



Appeal Decisions

Site visit made on 5 October 2023

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th October 2023

Appeal A: APP/E5900/W/23/3315564

Ratcliffe Wharf Stairs, Narrow Street, London E14 8DQ

- 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 Clara Fischer against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/22/01609, dated 15 August 2022, was refused by notice dated 11 October 2022.
 - The development proposed is 'raise threshold of existing concrete steps to upgrade flood defence function - install new guard rails to higher sides of stair as additional safety measure (lower risk of falls onto foreshore from a height) - install new metal gate with timed openings as similar along street.'
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Appeal B: APP/E5900/Y/23/3315565

Ratcliffe Wharf Stairs, Narrow Street, London E14 8DQ

- 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 Ms Clara Fischer against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/22/01489, dated 30 July 2022, was refused by notice dated 11 October 2022.
 - The works proposed are 'raise threshold of existing concrete steps to upgrade flood defence function - install new guard rails to higher sides of stair as additional safety measure (lower risk of falls onto foreshore from a height) - install new metal gate with timed openings as similar along street'.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. As the appeals relate to a listed building within a conservation area, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act').
4. The application form gives the site address as 'Ratcliff Wharf Stairs (also known as Ratcliffe Cross Steps or Ratcliff Cross Stairs'. I have used 'Ratcliffe Cross Stairs' in the banner headings above which reflects the address stated on the Council's decision notices and which is consistent with the name entered on the National Heritage List for England which is the definitive name for this asset.

Main Issues

5. The main issues are:

- i) whether or not the proposal would preserve a Grade II listed building, "Ratcliffe Cross Stairs" (Ref: 1241304), and any of the features of special architectural or historic interest that it possesses and the effect of the proposal on the character and appearance of the Narrow Street Conservation Area;
- ii) the effect of the proposal on connectivity and pedestrian accessibility; and
- iii) the effect of the proposal on flood risk.

Reasons

Listed Building and Conservation Area

6. The appeal site is located within the Narrow Street Conservation Area ('the CA') which is focused around the Thames waterfront that once linked Limehouse to Ratcliffe. In addition to 19th and 20th century wharf-side buildings which developed following the opening of Regent's Dock in the early 19th century, the Narrow Street Conservation Area Character Appraisal and Management Guidelines 2009 notes that the riverfront itself is an important element of the character of the area. Between some of the buildings along the riverside are a number of wharves, jetties and small-scale inlets with steps and ramps down to the water's edge which once provided access for passengers and watermen when rowing boats provided river crossings and serviced ships. Insofar as it relates to this appeal, I find that the CA derives significance from the features affording access to the water's edge which reinforce its riverfront character and evidence the past activity and historic docks and industry in the area.
7. The appeal site includes a set of steps between Phoenix Wharf and Keeper Wharf which link Narrow Street to the foreshore of the River Thames. The steps themselves appear to be formed of modern concrete, but reflect the historic provision of access to the water's edge in this location which is an important element of the character of the area and which informs the understanding of its past development. As a consequence, I find that the site contributes to the significance of the CA.
8. Ratcliffe Cross Stairs were listed in 1973 and are detailed in the listing description as 'old stone slipway to River Thames'. The appellant's Design and Access Statement with Heritage Report ('DAS') includes a photograph given an 'assumed early 2000s' date which appears to show a slipway across the foreshore continuing broadly the line of the steps within the appeal site. However, the DAS comments that the slipway is now disappeared. Indeed, while I visited at low tide, no stone slipway was apparent. Nevertheless, the provision of access down to the water in this location is evidence of the historic layout of the area and offers some insight to the former uses and activities that occurred here. The DAS also suggests that the site was the launching spot for Admiral Willoughby's ships as they attempted to explore passages to China, voyages which eventually led to trade routes with Russia and the establishment of the Muscovy Company, and for Martin Frobisher who set off on 3 voyages seeking the North-West passage from here.

