



Appeal Decisions

Site visit made on 31 January 2023

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2023

Appeal A Ref: APP/E5900/Y/22/3308372

149 Brick Lane, LONDON, E1 6SB

- 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 Dominic Goor against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref: PA/21/02450, dated 9 November 2021, was refused by notice dated 5 April 2022.
 - The works proposed are described as: Erection of a part second floor rear extension and addition of a third floor extension with a roof terrace.
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Appeal B Ref: APP/E5900/W/22/3308373

149 Brick Lane, LONDON, E1 6SB

- 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 Dominic Goor against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref: PA/21/02449, dated 9 November 2021, was refused by notice dated 5 April 2022.
 - The development proposed is described as: Erection of a part second floor rear extension and addition of a third floor extension with a roof terrace.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. On 19 December 2023 the Government published a revised version of the National Planning Policy Framework (the Framework). Whilst this made certain revisions to aspects of national planning policy, the provisions in respect of heritage assets are unchanged. Neither party relies on other provisions of the Framework in support of their respective cases. In determining these appeals, I have had regard to the most recent version of the Framework.
4. As the proposal is in a conservation area and relates to a listed building, 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).

Main Issues

5. The main issues in these appeals are:

- Whether the proposal would preserve a Grade II listed building, 149 Brick Lane [List Entry No. 1241812], and any of the features of special architectural or historic interest that it possesses, and the extent to which it would preserve, or enhance, the character or appearance of the Brick Lane and Fournier Street Conservation Area;
- The effect of the proposed development on the living conditions on the occupiers of numbers 151 and 143-147 Brick Lane, with particular regard to privacy and overlooking; (Appeal B only) and
- Whether the proposed development would provide suitable living conditions for the future occupiers, with particular regard to internal floorspace and headroom (Appeal B only).

Reasons

The effect on heritage assets

6. 149 Brick Lane is a three story building built in brick under a pitched, pantile, roof. To the rear is a staggered two storey addition, part of the which has a pitched roof and a shorter section has a flat roof. The building dates originally from the early to mid-eighteenth century and from the submitted evidence it was most likely built as a silk weavers residence and workplace. At second floor level the front elevation of the building features a wide, six light, window to what would have originally been the weavers work room. The evidence also indicates that this use had ceased by the early to mid-nineteenth century and the building was subsequently used for a variety of other commercial uses including as a bakery and a shop. The building is currently used as a bar at ground floor level with the two upper storeys being used as two flats.
7. The building was listed at Grade II in 1985. The evidence sets out that the front elevation of the building was demolished and re-built, and the main roof reconstructed around 1990.
8. From the evidence, the significance of the building in so far as it is relevant to these appeals is derived from being a surviving example of a once more common building typology that has been gradually reduced in number by redevelopment and the industrialisation of the textile industry in the later eighteenth and nineteenth centuries. The Heritage Statement submitted with the application notes that the silk industry, once prevalent in the area, has few traces remaining and that the smaller buildings occupied by journeyman weavers are rare. It is accepted that even in its altered form the building has high evidential value and that the façade is of high significance.
9. The appeal building is located within the Brick Lane and Fournier Street Conservation Area. The conservation area is extensive, with Brick Lane forming a north to south axis through the area and has a mixed commercial and residential character. Brick Lane, in particular, is a vibrant, mixed use, street with the predominant building form having commercial premises at ground level with residential accommodation above.

10. The evidence indicates that whilst Brick Lane existed from the mid sixteenth century, it was not until the second half of the seventeenth century that the area became significantly urbanised. Many of the early occupiers of the area were French silk weavers fleeing religious persecution which led to the area becoming a centre of the silk weaving industry in London. Many of the buildings around Fournier Street, Wilkes Street and Princelet Street in the southern part of the conservation area were occupied or partially occupied by industry. Silk-weaving activity was located on the uppermost floors to take advantage of the best light for the looms. Brewing was also an early established industry in the area from the late seventeenth century onwards.
11. In the nineteenth century the development of the railways further changed the area with the establishment of a station at Bishopsgate, which later became a goods yard following the opening of Liverpool Street station to the south west. As a result, the part of the conservation area where the appeal building is situated is somewhat separated from the larger part of the area by a combination of the railway line serving Liverpool Street Station and part of the line of the London Overground. These run through the northern part of the conservation area from east to west, the former in a cutting and the latter largely elevated, creating a degree of physical and visual separation between the sections of the conservation area whilst making their own contribution to its character.
12. Although over time, redevelopment has occurred and newer buildings have been introduced, the area retains much of its historic street pattern with relatively narrow streets and buildings directly fronting the highway. The conservation area is comprised of buildings of a variety of different ages and styles, generally of relatively small scale of three to four storeys in height, arranged in a terraced format around perimeter blocks. The buildings are predominantly brick with simple facades. Whilst there are a variety of roof forms, these are not always obvious as a combination of parapets to the buildings and the narrow width of the streets truncates views from street level.
13. The former Trumans Brewery buildings and Old Spitalfields Market are prominent large scale features of the area, which also contains Hawksmoor's imposing Christ Church in Spitalfields. Alongside its historic buildings, the area has a strongly multi-cultural feel, and the presence of large amounts of graffiti combines with these factors to give the area a unique character.
14. The significance of the conservation area in so far as is it relevant to these appeals is its evidential value of the early expansion of London in the later seventeenth century, the architectural styles and building techniques of the time, and the subsequent evolution of the area. It also has a strong historical value due to the association with the silk weaving trade. It has architectural and aesthetic value derived from the design and appearance of the buildings and their relationship with the streets and spaces within which they are located.
15. The appeal proposal would create a new, flat roofed, second floor extension above the existing rear addition and would introduce a new, flat roofed, third storey above the main part of the building and part of the new second floor extension. The front elevation of the third floor extension would be constructed in a stock brick to match the existing front elevation and would incorporate a wide window to mirror the wide window on the second floor. The

front elevation of the extension would also feature an array of vertical metal slats placed in front of the wall. These would be fabricated from corten steel which weathers to a rust colour and would be lit from below by light emitting diode lighting. To the rear the third floor extension would be clad in vertically hung pantiles salvaged from the existing roofs.

16. The rear extensions to the building would be constructed in stock bricks and the flat roof of the second floor extension would be configured as a roof terrace, accessed through a patio door and surrounded by a metal safety railing.
17. The proposed works would result in the loss of the pitched roofs over the main part of the building and the rear addition. The rear part of the building is a later addition to the original structure although neither party has been able to provide evidence of when it was constructed. It is, however, not in dispute that the roof structure over the main part of the building and the rear addition are late twentieth century replacements. Although the façade of the building has also been rebuilt and does not wholly accurately replicate the historic frontage, the building does, nonetheless, retain much of its historic form and the present rear addition takes the form of a fairly typical subordinate wing, illustrating the adaptation of the building over time to accommodate new uses and the needs of the occupiers. In this respect there is some value to these elements although I recognise that no historic building fabric would be lost.
18. The proposed third storey would both increase the height of the building to that of its neighbour at number 151 and introduce a feature above the wide six light window that is present on the current top floor of the main building. Although a facsimile created in the late twentieth century reconstruction of the façade, this is nevertheless a significant feature of the building providing evidence of its original purpose as a weaver's residence and workplace which located the workroom at the top of the building to gain most light. The proposed extension would, in addition to removing the original pitched roof form from the historic core of the building, introduce a similar wide window above the present one, albeit partially obscured by the metal screen.
19. This new high level feature would compete visually with the historic feature and the rusted metal detailing and proposed illumination would exacerbate this. As a result, it would become harder to understand the historic uses of the building that informed its original design.
20. Whilst the second floor extension would not increase the footprint of the rear addition, the proposed flat roof and guard rails would significantly alter its form, diminishing its present subordinate status and the ability to interpret the rear of the building in the context of its historic development.
21. The addition of the proposed extensions would significantly alter the form and massing of the appeal building and would obscure its historic origins. The Appellant's Heritage Statement sets out that examples of the smaller buildings occupied by journeyman weavers are rare, and whilst the proposals would not result in the building being lost, they would nonetheless result in it being less intelligible as a silk weavers residence and undermine the available evidence of the form that these took. This would be harmful to the significance of the listed building.

