



Appeal Decision

Site visit made on 6 November 2023

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th November 2023

Appeal Ref: APP/H5390/W/23/3318905
615-617 Fulham Road, London SW6 5UQ

- 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 Cadent Gas c/o Dalcour Maclaren against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref: 2022/02301/FUL, dated 12 August 2022, was refused by notice dated 4 November 2022.
 - The development proposed is described as 'the installation of a below ground pipe, connecting the gas riser to the main contained within the footpath. Approximately 1.5m of underground pipe will be installed in the footpath to the north of the building. There is currently approximately 24m of existing pipework fixed to the exterior of the building. The new gas riser will be installed as seen on 20220719_22004461_PLN_EL_1.1 and painted an appropriate colour to blend in with the building. It is recommended that any holes drilled /fixings be done between the brick joints rather than the bricks themselves. The proposed development cannot be routed internally due to there not being a route option inside the building.'
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Decision

1. The appeal is allowed and planning permission is granted for the installation of external gas pipe apparatus to the front elevation of the building at 615-617 Fulham Road, London SW6 5UQ in accordance with the terms of the application, Ref: 2022/02301/FUL, dated 12 August 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 22004461_PLN_EL_1.1 Existing & Proposed Front Elevations.
 - 3) The development hereby permitted shall be carried out and completed in accordance with the following specified materials details (including colour and finish):- Gas Riser: Painted Black.

Procedural Matter

2. The description of development in the banner heading above is taken from the planning application form. The Council's decision notice utilises a more precise version which is also repeated on the appeal form. Accordingly, I have considered the appeal on this basis and have used this shorter description in my decision paragraph.

Main Issues

3. The main issues are (i) whether the proposal would preserve or enhance the character or appearance of the Walham Green Conservation Area; (ii) the effect on the significance of a non-designated heritage asset; and (iii) if there is harm, whether this is outweighed by the benefits of the proposal.

Reasons

Conservation Area

4. The appeal properties comprise part of a 3 storey terraced building which is in commercial and residential use. At ground floor level on the principal elevation, there are 2 shop fronts set between attractive pilaster features. One of the shop fronts maintains a more traditional form, whilst the other is of a more modern design. Above both shop fronts is a symmetrical arrangement of sash windows with decorative surrounds and a banding below the second floor windows. They are set in plain yellow brickwork which extends up to thick banding and a flat roof. There are some exposed cables, lighting apparatus and a CCTV camera associated with the shopfronts.
5. The conservation area is of a predominantly commercial nature and is a busy location, in terms of both vehicular and foot traffic. The buildings enclose the streets and the appeal properties form part of an attractive row of 3 storey flat roofed buildings. These also extend towards the commercial centre to the east, beyond Barclay Road. Apart from 619 Fulham Road (No 619) and some shop front alterations, these are largely unaltered and thus appreciably contribute towards the significance. The appeal properties are also conspicuous in this part of the conservation area. They abut the footway and are close to a busy road junction which affords a high degree of visibility.
6. The proposal would extend from ground level to above the first floor windows with an arrangement of pipework that would protrude in both vertical and horizontal directions. In doing so, it would appear as an incongruous addition in the conservation area when seen against the plainer brickwork and close to the balanced arrangement of windows on this prominent front elevation. Hence, it would detract from the largely unaltered appearance of the properties above ground floor level.
7. The proposal would also project forward of the pilaster between the two shop fronts. As it would partially obscure this traditional feature of the conservation area, it would detract from its qualities. The appellant has stated that the proposal would be painted to blend in with the front elevation, but as the brickwork and the pilaster are of different colours this would be unlikely to be entirely effective. While fixing the proposal to brick joints would minimise physical harm to the building's fabric, it would not address my concerns over the visual impact.
8. The neighbouring property at No 619 is considerably more altered but not to the extent that it has changed the significance of the conservation area to any great degree. There is also external pipework on the nearby King Edwards Mansions but unlike the proposal, that pipework is in a traditional and decorative form. From what I observed, it also does not extend in front of the shop front features on that building. The site circumstances are thus sufficiently different so as not to alter my conclusion.

9. The appellant has also referred to the potential to decommission the proposal in that it would be removable. However, it was not applied for on the basis that it would be temporary and so this is a matter which attracts limited weight. Overall, and while I would accept that the level of detrimental effect would be small, there would be a breach of the protection afforded to the conservation area, as has also been noted by an Interested Party.
10. Having regard to the above, I conclude that the proposal would not preserve or enhance the character or appearance of the Walham Green Conservation Area. As such, it would not comply with Policies DC1, DC4 and DC5 of the Council's Hammersmith & Fulham Local Plan (2018) (Local Plan) where they concern a high quality urban environment including heritage assets, alterations being successfully integrated into architectural design and high quality shopfronts, amongst other considerations. Similarly, it would not comply with Key principles CAG2, CAG3, CAG4 and CAG5 of the Council's Planning Guidance Supplementary Planning Document (2018) (SPD) in respect of the guidance they provide for a proposal in a conservation area.
11. For the purposes of paragraph 202 of the National Planning Policy Framework (Framework), less than substantial harm would arise to the significance of a designated heritage asset. I deal with the required balancing exercise in the Framework and which is also contained in Policy DC8 of the Local Plan later in my decision.