9. I have already noted that the steps within the appeal site appear modern. However, there is no compelling evidence before me to show that the stone slipway feature referred to in the listing description has been removed rather than being simply buried beneath the current level of the foreshore beach. If it is currently buried, there is also no firm evidence to suggest that there would be no potential for it to be revealed again in future, either by the action of the river and tides or otherwise. While it may not currently be visible, I am unable from the information before me to draw any firm conclusions that the heritage asset no longer exists as suggested in the appellant's evidence, nor that it no longer has any special historic interest. The appellant accepts that it remains a listed building and I have determined the appeals accordingly. Irrespective of its current visibility and insofar as it relates to these appeals, I find the special interest of the listed building to be primarily associated with its historic and evidential value as a route to the water.
10. The Council has not raised concern in respect of this main issue to the proposed raising of the threshold of the steps and the installation of new guard rails. These would be relatively minor alterations to the modern concrete steps on the site in materials that would reflect the existing steps and adjacent fencing to Phoenix Wharf. Given these factors and that access or views between Narrow Street and the foreshore would not be tangibly diminished, I am also satisfied that these elements of the proposal would preserve the listed building and the character and the appearance of the CA.
11. The proposal also includes the installation of a metal gate with timed openings at the top of the steps. The suggested timed openings would allow access from Narrow Street to the foreshore only between the hours of 0730 to 2200 Monday to Friday and 0830 to 2100 Saturdays, Sundays and Bank Holidays. There would be no public access from the Narrow Street side outside of these hours, although a failsafe mechanism would allow the gate to be opened from the foreshore side.
12. The gate would therefore place a limitation on the provision of public access from Narrow Street to the foreshore. The appellant questions why anyone would want to access the foreshore at night. However, it seems to me that there would also be some daylight hours, particularly during the summer and early mornings, where access would not be permitted. In any event, I am not persuaded that there is sufficient compelling evidence to determine that there could be no possible legitimate purpose for public access outside of the proposed hours. This access would be curtailed by the proposal.
13. Moreover, the gate would be fairly tall, and it would have a decorative design. The pattern is marked as indicative and the appellant proposes that the detailed configuration and design would be the subject of planning conditions. Nevertheless, I consider that the decorative nature of the filigree metalwork together with the significant height of the gate would give the impression of a private access way rather than a public access where a more discrete and functional appearance might be more typically expected. Even during times when the gate would be open, I find that its visual presence would be likely to reduce the perception of a public access to the foreshore. In my assessment, this would discourage at least some potential users of the route, and I cannot agree with the appellant's contention that the gate would not be a deterrent to those with a legitimate purpose for accessing the foreshore.

14. Given that it would limit public access to the foreshore, both physically and perceptually, the proposal would weaken the association between the riverfront and adjacent development and diminish the historic value of the listed building as a route to the water's edge. It would also lessen opportunities for people to appreciate the asset. As a result, I find that the proposal would fail to preserve the special interest of the listed building.
15. Notwithstanding my concerns that the height and decorative appearance of the gate would be a deterrent to public use, it would not stand out against the varied designs of other means of enclosure that I observed along Narrow Street, and it would be no taller than the adjacent gate to Phoenix Wharf. Its position close to the footway edge would not be out of keeping with other gates that I saw nearby and would reinforce the impression of enclosure which is an existing feature of the street. Be that as it may, it would erode the connection to the riverfront which is an important element of the historic evolution and character of the area. As a consequence, I find that while the proposal would not detract from the street scene or the appearance of the CA, it would nevertheless be detrimental to the character of the CA and would cause some harm to its significance.
16. The National Planning Policy Framework ('the Framework') advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. In this case, the proposal would not result in the loss or alteration of any historic fabric and the restriction on access would not be absolute so that I find that the harm caused to the listed building would be less than substantial in the terms of the Framework. Noting also the localised effect of the proposal, the harm to the character of the CA would be modest, and its appearance would not be adversely affected. I find that harm to the significance of the CA overall would also be less than substantial.
17. Where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, the Framework advises that this harm should be weighed against the public benefits of the proposal. I return to this matter below.

Connectivity and Pedestrian Accessibility

18. The appellant has not disputed the Council's claim that the appeal site is part of the public highway providing access to the waterfront. I have already identified that the proposed gate would result in a physical barrier preventing public access at times when it was locked, as well as a visual barrier that would discourage some public access to the foreshore at other times.
19. I acknowledge that there are some other gates on Narrow Street which allow access only during certain times. However, I do not know the full circumstances which led to the gates, and it is unclear from the information before me whether they are similarly on areas of public highway. Whether or not the timings proposed here would be comparable, these examples are not therefore a compelling justification to restrict public access at the appeal site.
20. Furthermore, the submitted details indicate that the alterations to raise the threshold of the steps would see the steps extending forward of the fencing along the boundary with Phoenix Wharf out onto the footway along Narrow Street. This would reduce the width of the section of footway which is already

fairly narrow, and could form an obstacle to pedestrians, particularly those who may use wheelchairs, have issues with sight or have children in pushchairs.

21. For these reasons, the proposal would fail to maintain existing public routes and access to the River, and I conclude that it would harm connectivity and pedestrian accessibility. It would conflict with Policy D.DH2 of the LP Tower Hamlets Local Plan 2031 (adopted 2020) ('the LP') which sets out that development is required to contribute to improving and enhancing connectivity, permeability and legibility, including through improving connectivity to water spaces and maintaining existing public routes. It would also conflict with Policy SI 16 of the London Plan 2021 ('the LonP') which includes a requirement that existing access points to waterways and alongside waterways should be protected and enhanced.

