



Appeal Decisions

Site visit made on 31 August 2022

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2022

Appeal A Ref: APP/N5090/W/22/3297626

Garden Hill House, 43 Totteridge Village, Whetstone, London N20 8PP

- 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 Ms Andrea Horsfield against the decision of the Council of the London Borough of Barnet.
 - The application Ref 21/6643/HSE, dated 13 December 2021, was refused by notice dated 24 February 2022.
 - The development proposed was described as "to reinstate the exterior sash windows to a grey colour exposed amongst layers of paint while carrying out repairs and restoration works to windows at the front and rear of the property by an experienced carpenter with prior understanding of requirements involved when working on old and listed properties."
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Appeal B Ref: APP/N5090/Y/22/3297625

Garden Hill House, 43 Totteridge Village, Whetstone, London N20 8PP

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
 - The appeal is made by Ms Andrea Horsfield against the decision of the Council of the London Borough of Barnet. The application Ref 21/6644/LBC, dated 13 December 2021, was refused by notice dated 3 February 2022.
 - The demolition proposed was described as "to reinstate the exterior sash windows to a grey colour exposed amongst layers of paint while carrying out repairs and restoration works to windows at the front and rear of the property by an experienced carpenter with prior understanding of requirements involved when working on old and listed properties."
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Appeal C Ref: APP/N5090/F/22/3297629

Land at Garden Hill House, 43 Totteridge Village, London N20 8PP

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
 - The appeal is made by Mr Alok Gangola against a listed building enforcement notice issued by the Council of the London Borough of Barnet.
 - The enforcement notice, numbered ENF/0940/21, was issued on 25 March 2022.
 - The contravention of listed building control alleged in the notice is without Listed Building Consent, the repainting of exterior windows.
 - The requirements of the notice are to reinstate all exterior windows painted in a grey colour to the pre-existing pure white paint.
 - The period for compliance with the requirements is 1 month.
 - The appeal is made on the grounds set out in section 39(1)(e) and (h) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed

Appeal C

3. It is directed that the listed building enforcement notice be varied by the deletion of 1 month and the substitution of 6 months as the period for compliance. Subject to the variation, the appeal is dismissed and the listed building enforcement notice is upheld, and 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 as amended.

Preliminary Matters

4. The first schedule of the listed building enforcement notice subject of appeal C states that it relates to land at Garden Hill House shown edged and hatched in black on the attached plan. That plan identifies most of the building, but not an attached cottage described as an attached service building on the listing. I noted on site that the windows of the cottage have also been painted grey. For clarity, as the cottage is not included in the plan attached to the notice, the enforcement notice does not relate to that cottage.
5. The site plans attached to appeals A and B identify the site with a red blob on the application plan and with a red oval on an aerial photograph. The red oval includes most of the building, including attached cottage. On that basis, the application for planning permission subject of appeal A and application for listed building consent subject of appeal B relate to the whole building.
6. I will consider the appeals on this basis.

Appeal A, Appeal B and Appeal C on Ground (e)

7. The appeal on ground (e) of appeal C is that listed building consent ought to be granted for the works, comprising the painting of exterior windows in a grey colour, at Garden Hill House. Appeals A and B seek planning permission and listed building consent for the same works and for the painting of exterior windows in a grey colour on the attached cottage.
8. Garden Hill House is listed Grade II and located within the Totteridge Conservation Area. The main issue on all three appeals, therefore, is whether the proposed works and development would preserve the listed building or its setting or any features of special architectural or historic interest (or significance) which it possesses.
9. In coming to my decision, as the work involves a listed building and within a conservation area, I have had special regard to sections 16(2) and 72(1) of the Act.
10. Garden Hill House is a substantial house dating from circa 1730 with alterations. It is constructed in pink brick with slate roofs, including mansard roof to the main part of the house. The windows are large sash windows, those on the

recessed south block include a Venetian window at ground floor. There are semi-circular dormer windows in the mansard roof, above the front parapet wall. The cottage to the north side is set back and originally comprised a service block. The building is in a prominent position on the outside of a bend in the road with fence and hedge to the front, such that it is highly visible in the street scene, particularly from the east. The significance of the building derives from its simple style and prominent location.

