



Appeal Decision

Site visit made on 29 May 2024

by **C McDonagh BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 July 2024

Appeal Ref: APP/H5390/W/23/3331738

Welbeck Mansions, 206 Hammersmith Road, London W6 7DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Paolo Orsi against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref is 2023/02074/VAR.
 - The application sought planning permission for the *replacement of all existing single glazed windows with new double-glazed windows, to the front, side and rear elevations at first, second and third floor levels* without complying with a condition attached to planning permission Ref 2021/01851/FUL, dated 14 September 2021.
 - The condition in dispute is No 2 which states that: *The development hereby permitted shall be carried out in complete accordance with the approved plans and drawings listed in this decision notice, other than where those details are altered pursuant to the conditions of this planning permission.*
 - The reason given for the condition is: *For the avoidance of doubt and in the interests of proper planning.*
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission¹ was granted for double glazed windows to replace the existing single glazed windows to the front, rear and side elevations of the host property at first, second and third floor levels. The approved windows included timber frames in all instances due to concerns the Council had regarding the potential harm of aluminium frames on the host building.
3. Condition 2 attached to that grant of permission was sought to ensure compliance with the approved plans for the avoidance of doubt. The appeal proposal seeks to vary this condition to allow the change from timber to aluminium frames to windows on the side and rear elevations. The front elevation windows would also be replaced but with timber frames. The Council does not take issue with the latter element of the scheme. Based on the evidence before me I see no reason to disagree with this assessment.
4. Therefore, the main issue is the effect that varying the condition would have on the significance of the host building, a non-designated heritage asset; the settings of nearby listed and locally listed buildings; and the character and appearance of the Brook Green Conservation Area (CA).

¹ 2021/01851/FUL

Reasons

Special Interest and Significance

5. No. 206 Hammersmith Road is recognised as a Building of Merit in the Brook Green Conservation Area Character Profile (approved 8 March 2004), along with the adjoining No. 204. The host building is a commanding structure of four storeys with facing red brick located in a prominent position opposite Hammersmith Bus Station and adjacent the heavily trafficked Hammersmith Road.
6. As a locally listed building, No. 206 is a non-designated heritage asset (NDHA), deriving significance from its historic and architectural interests. Historic interest includes its age and links to the historic development of the area. Architectural interest is derived in part from the surviving historic fabric and use of traditional materials, alongside its intricate detailing such as the round-headed windows set in depressed arches, the two-storey corner and three-storey asymmetrical oriels, stone dressed staircase windows, transom windows with stone surrounds and the second-floor oculus with keystone. The building therefore makes a substantial contribution to the CA and streetscape in general.
7. The adjoining No. 204 is one storey shorter than the appeal building but is of similar appearance with red brick facing walls, a hipped slate roof and attic with dormers. From the submitted evidence, its significance as a NDHA mostly stems from its historic and architectural interests. Pertinent to the appeal, significance is also derived in part from its townscape context, including the adjoining No 206, and thus its setting. Additionally, as with the host building, No. 204 makes a positive contribution to the CA and streetscape in general.
8. To the west of the appeal building lies the Grade II* listed² 'Convent and School of the Sacred Heart' ('the convent'). It is of similar red brick construction built in the Tudor style and its current form dates from the late 19th century. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) states that in considering whether to grant planning permission for development which affects a listed building or its setting, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
9. From all that I have seen and read, the convent derives special interest and significance from its historic and architectural interests. Historic interest is drawn from its age and former uses as both a convent and school as well as its association with the Catholic order of the time period. Architectural interest is drawn from its detailing and ecclesiastical design, such as the south facing chapel which includes large traceried windows with stone buttresses.
10. Relevant to the appeal, special interest and significance is also derived, in part, from the listed building's setting. It is a prominent building along Hammersmith Road, and it is principally from here that it is experienced, and its significance appreciated. When looking north there is a close visual relationship with the buildings to either side, including the appeal site and its adjoining neighbour. As such, this immediate townscape setting of the listed building, including the

² List Entry Number: 1192062

appeal property, makes a positive contribution to its special interest and significance.

11. Section 72(1) of the Act states that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. The CA is centred around the eponymous Brook Green area of public open space, which is located to the north of the appeal site and is largely surrounded by residential properties. There are a range of building styles signifying the development of the area, although red brick is the predominant building material. Further south, particularly along Hammersmith Road, buildings are of larger scale with a greater mix of uses and this is one of three areas specified as being of the oldest origins of the area from around the mid-19th century.
12. The character and appearance, and thus special interest and significance, of the CA is therefore derived predominantly from its varied townscape, including the increased density of development to the south, in contrast to surviving areas of open space. Overall, the high quality of buildings in general is of considerable significance. The Character Profile separates the CA into sub-areas for the ease of assessment. The appeal site is located within sub-area F – ‘Buildings on, and north of, Hammersmith Road’. This recognises the greater scale and massing of the buildings on Hammersmith Road and acts as a defined edge to the CA and the more modern buildings to the south. The sub-area description highlights the landmark buildings of the convent, the appeal property and adjoining No. 204 as well as the view into the conservation area towards Brook Green from Hammersmith Road along Bute Gardens, which runs to the rear of the appeal property to the north.