Flood Risk

22. The alterations to raise the threshold of the existing concrete steps would increase the flood defence crest level. I note details of correspondence with the Environment Agency indicating general support for raising flood defences to statutory defence levels or to address concerns where water is breaching defences already at statutory levels. However, the Environment Agency has objected to the current proposal indicating that there is a lack of information on the condition and design of the current flood defence including to show that it has sufficient residual strength to accommodate the increased crest level and subsequent loading during a flood event. It also comments that the gate would be positioned on the flood defence crest line and there is a lack of information regarding the depth and type of foundations proposed.
23. The appellant has submitted section details to indicate the change in height of the steps. However, without these further details of the condition of the current flood defence and of the depth and type of foundations to the gate, I cannot be sure that the integrity and stability of the existing flood defence would not be harmed by the proposal leading to a consequent increase in flood risk.
24. I have considered whether a planning condition could require the submission of details to enable further assessment of the stability and integrity of the flood defence, but I cannot be sure that the outcome of assessment would not indicate a requirement for changes that would materially alter the proposal. It would not therefore be appropriate to defer this matter to a condition.
25. Irrespective of the appellant's intention to prevent water lapping into the street, it has not been demonstrated that the proposal would not ultimately lead to increased flood risk and I conclude that the proposal would be contrary to Policy D.ES4 of the LP. This policy seeks broadly to ensure that flood risk is not increased by development and includes requirements for a flood risk assessment which the supporting text explains should demonstrate that development will safeguard and maintain existing flood defences. The proposal would further be contrary to the Framework insofar as it sets out that local planning authorities should ensure that flood risk is not increased elsewhere.

Planning Balance

26. I have found that the proposal would not preserve the special architectural and historic interest of the listed building, or the character of the Narrow Street CA.

The harm to the listed building and to the CA would be less than substantial, but I nevertheless give this harm considerable importance and weight.

27. Against this harm, the appellant suggests that the proposal would stop flood water reaching the footway, noting that this water can bring sand, debris and sewage to public areas and divert pedestrians into the road. However, I have found that there is insufficient evidence to demonstrate that the proposal would not ultimately lead to increased flood risk which could exacerbate incidences of water reaching the footway. On this basis, I find that reducing flood risk has not been substantiated as a public benefit and it does not attract weight in favour of the proposal.
28. The proposed handrail could offer some safety benefit, although I note concerns raised that safety would not be assured given time it would spend underwater. Moreover, I have no firm information to indicate that the handrail could not be installed in the absence of the gate which I have found would fail to preserve the listed building and CA. These factors limit the weight that I afford to this as a public benefit of the proposal.
29. The existing metal fence at the top of the steps on the site is not in particularly good condition, but its modest height and simple design result in a fairly unobtrusive feature in the street scene so that the visual impact of any improvement to the condition of the boundary would be small. The fence also maintains an unrestricted opening through to the riverfront. The proposed gate would restrict public access and I find that the resulting harm to the listed building and CA would not be outweighed or overcome by its improved condition compared to the existing fence, irrespective of the bespoke design and cost.
30. The appellant advises that the purpose of the proposal is to prevent criminal activity and antisocial behaviour in this location which have affected nearby residents in Keeper Wharf for a number of years. I have been provided with an extract of a police report from November 2020 providing an assessment of issues in this location and details of incidents that had been reported to the Police up to that time. I also note correspondence highlighting examples of more recent incidents, as well as comments in support of the proposal from a number of local residents referring to their experiences of crime and antisocial behaviour. However, not all of these examples appear to be directly related to the steps and foreshore, with some seeming to refer to wider issues on Narrow Street and the Thames Path.
31. In any event, while I do not doubt the effect of incidents on the living conditions of nearby residents and have considerable sympathy with their desire for a solution, there is little firm information before me to demonstrate the extent to which any alternative means to address issues have been considered and discounted. Nor is it clear that issues would be fully resolved by the proposal given comments before me referring to individuals in some cases remaining on the foreshore until late at night after accessing it in the early evening when the gate would not be locked. I accept that improving security and addressing crime and antisocial behaviour could be a public as well as a private benefit to affected individuals, but I am not therefore persuaded that the proposal for a gate would be the only means by which this could be achieved.

32. Even taken together, I find that the public benefits of the proposal would be insufficient to outweigh the harm that I have identified to the listed building, and nor would the benefits outweigh the harm to the CA.
33. I therefore conclude that the proposal would fail to preserve the special historic interest of the Grade II listed building and the character of the Narrow Street CA would be neither conserved nor enhanced. This would fail to satisfy the requirements of the Act and the Framework. There would also be conflict in with Policy HC1 of the LonP and Policies S.DH1 and S.DH3 of the LP. Together and amongst other things, these policies broadly seek high quality design and development that respects and positively responds to its context and that preserves or enhances heritage assets and their significance.
34. In relation to Appeal A, I have additionally found that the proposal would harm connectivity and pedestrian accessibility, and it has not been satisfactorily demonstrated that flood risk would not be increased. These matters would not be outweighed by the benefits of the proposal. The Appeal A development would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached.

Conclusion

35. For the reasons given above, I conclude that both appeals should be dismissed.

J Bowyer

INSPECTOR