Non-designated Heritage Asset

12. The terrace which the appeal properties form part of is formally identified by the Council as a Building of Merit (BoM) and is a non-designated heritage asset. In overall terms, it maintains its pleasing appearance as a fairly coherently designed 3 storey terrace of aesthetic quality. It is not varied or impaired to the degree that its value has been significantly lessened, in considering the alterations that have taken place at No 619 in particular.
13. Within this context, the proposal would be seen as an invasive, albeit small scale, addition to its principal elevation with the positioning of the pipework over the pilaster and then extending over this elevation in both a vertical and horizontal manner. It would not be in keeping with the elevations of the other properties that make up the BoM, even No 619, and so it would detract from this asset.
14. Similarly to the conservation area effect, this harm would not be adequately addressed by the colour finish, how it would be fixed to the elevation and the potential for removal. That it would be mainly at first floor window level and above would only make it more apparent on the BoM because of its elevated form around the attractive windows and with the prominent location. I have not been made aware that King Edwards Mansions form part of the same BoM, so its external pipework only has a limited bearing in this respect.
15. I conclude that the proposal would cause harm to the significance of a non-designated heritage asset. It would therefore not comply with DC1, DC4 and DC5 in relation to heritage and design. Again, I deal with the required balancing exercise under paragraph 203 of the Framework, Policy DC8 and key principle BM2 of the SPD below.

Benefits

16. The proposal would have the benefit of providing a safe and reliable supply of gas to the properties, including for hot water, heating and cooking. It would therefore contribute to meeting the needs of what are basic but required essential facilities. It would also be located where there would be easy access for maintenance.
17. The appellant has explained that the existing pipes are no longer acceptable under industry standards. The internal pipework is deemed both not to be reusable and fit for purpose. The excavation of the internal floor for the works is also said to be not compliant with guidance, as would the use of fire exit places. Pipe routes and fire safety are said to have been therefore carefully considered, and the appellant has referred to Policy D12 of the London Plan in this regard. Under legislation and regulatory obligations, the appellant is required to ensure that its gas-carrying assets remain fit for purpose and that it continues to maintain, upgrade and repair their network. The gas main which the proposal would connect to is itself at the front of the property.
18. None of these matters have been disputed and no alternatives have been put forward which it appears that the appellant has not already investigated. Gas continues to play an important role for hot water, heating and cooking, as is evidenced by the rationale for the proposal itself. The provision of an adequate and safe gas supply to the properties can thus be seen as a clear public benefit.

Heritage Balancing Exercise

19. In considering potential impacts on the conservation area, I have given considerable weight to the desirability of preserving or enhancing the character or appearance of that area. Paragraph 199 of the Framework confirms that great weight should be given to the asset's conservation. Paragraph 202 goes on to state that where a development proposal will 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 including, where appropriate, securing its optimum viable use. Policy DC8, while referring to a previous version of the Framework, essentially applies the same test.
20. The less than substantial harm arises to the significance of the Walham Green Conservation Area. As the proposal would be relatively small scale in nature, it would be towards the lower end of this level of harm. The public benefit that would arise is centred on a safe and reliable supply of gas to the properties. This would be of significant public benefit. As a consequence, the less than substantial harm would be outweighed by the public benefits of the proposal. It would therefore comply with paragraph 202 and Policy DC8 in applying the balancing exercise under these national planning and development plan policies.
21. Paragraph 203 of the Framework states that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Again, Policy DC8 provides a similar approach, as does key principle BM2.

22. The scale of any harm or loss to the significance of the BoM as a non-designated heritage asset would be limited. In the balanced judgment, the benefits that would arise from the proposal would outweigh the harm or loss to the significance. It would therefore comply with paragraph 203 and Policy DC8 in applying this balancing exercise under these development plan and national planning policies and likewise with regard to key principle BM2.

Other Matters

23. The Council's Planning Officer Report, whilst not including the matter in the reason for refusal, raises potential safety issues over leaks from the proposal and relates it to Policy CC8L/CC9. The appellant has pointed out this poses a greater risk indoors than out. The appellant is itself a statutory undertaker and this must also have a bearing on safety matters. Safety matters do not therefore change my conclusion.

Conditions

24. In addition to the timescale for implementation, I have imposed a condition concerning the approved plan which shows the proposal and has been the basis of the Council's decision, as it is included on the decision notice. This is imposed for the purposes of certainty. I have also imposed a materials condition concerning a painted black colour finish to the gas riser, in the interests of character and appearance.

Conclusion

25. The public benefits of the proposal would outweigh the harm to the significance of a designated heritage asset, the Walham Green Conservation Area, and similarly with regard to the benefits and a non-designated heritage asset. The proposal would comply with the policies in the development plan when considered as a whole, and there are no material considerations which indicate that a decision should be taken other than in accordance with the development plan. For the reasons set out above and having regard to all matters that have been raised, the appeal should be allowed subject to the conditions.

Darren Hendley

INSPECTOR