
Appeal Decisions

Site visit made on 5 July 2023

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2023

Appeal A Ref: APP/E5900/W/22/3299329

First and Second Floor Flat, 606 Commercial Road, London E14 7HS

- 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 J Grefstad against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/22/00522, dated 25 March 2022, was refused by notice dated 12 May 2022.
 - The works proposed are the replacement of a sash window with a larger sash window to the rear of the property.
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Appeal B Ref: APP/E5900/Y/22/3299333

First and Second Floor Flat, 606 Commercial Road, London E14 7HS

- 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 J Grefstad against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/22/00523, dated 25 March 2022, was refused by notice dated 12 May 2022.
 - The works proposed are the replacement of a sash window with a larger sash window to the rear of the property.
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Decisions: Appeal A is dismissed and Appeal B is dismissed

Procedural matters

1. There appears to be a typographical error on both of the formal Decision Notices, which record the applications as being received on 16 March 2022. That pre-dates the date of 25 March 2022 stated in the declaration on the application forms. I have therefore taken the date of the application in the header above from the application forms.
2. In determining these appeals, in accordance with sections 16(2) and 66(1) 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.

Main Issue

3. The main issue is whether the proposal would preserve the Grade II listed building or any features of special architectural or historic interest which it possesses.

Reasons

Special interest and significance: listed building

4. The listing description indicates that the appeal property is part of a terrace of three, early C19 houses¹. The special interest and significance of the building derives, in part, from its survival from what may have been a longer terrace, and from its characteristic plan layout which reflects the social and artistic influences at the time of its construction. Externally, the Classically influenced street elevation is distinctive for the pairing of the upper openings and for the distinction in the hierarchy of the order of those front openings by the relief of the flamboyant, semi-circular, arched recesses grounded on a modest cornice.
5. Insofar as relevant to this proposal, the special interest and significance are largely derived from the rear elevation. This elevation is altogether simpler than the principal (front) elevation but has contrasting interest from the repeated arrangement of timber, sliding-sash windows with modest segmental lintels over, again, reflecting the internal spatial arrangement, and the lower order of the rear façade. The effect of these different architectural elements; the arrangement of the openings, the plain but quality materials of the building, the modelling from the layered front elevation, the plain parapets around the butterfly roof form, and the efficiency and economy in the detailing across the building gives it an unusual and restrained character, which forms part of its special architectural interest and thus its significance.

Effects of the proposal: listed building

6. 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 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.
7. In the context of the distinctive well-ordered and repeated arrangement of the window openings of the rear elevation of the building, the enlargement of the existing window at this level would appear at odds and would be incongruous. I recognise that there are other windows that sit outside of the arrangement of the main windows in this elevation, but these are relatively small and /or narrow openings. The proposed enlargement of the existing sash window would create a larger opening in a prominent position between two parallel lines of window openings. The discordant effect would harm the special interest and significance of the building.
8. The appellant contends that the existing window opening may have been longer, reaching to the half-landing which it lights. However, the documentary evidence submitted is not sufficiently robust to support this contention: the aerial photograph dated 1946 does show a lighter-coloured area beneath this opening but this appears to be narrower than the existing window opening. Furthermore, the 1946 photograph does not show any evidence that there was a flat-roofed extension and/or balcony in place at or before that time. The

¹ Statutory Address: 604-608 (even) Commercial Road E14 List Entry Number: 1065233

1946 photograph does show a single-storey extension to the appeal property but that extension featured a pitched roof and would have provided no opportunity for a sitting-out area or means of escape. A door at this level would therefore have served no purpose and as such there is no logical reason why there would be a door in that position. Consequently, on the balance of probability, there is no evidence to substantiate the claim that the existing window was altered from a door previously in this opening.

9. The 1946 photograph does however reveal that the brickwork/material below the existing window is not part of the historic fabric of the building. The Council accepts that the existing stairwell window is not an original element. Of themselves, these factors do not justify a proposal which, overall, would not conserve this heritage asset in a manner appropriate to its significance.
10. I conclude that the proposal would fail to preserve the Grade II listed building or any features of special architectural or historic interest which it possesses. I therefore conclude that the proposal would fail to meet the requirements of the Act. The proposal would also not comply with 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.

Other considerations

11. For the reasons set out above, I conclude that the proposal would fail to preserve a Grade II listed building and any features of special architectural or historic interest which it possesses. On that basis, the proposal would fail to meet the requirements of sections 16(2) and 66(1) of the Act. I give this harm considerable importance and weight in the planning balance. That harm would be intrinsic within the development and works, and could not be overcome or mitigated through the imposition of conditions.
12. This harm would not result in a total loss of the significance of the listed building and would only affect the rear elevation of the 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.
13. The appellant takes the view that any harm that can be assigned to the proposal is one simply through change, and such change does not equate to any definition of less than substantial harm so as to require public benefits to be weighed against the proposal. The appellant has accordingly not advanced any public benefits resulting from the proposal to weigh against the harm caused. I have reached a different conclusion and find that there is harm to the significance of the heritage asset arising from this proposal. I have not been made aware of any public benefits that would outweigh that harm.
14. I am mindful that a proposal to replace the sash window with French doors and to install railings around the edge of the roof was dismissed at appeal in June 2021 (APP/E5900/W/20/3256845 & APP/E5900/Y/20/3257272). I recognise that the development and works subject to those appeals was materially different to the proposal before me, and accordingly I have determined this

appeal on its own merits. However, consistency is an important element of decision making and I find no reason to depart from the conclusions of the previous Inspector, particularly the view expressed at paragraph 16 of his decision that the arrangement of similar windows makes a distinctive order in the rear elevation of the listed building.

Other matters

15. The appeal property is not within a conservation area but lies close to the Regents Canal Conservation Area, the Lowell Street Conservation Area and the St Ann's Church Conservation Area. The proposed development and works are on the rear elevation of the building and views of the proposal would be limited from the public domain. I am therefore satisfied that the proposal would not have an adverse effect on the setting of these conservation areas, and thus would not harm their significance as designated heritage assets.

Conclusion

16. For the reasons set out above, the proposal would not meet the requirements of the Act.
17. The proposal would also be contrary to the development plan. I have not been advised of any material considerations of sufficient weight, either taken individually or cumulatively, to indicate that determination should be made otherwise than in accordance with the development plan.
18. I therefore conclude that these appeals should be dismissed.

Paul Freer
INSPECTOR