22. The Brick Lane and Fournier Street Conservation Area Character Appraisal 2009 (the CACA) sets out that the character of Brick Lane is created by a general consistency of height and architecture, especially amongst the terraces, and a rich, fine grain mix of land uses. Whilst this largely holds true, I observed when I visited the site that part of the character of the conservation area at this point on Brick Lane is a result of the varied elevational treatments and the changes in the parapet line which form a counterpoint to the more regular facades and parapet line opposite. The proposed extension would reduce this variety and would introduce high level feature in the form of a vertical metal screen that would be alien to other upper floor features in the area. Attention would be drawn to this by the proposed illumination. Whilst there are illuminated signs present in the area, these are at ground floor or first floor level and no other examples of illumination at high level have been identified. This would be harmful to the visual appearance of the conservation area. As set out above, the diminution of the observable evidence relating to the historic function of the area as a centre for silk weaving would also be harmful to the significance of the conservation area.
23. Paragraph 205 of 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 their conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. Given the proposed works would not result in the loss of the building or substantial elements of its historic fabric, and that the visual effect on the conservation area would be largely limited to the near vicinity of the appeal site, I find the harm to be less than substantial in this instance but, nevertheless, of considerable importance and weight.
24. Under such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes the securing of the optimal viable use of listed buildings. The appellant suggests that the proposal would be beneficial because it would provide family accommodation, add vibrancy to the street scene, and reveal the significance of the building.
25. The proposal would not provide any new housing units. The upper floors of the building are currently in use as a two bedroom flat and a one bedroom flat. The proposal would expand the current one bedroom flat into a four bedroom unit. This would potentially broaden the range of housing available in the area by the creation of a unit capable of accommodating a family, although at the expense of the loss of a smaller unit. Neither party has submitted any evidence in respect of either housing supply or housing need in the area. Consequently, it cannot be ascertained what size of housing units are required. Given this, I can only ascribe little weight to the provision of a four bedroom unit.
26. The appellant's evidence does not elaborate on the manner in which the proposal would add vibrancy to the street scene. The proposal does not affect the lower part of the building where it is more likely to be noticeable, and it is not clear in what manner the addition of a metal screen and lighting, the most obvious manifestations of the proposal, at a high level would make a positive contribution to the experience of the area or views along the street. As I have

found that these elements would be harmful to the listed building and the conservation area, I do not consider these to be benefits of the proposal which could weigh in its favour.

27. The Heritage Assessment sets out that a small plaque is proposed for the front of the building to highlight its past uses as a bakery and silk weavers' house. However, this is not shown on the submitted drawings, nor is it mentioned in the Design and Access Statement. In the absence of any details in respect of this, it carries little weight.
28. There is no evidence that would indicate that the continued use of the building would be at risk if the proposed works did not go ahead and no other potential public benefits have been identified.
29. Whilst the scheme may result in some small benefits, these are not sufficient to outweigh the harm that I have identified. In the absence of any substantiated evidence to the contrary, neither would any public benefits accrue in relation to the conservation area.
30. Given the above, I conclude that the proposal would fail to preserve the special historic interest of the Grade II listed building and the character and appearance of the Brick Lane and Fournier Street Conservation Area, thus failing to satisfy the requirements of the Act, paragraph 203 of the Framework and development plan policies insofar as relevant. In terms of the planning appeal the proposal would conflict with the relevant requirements of Policies S.DH1 and S.DH3 of the Tower Hamlets Local Plan 2020 (the Local Plan) which expect new development to be of a high standard of design which respects and responds positively to its context, and which seeks to preserve or enhance designated heritage assets, including listed buildings and conservation areas.

Living conditions of neighbouring occupiers

31. The appeal proposals would introduce a large roof terrace to the rear of the appeal building. This would be adjacent to an existing flat roof to the rear of the neighbouring building at 151 Brick Lane and project for approximately the same distance. Above the flat roof at number 151 is a further level of the building which contains a window and a door.
32. The proposed roof terrace would result in the opportunity for the occupiers of the proposed new unit at 149 Brick Lane to overlook the rear of the top floor accommodation at 151 Brick Lane which would compromise the privacy of this property. In addition, it would appear that the flat roof of 151 Brick Lane is accessible from the property in which case the occupiers of this property would be able to overlook the windows of the rear bedroom in the proposed third floor extension. This potential for mutual overlooking would not provide suitable living conditions for the occupiers of either property.
33. To the rear of numbers 143-145 Brick Lane, there are small balcony areas close to the boundary with the appeal building. I saw when I visited the site that there are also windows in these flats which face towards the appeal site. Whilst the proposed extensions to number 149 would not have windows which would overlook these balconies, use of the proposed roof terrace would result in overlooking of the rear balconies and direct views into at least two windows. This would be detrimental to the privacy of the occupiers of these neighbouring flats.

34. Although the proposed roof terrace and additional second floor window with Juliet balcony would overlook the shared courtyard and windows in the rear of the blocks of flats which form part of two sides of the triangular shaped perimeter block within which the appeal building is located, there is already a relatively high degree of overlooking of both of these from the existing buildings around the block. The proposed development would not make this existing situation materially worse. However, this fact does not overcome the other harm that has been identified.
35. The Council has expressed concerns in relation to potential noise disturbance from the use of the proposed roof terrace. Although the Council has cited Policy D.ES9 of the Local Plan in respect of this, it is clear from the wording of the Policy and its supporting text that this is primarily intended to address noise and vibration from existing noise sources and from existing or proposed new commercial premises rather than noise from domestic activities at residential properties. I accept that the use of an outdoor space may have the potential to impact on neighbouring residential properties. Nevertheless, there is nothing in the evidence which would indicate that normal day to day domestic use of the roof terrace would result in unacceptable levels of noise being generated. Nor is there any evidence that the development would result in regular or constant excessive levels of noise. Consequently, I do not find any conflict with Local Plan Policy D.ES9.
36. The proposed extensions would increase the overall height of both the main building and the existing rear addition to the appeal building. Neither party has submitted any substantive evidence in respect of the effect of the proposal on sunlight or daylight to the neighbouring premises. The appeal building is located to the south of number 151 Brick Lane. However, the proposed new storey on the rear addition would project only slightly above the level of the flat roof to the rear addition of number 151 and the new third storey would not project significantly beyond the rear elevation of the top floor. In this context I do not find that there would be any harmful loss of sunlight or daylight to this property.
37. There are windows and balconies to the rear of numbers 143-147. This building is located to the south of the appeal building and, consequently, due to the path of the sun the proposed extension above the rear addition would not block any direct sunlight. In terms of daylight, the proposed new extensions would be slightly higher than the existing ridgeline of the pitched roof of the rear addition to the appeal building and the form of the extension would result in slightly more building mass in proximity to these neighbouring windows. Nonetheless, from what I saw when I visited the site, due to the degree of separation between the proposed extension and the neighbouring building, any slight reduction in daylight that may result from this would not be so significant that it would be harmful.
38. Neither of these factors would, however, mitigate or overcome the harm that would result from the loss of privacy that would be experienced as a result of the proposed extension.
39. I therefore find that the proposed development would cause harm to the living conditions of the occupiers of the neighbouring properties at numbers 151 and 143-147 Brick Lane, with particular regard to privacy and overlooking. It would not comply with the relevant requirements of Policy D3 of the London

Plan 2021 (the London Plan) or Local Plan Policies D.DH8 and D.ES0 which expect new development to deliver appropriate privacy and amenity, maintain good levels of privacy, and avoid an unreasonable level of overlooking.

Living conditions of future occupiers

40. London Plan Policy D6 sets out minimum space standards for new housing. These are based on, but not entirely identical to, those set out in the Housing Technical Standards – Nationally Described Space Standard (NDSS). Local Plan Policy D.H3 expects development to also comply with the space standards set out in the London Plan. The proposed floor to ceiling height of the whole of the new third floor and part of the new extension to the second floor, at approximately 2.15m, would not meet the minimum requirement of 2.5m for at least 75 per cent of the Gross Internal Area set out in Policy D6 of the London Plan. Nor would it meet the minimum requirement of 2.3m set out in the NDSS, although the remainder of the second floor extension would appear to do so. As such, although the floor area which would be created exceeds the space standards set out in the NDSS and London Plan, due to the lack of headroom within the new parts of the flat to be created the accommodation would be unduly constrained and would not provide suitable living conditions for the future occupiers. Although listed buildings can put constraints on what can be achieved without compromising the significance of the building, in this case as the works are new additions to the building there is no reason why these should not comply with current standards.
41. I therefore conclude that the proposed development would not provide suitable living conditions for the future occupiers. It would not comply with the relevant requirements of Policy D6 of the London Plan and Local Plan Policy D.H3 which seek to ensure that new residential accommodation meets specified minimum requirements for internal space and is fit for purpose.

Other Matters

42. The Framework encourages the efficient use of land and supports opportunities to use the airspace above existing residential and commercial premises for new homes. It sets out that upward extensions should be allowed where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, is well designed (including complying with any local design policies and standards) and can maintain safe access and egress for occupiers. The proposed development would be of a similar overall height to neighbouring properties. However, as I have found that it would not be consistent with the street scene and fails to meet the required internal space standards, the proposal would not gain support from this section of the Framework.
43. The Framework also supports the addition of mansard roofs to terraced properties where their external appearance harmonises with the original building. The proposed third floor extension, despite being tile hung on its rear elevation, does not meet the definition of a mansard roof set out in the Framework and, for the reasons set out above, would be harmful to the building and the street scene.
44. Whilst the Framework seeks to increase supply of housing, this is not an objective to be pursued at any cost. The provision of a single larger unit to replace a smaller flat would not significantly boost the supply of homes, nor

would this of itself justify a development that provides sub-standard accommodation and causes harm to a historic building.

Conclusion

45. I have found that the proposed works would cause harm to the listed building and to the character and appearance of the conservation area, and that any small benefits that may result are not sufficient to outweigh the harm this harm. I have also found that the proposed development would cause harm to the living conditions of neighbouring occupiers and not provide suitable accommodation for the future occupiers and as such conflicts with policies in the development plan that are most important in deciding the appeal. These are important matters and as such the proposal would conflict with the development plan when taken as a whole in addition to failing to satisfy the requirements of the Act and 203 of the Framework. No material considerations have been identified that would warrant granting planning permission for a development that does not comply with the development plan.

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

John Dowsett

INSPECTOR