Effect of Varying Condition 2

13. Although there are comparisons of the approved windows to those proposed in the appellant’s statement of case, the drawings lack detail and are not of a suitable scale to accurately assess the suitability of the proposal. As such, I cannot be certain that the proposed windows would satisfactorily replace the detailed dimensions, profile and design of the existing units.
14. From the limited information before me, the proposed windows would seemingly appear similar to those they would replace in terms of their individual detailing as shown in the submitted drawing³. However, the change from timber to aluminium frames would introduce a modern material and more polished finish, which would lack the finesse and traditional characteristics of timber. Regardless of optional changes to the glazing bars and being installed with the same margins, I cannot agree that there would be no visual difference arising from this change in material of the frames. Due to their uniformity and materials, they would have a manufactured and modern appearance which would not adequately replicate the natural undulations and grain of timber framed windows. Moreover, the ability to tilt and turn the windows, while easier to clean, would be very different to traditional sliding opening movements of sash windows.
15. A large part of the appellant’s case is focussed on the visibility of the windows subject to the proposal. On the site visit I observed that visibility of the rear was fleeting from Bute Gardens through a gap between buildings, although the

³ Drawing 2387-P08 Rev D

- other side elevation was more visible from Hammersmith Road when looking past the convent.
16. While some views may be only glimpsed, a lack of visibility does not equate to an absence of harm or a neutral impact. This is not the only consideration of impacts to the building, which is of local merit with significant historic and architectural interest. From all that I have seen and read, the aluminium frames would detract from the overall quality and architectural integrity of the host building.
 17. I am informed there are a mix of windows locally. This is not unusual in a dense urban area, although the example of the flats on Bute Gardens would not be comparable given the uPVC and aluminium windows are installed on more modern and less conspicuous buildings.
 18. Given the harm to the character and appearance of the host building, it logically follows that this would partially erode the significant contribution it makes to the significance and special interest of the convent and the character and appearance of the CA. The proposal would also harm the setting of the adjoining building as a pair of local Buildings of Merit. As such, I find that Condition 2 is necessary to preserve the character and appearance of the host Building of Merit, the setting of the Grade II* Listed convent and adjoining No. 204 and the character and appearance of the CA.

Heritage Balance

19. Paragraph 209 of the Framework advises that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. 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.
20. I have found in this instance that the variation of the condition and subsequent replacement of the timber window frames with aluminium to the side and rear would harm the significance of the host building. The building is of heritage merit in its own right but also contributes to the significance of No. 204 as a pair. This harm weighs significantly against the proposal.
21. Paragraph 205 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. I have found in this instance that the variation of condition 2 and replacement of the timber window frames with aluminium would harm the significance of the convent by eroding part of the positive contribution of its setting, while it would also harm the character and appearance of the CA as a whole. The magnitude of harm would be less than substantial due to the nature and scope of the works. However, this harm would be applied to each asset in turn and this harm carries considerable importance and weight.
22. Paragraph 208 of the Framework advises that in the case of 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.

23. It is claimed that there would be an improvement to the thermal efficiency of the building by the new window frames. I am mindful of paragraph 164 of the Framework in this regard and the significant weight that should be applied to energy efficiency improvements to buildings. However, there is limited information on this matter before me. The standard product brochure⁴ only advises on the 'U value' in terms of the thickness of the windowpane. However, the approved application already granted permission for the change from single to double glazed windows. This would already have been taken into account in any assessment of impacts and the benefits of that proposal, and it is unclear as to whether changing the frames would increase the thermal efficiency or value of the building as a result. The technical specifications⁵ document details individual components of the windows and installation instructions, although appears to detail every option and it is unclear through the 161 pages which parts are of relevance. As such I can only assign limited weight in favour of the scheme on this matter.
24. The windows would evidently be easier to clean given their ability to open and tilt inwards. They would also require less maintenance, which it is claimed is costly and required every 5-10 years. Although I take on board these factors, they would be of private benefit to the owner/occupiers of the property and not of a benefit to the public at large. Therefore, they are worthy of very little weight in favour of the proposal.
25. The benefits of the scheme as detailed before me would therefore not outweigh the harm I have identified. Based on the above, the variation of condition 2 which would facilitate the replacement of the timber frames with aluminium to the side and rear elevations. This would harm the significance of the host building and the adjoining non-designated heritage asset, the setting of the Grade II* listed convent and the character and appearance of the CA.
26. This would be contrary to sections 66(1) and 72(1) of the Act. It would also be contrary to policies DC1, DC4, and DC8 of the Hammersmith and Fulham Local Plan (adopted February 2018) and HC1 of the London Plan (adopted March 2021), which seek, among other things, to ensure replacement windows respect the architectural character of the building and its surroundings.
27. The proposal would also be contrary to the aims of the Framework, which advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Furthermore, the proposal would be contrary to the advice in the Planning Guidance Supplementary Planning Document (February 2018), which advises development will not be permitted if it would result in the demolition, loss or harmful alteration to buildings, structures and artifacts that are of local townscape, architectural or historic interest, including all buildings identified on the council's Register of Buildings of Merit unless they meet certain criteria.

Other Matters

28. The Council references 'No's 3 to 11 (odd) Bute Gardens' to the rear of the appeal site as a potentially affected heritage asset in its officer report. Those buildings are evidently Grade II listed as a group, although no further

⁴ Smart architectural aluminium – Alitherm Series

⁵ Smart architectural aluminium – April 2019

assessment of any impacts of the proposal was undertaken and harm to their settings was not given as a reason for refusal. Having sought clarity on this matter, the Council has confirmed it does not consider that the settings of No's 3 to 11 Bute Gardens would be harmed. Based on the distance from the appeal building and the intervening built form, I agree the settings of these listed buildings would not be harmed by the proposal.

Conclusion

29. For the reasons given above I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR