
Appeal Decisions

Site visit made on 12 January 2023

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 18 April 2023

Appeal Ref: APP/K5600/F/22/3305003 (Appeal A)

21 Stafford Terrace, London W8 7BL

- 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 Miss Marina Hill/R&M Management (I.O.M) Limited against a listed building enforcement notice (LBEN) issued by the Council of The Royal Borough of Kensington & Chelsea.
 - The enforcement notice is dated 4 July 2022.
 - The contravention of listed building control alleged in the notice is: Without listed building consent, the installation of recessed lighting and speakers to the walls and ceilings, throughout lower ground and upper ground floor levels.
 - The requirements of the notice are: i) Remove all recessed ceiling lights and ceiling speakers from 'Bedroom 1', on the lower ground floor, as shown in 21ST_3_03_02 Rev A, attached to the enforcement notice as 'Appendix A'. ii) Remove all recessed ceiling lights and ceiling speakers from 'Bedroom 2', on the lower ground floor, as shown in 21ST_3_03_02 Rev A, attached to the enforcement notice as 'Appendix A'. iii) Remove all recessed wall lights from 'Bathroom 2', on the lower ground floor, as shown in 21ST_3_03_02 Rev A, attached to the enforcement notice as 'Appendix A'. iv) Remove all recessed ceiling and wall lights within the staircase compartment on the lower and upper ground floors (including the lower ground and upper ground floor corridors / hallways; the upper ground floor entrance lobby; the lower ground to upper ground floor staircase; and the upper ground to first floor staircase) as shown in: 21ST_3_03_02 Rev A, attached to the enforcement notice as 'Appendix A' 21ST_3_03_03 Rev A, attached to the enforcement notice as 'Appendix B' 21ST_3_05_07 Rev /, attached to the enforcement notice as 'Appendix C' 21ST_3_05_08 Rev /, attached to the enforcement notice as 'Appendix D' v) Cover and make good each resultant opening with like-for-like materials, and ensure the finish is completed to its condition before the unauthorised works were carried out. vi) Remove from the land any resultant debris.
 - The period for compliance with the requirements is six months.
 - The appeal is made on the grounds set out in section 39(1)(e) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Appeal Ref: APP/K5600/Y/22/3304993 (Appeal B)

21 Stafford Terrace, London W8 7BL

- 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 Miss Marina Hill/R&M Management (I.O.M) Limited against the decision of the Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref LB/22/01948, dated 20 March 2022, was refused by notice dated 17 June 2022.
 - The works proposed are alterations to as-built electric scheme by removing some spotlights and wall lights.
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Decision - Appeal A

1. The appeal is allowed and listed building consent is granted for the installation of recessed wall lights in Bathroom 2 on the lower ground floor of 21 Stafford Terrace, London W8 7BL.
2. I direct that the LBEN be varied by deleting in full Requirement (iii) as set out in the requirements paragraph.
3. Otherwise, the LBEN, as varied, is upheld.

Decision - Appeal B

4. The appeal is allowed and listed building consent is granted for recessed ceiling and wall lights in Bathroom 1 and Bathroom 2 on the lower ground floor of 21 Stafford Terrace, London W8 7BL, in accordance with the terms of the application, Ref LB/22/01948, dated 20 March 2022, and the plans submitted with it, so far as relevant to those parts of the works hereby consented. As the works are already complete, no conditions are deemed necessary.
5. The appeal is dismissed insofar as it relates to all other aspects of the works and listed building consent is refused.

Appeal A on ground (e) and Appeal B

6. The appeal on ground (e) is that listed building consent ought to be granted for the works alleged in the LBEN. With regard to Appeal B, I have used the wording of the description as it appears on the decision notice as it sets out the proposals more clearly.

Main Issue

7. The main issue in both appeals is the effect of the works on the significance of 21 Stafford Terrace, a grade II listed building.

Reasons

Significance

8. The appeal site is one of a terrace of houses listed at grade II in a single list entry. Dating from 1868, it stands at three storeys high with an attic and a basement. Built in an Italianate style, No 21 and its neighbours are characterised by the balanced composition of their facades. In addition, the frontages reflect the hierarchy of the floor levels inside.
9. Despite the alterations that were carried out to create the individual units, the building largely retains the typical townhouse form whereby a principal staircase gives access to the rooms on each floor. In terms of architectural hierarchy, the characteristic pattern is to locate the principal rooms on the higher levels. Elements such as the large windows and high ceilings of these rooms reflect their higher status.
10. On the lower floors, less prestigious spaces are provided. The appellant confirms that the lower floors in this case were service areas, including kitchen and store areas. Although such areas tend to be more plain in terms of architectural treatment, they are of great interest as a social and historic document of the way households functioned in the past. For this reason alone,

they add to the special interest of a heritage asset of this kind if they survive in a legible form.

