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## Appeal Decision

Site visit made on 5 April 2023

**by Paul Freer BA (Hons) LLM PhD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 June 2023**

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**Appeal Ref: APP/E5900/Y/22/3304187**  
**29 Coborn Road, London E3 2DA**

- 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 Mrs Loraine Feldman against the decision of the Council of the London Borough of Tower Hamlets.
  - The application Ref PA/22/00183, dated 03/02/2022, was refused by notice dated 09/05/2022.
  - The works proposed are the installation of a Multisplit air conditioning system with two internal wall mounted units for the two upstairs bedrooms and the related single heat exchange unit hidden on the roof.
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**Decision: The appeal is dismissed.**

### Procedural Matters

1. I have taken the description of the proposed works above from the application form. For convenience, I will refer to those elements of the works that are external to the building as the rooftop air conditioning units, albeit I am mindful that the works include external pipework, drainage clipped to the outside wall and an 'exit point' in the roof for the pipework from the loft.
2. I note that the parties have referenced the refusal of an associated application for planning permission, but this appeal only relates to an application for listed building consent for proposed works. In determining the appeal, in accordance with section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have paid special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Additionally, in line with paragraph 199 of the National Planning Policy Framework 2021 (the Framework), I have given 'great weight' to the asset's conservation.
3. The appeal property is also within the Tredegar Conservation Area. In refusing Listed Building Consent for the proposed works, the Council has not alleged that the works would fail to preserve or enhance the character or appearance of the conservation area. Nonetheless, I have a duty under section 72(1) of the Act to pay special regard to the desirability of at least preserving the character or appearance of the conservation area. I have therefore included this matter as a main issue. Given that both parties have addressed it in their evidence, I am satisfied that their interests would not be prejudiced by this approach.

## **Main Issues**

4. The main issues are whether the proposal would:
- preserve a Grade II listed building or any of the features of special architectural or historic interest which it possesses, and
  - preserve or enhance the character or appearance of the Tredegar Conservation Area.

## **Reasons**

### *Special interest and significance: listed building*

5. The appeal property is a mid-terraced house dating to the early 19<sup>th</sup> Century located on the west side of Coborn Road. The listing description indicates that Nos 15 to 41 (odd) form a group with Nos 20 to 26 (even) opposite<sup>1</sup>. The listing description refers to the building having two storeys and basements, in pairs with pediment over each pair, and as being constructed of yellow brick with parapet and slate roofs. The building features elliptical arches to the 1st floor windows, with extra bays as links containing entrances.
6. The special interest and significance of the listed building, insofar as relevant to this proposal, are largely derived from it being a typical example of 19th century housing development in the area, including its group value with the properties opposite. The special interest and significance of the listed building also derives, in part, from its asymmetrical butterfly roof. In the front elevation, this presents as a pediment and parapet. In views from the rear of the property, the asymmetrical form of the roof is plainly visible, as is the slope of the rearmost part of the roof towards a gutter running across the full width of the appeal property.
7. Furthermore, the roofscape of the listed building remains largely intact and coherent with no significant additions or interventions. The appellant states that changes have been made to the roof but, on the whole, the authenticity and integrity of the asset's historic roofscape has been sustained. This uniformity and integrity contributes towards the significance of the heritage asset.

### *Special interest and significance: conservation area*

8. The special interest and significance of the Tredegar Conservation Area as a whole derives largely from the high quality of the buildings within it, including a significant number of statutorily listed buildings. The principal building type is housing, and this forms an important element of the character and appearance of the conservation area. Insofar as relevant to this appeal, the listed building, and the appeal property as part of it, is a prime example of the residential architecture from which the special interest of the Tredegar Square Conservation Area is in part derived.

### *Effects of the works: listed building*

9. Paragraph 199 of the Framework advises that when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to their conservation. The paragraph goes on to

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<sup>1</sup> Statutory Address: 15-41 Coborn Road E3 List Entry Number: 1357784

explain that this is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.