11. Totteridge Conservation Area covers an extensive area along the route of the main road known as Totteridge Common, Totteridge Lane and Totteridge Village. The road is oriented broadly east to west on a ridge in the landscape, with development to either side. The road has wide verges with mature trees that result in an open, verdant appearance to the area. Development is predominantly large houses of varied character and appearance in substantial mature gardens. St Andrews Church dates from the thirteenth century and comprises a simple brick chapel with timber clock tower located inside the bend in the road, opposite Garden Hill House. The significance of the conservation area arises from the spacious, sylvan character and the variety of the architecture.
12. I understand that evidence of grey paint was found as the windows were stripped prior to repainting. The grey painted windows seek to reflect that previous colour, such that the appellant suggests the colour would restore the building to a previous state. However, it is unclear at what point the grey colour may have been used on the windows and for what duration. The Council suggest the grey paint may have been a primer used before a top-coat of white paint.
13. It is not necessarily the case that the colour of the windows at one period in time is more authentic than another. Over recent times, white has generally been considered an appropriate colour to preserve the authenticity of many listed buildings. It is possible that colour could have changed over time and that can contribute to the history of the heritage asset. For example, colours other than white were common on windows in the late 18th century. It is not necessary to consider whether the period of time to which it would be most authentic to return would be when the building was constructed or later. Nevertheless, from the evidence submitted I consider that white paint has been authentic for a greater part of the building's history than has the grey.
14. I note that brilliant white was not an available colour until after World War II. Prior to that time, a broken white would have been available, which would appear as off-white. However, the grey used on the windows is darker than an off-white colour.
15. The grey is a recessive colour, such that the windows are less prominent on the building. The windows, particularly those on the main front elevation, are an important feature of the building, such that they need to be painted in a colour that stands out against the pink brick. The grey colour also means that the building is slightly less prominent in the street scene than it would be with white painted windows. The windows in the former service block are less prominent and the use of grey paint on them does not have the same effect. Nevertheless, the paint colour diminishes the building's contribution to the street scene and, therefore, its significance as a listed building and contribution to the character and appearance of the conservation area.

16. My attention has been drawn to other buildings and structures where similar grey colours have been used, both locally and elsewhere in the country. These include stately homes, townhouses and other buildings. Some have grey painted surrounds with white timber painted windows, in others the window frames are grey. Many are buildings constructed in yellow stone or rendered, or with stone window surrounds. Tombstones in the graveyard opposite the appeal site are also grey. Limited evidence has been provided as to the reasons why grey may have been chosen for those buildings or whether listed building consent and planning permission were approved or required. However, in this case the building is constructed in pink brick with grey slate roof. So, whilst grey may be an appropriate colour for window frames on some historic buildings, I consider that is not the case on this building.
17. For these reasons and on balance, I conclude that the works to paint the windows of Garden Hill House grey do not preserve the Grade II listed building and the features of special architectural and historic interest that it possesses. In addition, it does not preserve or enhance the character and appearance of the Totteridge Conservation Area. As such, the works result in harm to the significance of the listed building and conservation area as heritage assets.
18. The works do not comply with Policies DM01 and DM06 of Barnet Development Management Policies Document, Policies CS1 and CS5 of the Barnet Core Strategy, Policy HC1 of the London Plan and paragraphs 194-200 of the National Planning Policy Framework (the Framework). These policies seek to protect and enhance heritage and conserve the significance of heritage assets, including listed buildings and conservation areas, and protect heritage assets in line with their significance.
19. The Framework advises at Paragraph 199 that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration of the heritage asset. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Accordingly, while less than the 'substantial harm' referred to in Paragraph 201 of the Framework, the harm to the listed building and conservation area remains a matter of considerable importance.
20. Paragraph 202 of the Framework establishes that, where a development proposal would 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 painting the windows they have also been restored. Restoring the windows has secured their retention, which has a public benefit in conserving the heritage assets. However, that benefit is minimal and cannot outweigh the identified harm arising from the colour of the window frames to the significance of the listed building and conservation area.
21. For these reasons, I conclude that appeal A, appeal B and appeal C under ground (e) should fail.

Appeal C on Ground (h)

22. An appeal on this ground is that the period specified in the notice as the period within which any step required by the notice is to be taken falls short of what should reasonably be allowed. The notice requires the reinstatement of the

windows to a pure white colour within one month of the notice taking effect. The appellant suggests a period of 4-6 months would be more reasonable.

23. I understand that the painting of the windows to the present grey colour took four months to get to this stage, including preparation. There are a substantial number of windows, it will take some time for an appropriate tradesman to be identified and appoint them to carry out the work. I understand that the weather can affect when it is appropriate to carry out the painting and I note that any time period would be during autumn and winter, when inclement weather is more likely. On that basis, I consider that the period of one month set out within the notice falls short of what would be reasonable. Taking account of these factors, I consider a period of six months would be reasonable.

24. I note the Council have drawn my attention to section 43 of the Act that provides that the initiation of prosecution proceedings is at the discretion of the local planning authority. They indicate they may be willing to agree a timetable for the works if they cannot be completed in accordance with the period set out in the notice. Nevertheless, it is necessary for any period to be reasonable.

25. For these reasons, I conclude that the appeal under ground (h) should succeed and that the requirement should be for the windows to be repainted within six months.

Conclusions

26. For the reasons given above I conclude that appeals A and B should fail.

27. Subject to a variation and for the reasons given above I conclude that appeal C should also fail.

AJ Steen

INSPECTOR