11. Although the building has been subdivided, the plan form remains typical for a property of this style and period. No 21 is an attractive example of a terrace townhouse whose significance derives from its relatively unaltered external appearance and from the historic and architectural value of its interior form and layout.

Effect of the works – Appeal A

12. The appeals relate to the property comprising the lower ground floor and ground floor of the building. The enforcement notice attacks a number of recessed lights and speakers that have been installed in the ceilings and walls across these two floors.
13. On the lower ground floor are two bedrooms which largely retain their plan form, with the exception of the two ensuite bathrooms that have been inserted centrally between the front and back rooms. In the main rooms, the ceilings are plain, lacking the cornicing and decorative elements of the upper rooms. This is typical of lower status rooms in townhouses of this period, and is in keeping with the established character of the listed building.
14. The recessed ceiling lights and their housings have interrupted the solid plane of the ceilings, detracting from the simplicity of their form. When lit, their inappropriate visual impact will be even more apparent. There is no evidence that such a form of lighting is historically accurate in this context. Even if I accept that the ceilings themselves comprise later fabric, the harmful visual impact of the lighting remains.
15. The recessed wall lights are similarly out of character in the walls that form the stairwells and corridors of the dwelling. These circulation areas are also important elements of the overall form and layout of the listed building. The new fittings appear to have been set into historic fabric, and have introduced sources of light just above the skirting boards where historically there would have been plain wall surfaces.
16. Two recessed speakers have been located in each of Bedrooms 1 and 2 within the suspended ceiling features. As with the lights, these works have brought about modern interventions in ceilings that would historically have been simple, uninterrupted surfaces. There is no evidence of any particular need for speakers to be set in this location, and no evidence that such systems could not be accommodated in a more sympathetic manner. That being the case, the grant of consent for these works would not be justified.
17. Drawing these strands together, I conclude that the works discussed above have harmed the significance and special interest of the designated heritage asset. Accordingly, therefore, the works conflict with the overarching statutory duty as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, which must be given considerable importance and weight, and with the National Planning Policy Framework (NPPF). In addition, the appeal scheme conflicts with Policy CL4 of the Royal Borough of Kensington and Chelsea Local Plan (LP), which requires development to protect the heritage significance of listed buildings.

18. Although serious, the harm to the heritage asset in this case is less than substantial, within the meaning of the term in paragraph 195 of the NPPF. Paragraph 196 requires that, where there is less than substantial harm, the harm should be weighed against the public benefits of the works.
19. The appellant explains that the lighting has been installed to help with the lower levels of natural lighting experienced in the property, and to provide safety and comfort for the elderly residents. Whilst I accept the need for good lighting, these are private benefits that do not go in favour of the appeal scheme. Moreover, there is no evidence that these outcomes could not be achieved by a scheme of lighting that would be more sympathetic to the character and appearance of the listed building. Finally, there is no evidence to show that this particular scheme of works is essential to the future maintenance of the property.
20. I therefore find that insufficient public benefits have been identified that would justify or outweigh the harm I have identified to the heritage asset. The scheme therefore conflicts with the NPPF, which directs, at paragraph 193, that great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
21. My attention has been drawn to Nos 1, 2, 7, 11a, 23a and 25 Stafford Terrace, where recessed lighting has been installed on the lower floors. The Council confirm that the majority of these works do not have consent. In any event, these examples serve to demonstrate the inappropriate effects of such works, and they do not justify the further harm I have identified at No 21.
22. Turning then to the bathrooms on the lower ground floor, these largely comprise new partitions and false walls which stand proud of the original walls. They are later additions to the property and appear entirely modern in character. There is a clear degree of physical and visual separation from the main rooms. To that extent, I am satisfied that the wall and ceiling lights inside the bathrooms do not impinge on or detract from the historic character of the main bedrooms.
23. I have taken into account the Council's concern over the wall lights in Bathroom 2, which appear to be set into the historic wall between the two chimney breasts. However, although some historic fabric has been disrupted, the areas of damage appear to be limited. Within the context of the alterations to the building that have been needed to install these bathrooms, I do not consider that this loss of fabric in itself is extensive enough to withhold consent for these wall lights.
24. On that basis, I find that these works are not contrary to the relevant local and national policies relating to the conservation and enhancement of this heritage asset. I do not consider that the integrity or character of the listed building has been harmed and nor do I consider that the works have been detrimental in any way to any of the building's features of special architectural and historic interest.

