered the appeal scheme in light of these weighty statutory duties.
17. Despite a lightweight design approach, the terrace, with its large privacy screen and balustrading, would be a highly conspicuous addition to the rear of the building. It would disrupt the simple and subdued architectural composition of the rear elevation, thereby introducing a prominent and discordant feature that would be harmful to the building's special interest. Its elevated position would accentuate its visual presence and the likely introduction of domestic paraphernalia associated with the use of the terrace would further compound this harm.
18. The loss of historic fabric to enlarge the window opening in the rear elevation would be minimal. However, it would introduce a doorway at first floor level where previously there was a window. This would alter the composition of the rear elevation and reduce its legibility. This adds to the harm I have found above.
19. The appellant suggests that the terrace would not harm the listed building or the conservation area because it is located to the rear where there are limited public views. However, listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views are available. In any case, it was clear from my visit that the terrace would be visible in public views gained from the narrow passageway to the east of the appeal property, leading up from Wapping Old Stairs and which I consider to be a key view into the conservation area from the Thames. It would also be visible in a number of views from the rear of properties at 5-10 Pier Head.
20. It follows that if the special interest of a listed building within a conservation area is materially diminished, as a consequence the character and appearance of that conservation area as a whole is also similarly incrementally harmed. Therefore, as the proposal would undermine the architectural integrity of the listed building, and also disrupt views of the rear of the building, I also find it to be harmful to the character and appearance of the WPCA, by diminishing the historic and architectural qualities of a building that contributes positively to that area.
21. Taking these points together, I find that the proposal would fail to preserve the special interest of the Grade II listed building, 11 Wapping High Street. It would also fail to preserve or enhance the character or appearance of the WPCA. As a

consequence, the proposal would result in clear harm to these heritage assets and, in doing so, it would not meet the statutory requirements of the Act.

Public benefits

22. With reference to paragraphs 201 and 202 of the National Planning Policy Framework (the Framework), in finding harm to the significance of designated heritage assets, it is for the decision maker to consider the magnitude of that harm. In this case, given the relatively localised nature of the proposal and its consequent effects, I find the harm to both the listed building and WPCA to be less than substantial. Under such circumstances, Policy S.DH3 of the Tower Hamlets Local Plan 2031 (the THLP) and the Framework require any harm to be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
23. I accept that aspects of the scheme would be positive and of public benefit. Heritage benefits would accrue from the refurbishment and restoration of the building, including structural repairs, that would sustain and enhance the listed building and add positively to the character and appearance of the conservation area. Nevertheless, most of these works have now been implemented and are now complete. Furthermore, little evidence has been provided to suggest that the residential use of the property would cease in the event that the appeal was to fail. It has not therefore been demonstrated that the proposed scheme is necessary to maintain the optimum viable use of the building.
24. The harmful effects to the heritage assets are considerations to which I attach great weight and importance, and their combined weight would not be outweighed by any demonstrable public benefits. For this reason, the proposal would be contrary to the Framework's aim to conserve heritage assets in a manner appropriate to their significance.
25. To conclude on this main issue, the proposal would fail to preserve the special interest of the listed building and it would neither preserve nor enhance the character or appearance of the WPCA. Therefore, the proposal would be contrary to Policies S.DH1 and S.DH3 of the THLP and Policies D3, D4 and HC1 of the LP 2021, and the associated provisions of the Framework. Together, among other things, these policies require development to meet the highest standards of design and for proposals to preserve or, where appropriate, enhance heritage assets in a manner appropriate to their significance.

Living conditions of neighbouring occupiers

26. The appeal property sits at a right angle to No.'s 7-9 Pier Head, with the rear yard of No.10 being located directly to the rear of No.11. There is already a degree of mutual overlooking between these neighbouring small yards and garden areas. However, domestic shrubs and bushes along the rear boundaries of No.'s 7 and 8 afford some privacy for these neighbouring occupiers.
27. The privacy screen proposed as part of the terrace would limit the opportunity for direct views into the first floor windows of the adjoining properties to the west, and would eliminate any possible overlooking of No.9. Nevertheless, the proposal would introduce an elevated and projecting vantage point beyond the envelope of the main building, which would afford its users a close and more open view over the rear yards and gardens which serve No.'s 7, 8 and 10. There is a dispute over the measurements from the terrace to these neighbouring boundaries, but even if

I were to accept the appellant's measurements, the views into these neighbouring areas would be extensive and in close proximity, despite the slightly oblique angle of some of these views. Consequently, the proposal would introduce an unacceptable level of overlooking that would result in a significant loss of privacy to neighbouring occupiers.

28. The fact that there were no objections to the proposal from neighbouring occupiers is not determinative. More significantly, the proposal would not achieve one of the important objectives set out in paragraph 130 of the Framework, that being to secure high standards of amenity for existing and future users.
29. For these reasons, on this issue, I conclude that the proposal would result in significant harm to the living conditions of neighbouring occupiers because of the loss of privacy that would arise. This would conflict with Policy D.DH8 of the THLP and the associated provisions of the Framework which together require high standards of amenity that must maintain good levels of privacy and avoid unreasonable levels of overlooking.

Other Matters

30. I acknowledge that rooftop terraces are an increasingly common feature within residential areas, particularly since the Covid-19 pandemic, as a means of creating external amenity space. I also accept that such development within conservation areas should not be resisted on principle and should instead be considered with regard to the individual merits of the case. However, these matters do not justify the harm I have found in this case, and therefore they do not lead me away from my conclusion.

Conclusion

31. The proposal would fail to preserve the special interest of the listed building; would neither preserve nor enhance the character or appearance of the conservation area; and would be harmful to the living conditions of neighbouring occupiers. In these regards, the proposal would conflict with the above cited policies of the development plan.
32. Moreover, with regard to appeal A, no material considerations have been advanced of a sufficient weight to justify a decision other than in accordance with the development plan. Consequently, for the reasons given, and having regard to all other matters raised, I conclude that both appeals should be dismissed.

J M Tweddle

INSPECTOR