10. By reason of their size and modern appearance, the rooftop air conditioning units would constitute an incongruous and discordant addition on the roof of the appeal property, and would be an alien feature within a largely authentic roofscape. Furthermore, the roofs of the listed building remain largely intact and cohesive, with no significant additions or interventions. This uniformity contributes towards the significance of the heritage asset. The addition of the rooftop air conditioning units would detract from the cohesiveness of the roofscape of the listed building.
11. Having viewed the appeal property from all potential public vantage points in Coborn Road, including long-distance views, I am satisfied that the rooftop air conditioning units would not be visible from the public domain. I am also satisfied that the rooftop air conditioning units would not be visible from the rear garden of the appeal property itself, or the rear gardens of neighbouring properties.
12. It is likely that the rooftop air conditioning units would be visible from the upper floors of the rear elevations of the residential properties facing onto Tredegar Square. However, any such views that might be possible would be at some distance and in some cases filtered by intervening trees. I therefore consider that the rooftop air conditioning units would not be conspicuous in these semi-public views.
13. Nevertheless, the harm to the heritage asset would be intrinsic. Listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the building, or any part of it, can be gained.
14. There would also inevitably be some loss of historic fabric of the listed building resulting from the installation of the rooftop air conditioning units. I have not been provided with details of exactly how the rooftop air conditioning units would be affixed to the roof. In the absence of that information, I cannot reach an informed view as to whether that loss of historic fabric would be harmful to the heritage asset. That is also consideration that weighs against granting listed building consent in this case.
15. The external pipework, drainage clipped to the outside wall and the 'exit point' in the roof for the pipework from the loft would add new features to the relatively uncluttered rear elevation and roofscape of the appeal property. This would itself be harmful to the integrity of the appeal listed building.
16. The Council considers that the internal placement of the air conditioning units on the wall of the upstairs bedrooms are of appropriate size and suitable for use in this setting. I see no reason to take a different view and consider that these works would preserve the listed building and any features of special architectural or historic interest which it possesses. However, a lack of harm in this respect is a neutral consideration and does not weigh in favour of the appeal.

*Effects of the works: conservation area*

17. Although the works proposed are not visible from the public domain, they cause intrinsic harm to a listed building of a type from which the special interest and significance of the Tredegar Conservation Area as a whole is derived. It follows that the proposal would fail to preserve or enhance the character or appearance of the conservation area.

*Conclusion on the effects of the works to the listed building and conservation area*

18. I conclude that the works would fail to preserve a Grade II listed building and any features of special architectural or historic interest that it possesses, especially considering its distinctive and historic roof form, and would fail to preserve or enhance the character or appearance of the conservation area. On that basis, the proposal would fail to meet the requirements of sections 16(2) and 72(1) of the Act. I give this harm considerable importance and weight in the planning balance. That harm would be intrinsic within the works and could not be overcome or mitigated through the imposition of conditions.
19. This harm would not result in a total loss of the significance of the listed building. As such, the harm would be less than substantial in terms of the Framework in this instance but, nevertheless, of considerable importance and weight. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing the asset's optimum viable use.
20. Given the extent and nature of the proposal, I consider that the harm to the significance of the Tredegar Conservation Area would be less than substantial in terms of the Framework. Nevertheless, this harm would carry considerable importance and weight.
21. The appellant explains that their main bedroom is at the back of the house which is south/southwest facing. The appellant goes on to explain that during the summer the temperature in that room builds up because the sun is shining in most of the day even though blinds and ventilation are used. This results in the room being very difficult to sleep in at night. Similarly, the bedroom at the front of the house heats up during the day because it receives sun during the morning and is where the hot water tank is situated. The appellant considers that the fitment of air conditioning, including the rooftop air conditioning units, is required to ensure that the dwelling remains a habitable environment in the modern age and that these two bedrooms are habitable for the majority of the year.
22. I recognise that the proposed works would improve the living conditions of the occupiers of the house and would be a benefit to the appellant. However, that would be purely a private benefit. It would not be a public benefit to be weighed against the harm caused by the works as envisaged in paragraph 202 of the Framework. It is not suggested by the appellant that the proposed works are necessary to secure optimum viable use of the heritage asset and there is no evidence before me that dismissing this appeal would necessitate the cessation of the residential use of the property. For these reasons, I find that the harm to the significance of the designated heritage assets would not be outweighed by any public benefits of the proposal.

23. The appellant advises that in February 2022 the Council approved external air conditioning condenser units to the rear of a listed building in Grove Road, where the Council conceded that the units would not be readily visible from public vantage points (Council Ref: PA/21/02726/NC)<sup>2</sup>. That property is statutorily listed Grade II\* and is within the Victoria Park Conservation Area. The appellant has provided an extract from the approved drawings, photographs and aerial images as part of her evidence.
24. The appellant has not, however, provided the planning background to that proposal or any details of the planning considerations that led to Listed Building Consent/planning permission being granted in that case. There may, for example, have been public benefits arising from that proposal that outweighed any harm to the heritage asset, of which I am not aware. For that reason, I am not persuaded that the example cited by the appellant is a direct comparison with the appeal proposal. I therefore afford it only limited weight.
25. In addition, the works would not meet Policy HC1 of the London Plan (2021) or Policies S.DH1 and S.DH3 of the Tower Hamlets Local Plan (2020). Amongst other things, these policies require that proposals must preserve or, where appropriate, enhance the borough's designated and non-designated heritage assets in a manner appropriate to their significance.

### **Conclusion**

26. For the above reasons, I conclude that the appeal should be dismissed.

*Paul Freer*  
INSPECTOR

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<sup>2</sup> It is not clear from the information provided by the appellants whether this was a Listed Building Consent or a planning permission.