Effect of the works – Appeal B

25. Through Appeal B, the appellant seeks listed building consent to retain a smaller number of the unauthorised fixtures. It is proposed to remove all low-

level wall lights on the ground floor and both stairs leading to the garden and studio on the first floor. The speakers and areas of suspended ceilings would also be removed, which is to be welcomed as this would restore the rooms to a state closer to their original form

26. As set out above, I have found the ceiling and wall lights in the ensuite bathrooms on the lower ground floor to be acceptable in terms of their impact on the significance of the listed building, and so I shall not repeat that reasoning in relation to Appeal B.
27. However, it is proposed to retain a smaller number of six spotlights in each of the lower ground floor bedrooms. This is on the basis that the remaining spotlights are required to maintain adequate lighting levels in the rooms. Whilst this is a significant reduction in the number of lights installed, it does not mitigate the fact that this form of lighting is of a modern character which does not reflect or complement the historic character of the rooms. Whilst I acknowledge the reasons given to keep these lights, the reduced numbers would nonetheless harm the character, appearance and integrity of the historic rooms for the same reasons as set out above in Appeal A.
28. I take into account that the ceilings in question are new plasterboard ceilings which the appellant states were replacements for previous non-original plasterboard ceilings, as detailed in 2010. On the basis, the appellant argues that the historic fabric of the building has not been affected. Whilst that is so, this factor does not mitigate the harmful visual effect of the installations.
29. It is further proposed to retain the low-level wall lights to the stair leading to the lower ground floor and the lower ground floor corridor. This is on the basis that these areas do not receive external light and are dark even during the hours of daylight. The lights are set on sensor mode for the safety and comfort of the elderly residents of the property. Within the corridors, the appellant seeks to retain the ceiling lights as installed, again in order to ensure good levels of internal lighting.
30. I agree that the wall lights in themselves are minimal in design and relatively small. However, their excessive number adds visual clutter to the interior elevations where it would not have existed within the original design of the house. They are overtly modern additions which do not complement the traditional character or appearance of the hallways and circulation spaces of the listed building.
31. The appellant argues that the alterations are reversible, which should lessen their impact. Whilst the fittings could indeed be removed and infilled relatively easily, there is no timescale before me as to when these changes might occur. Conversely, the scheme could stay in place for some considerable time. In view of the harm to the character and appearance of the listed building, I can give little weight to possibility that this harm might cease at an unspecified time in the future.
32. The appellant also alludes to the private nature of the building interior, stating that this minimises the harm to the significance of the listed building. However, they offer no legislative or policy basis to support this stance. On the contrary, it is firmly established that listed buildings, including their interiors, are safeguarded for their inherent architectural and historic interest. This is

irrespective of whether or not public access to the area in question can be gained.

33. On the evidence before me, I therefore conclude that the works discussed above have harmed the significance and special interest of the designated heritage asset. Accordingly, therefore, the works conflict with the overarching statutory duty as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, which must be given considerable importance and weight, and with the National Planning Policy Framework (NPPF). In addition, the appeal scheme conflicts with Policy CL4 of the Royal Borough of Kensington and Chelsea Local Plan (LP), which requires development to protect the heritage significance of listed buildings.
34. Although serious, the harm to the heritage asset in this case is less than substantial, within the meaning of the term in paragraph 195 of the NPPF. Paragraph 196 requires that, where there is less than substantial harm, the harm should be weighed against the public benefits of the works.
35. As above, I acknowledge that benefits of the lighting to the residents of the property, but these are private benefits that do not go in favour of the appeal scheme. There is no evidence that these outcomes could not be achieved by a more sympathetic scheme of lighting, or that this particular scheme of works is essential to the future maintenance of the property.
36. I therefore find that insufficient public benefits have been identified that would justify or outweigh the harm I have identified to the heritage asset. With the exception of the lighting within Bathrooms 1 and 2, the scheme therefore conflicts with the NPPF, which directs, at paragraph 193, that great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
37. I note the appellant's contention that ceiling downlights were approved in principle in the bedrooms and hallway in consent ref: LB/10/03942. If that consent remains extant, with all conditions discharged, then the appellant is free to implement it. If not, then the fact of a scheme having received permission some 13 years ago can have little bearing on my consideration of the appeal before me.

Conclusion

38. Appeal A is allowed and listed building consent is granted for the installation of recessed wall lights in Bathroom 2 on the lower ground floor. Otherwise, the LBEN, as varied, is upheld.
39. Appeal B is allowed and listed building consent is granted for recessed ceiling and wall lights in Bathroom 1 and Bathroom 2 on the lower ground floor. Otherwise, Appeal B is dismissed and listed building consent is refused.

Elaine Gray

INSPECTOR