

Appeal Decisions

Hearing held on 17 September 2024

Site visit made on 17 September 2024

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 26 September 2024

Appeal A Ref: APP/N5660/W/24/3343572

7 The Polygon, London SW4 0JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr William Hill against the decision of the Council of the London Borough of Lambeth.
 - The application Ref is 23/03925/FUL.
 - The development proposed is replacement of modern metal frame windows with traditional timber sash windows; creation of a small hidden roof terrace by removing the two inner roof pitches and removing the damaged rear chimney breast but retaining it at roof level; removal of small spiral stairs leading to the roof terrace and installation of fold away ladder to facilitate access.
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Appeal B Ref: APP/N5660/Y/24/3343573

7 The Polygon, London SW4 0JG

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Mr William Hill against the decision of the Council of the London Borough of Lambeth.
 - The application Ref is 23/01697/LB.
 - The works proposed are retaining the sunken terrace at the roof level, replacement of modern metal windows with traditional timber sash windows, removal of the chimney breast, replacement of the spiral staircase with hidden pull-out access stairs and insertion of a downstand beam where the chimney breast was removed.
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Decisions

1. The appeals are dismissed.

Preliminary Matters

2. The appeals relate to the same scheme under different legislation. I have dealt with both appeals together in my reasoning.

3. Most of the works were carried out in the 1990s. This includes the replacement of the rear windows, the removal of the rear chimney breast and the formation of the roof terrace. The fold away ladder and downstand beam are works that are proposed. I shall consider the appeals on this basis.
4. Amended plans were submitted at the appeal stage. These do not seek to modify the scheme but rather seek to address the Council's suggestion that the initial plans presented some confusion, given the retrospective nature of the proposal. I shall take these plans into account in my determination of the appeals as I am satisfied that no party would be prejudiced by my doing so.
5. In its appeal submissions the Council included plans of the building from 1987 that showed a partition that split the basement into two areas and ground floor partitions that defined a front and back room with a hallway to the side. None of these divisions exist now – both the basement and ground floor are entirely open plan. The parties accept that the loss of these partitions is unauthorised.
6. However, the plans before me and the applications that were submitted did not seek to address this work. Therefore, whilst these plans give me a greater understanding of the former layout of the building, I am of the view that I should not consider the merits of this unauthorised work in my assessment of the appeal proposal. I shall therefore assess the appeal proposal based on the alterations that the applications sought to address, namely the chimney breast, rear windows, and roof terrace.

Main Issue

7. The effect of the proposal upon the significance of the grade II listed building known as 6, 7 and 8 The Polygon¹, and whether it would preserve or enhance the character or appearance of the Clapham Conservation Area.

Reasons

8. The appeal building is one of three dwellings that makes up a single listed building entry. Nos 6, 7 and 8 The Polygon are hereafter referred to as the listed building. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) require the decision maker to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Additionally, Section 72 of the LBCA requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
9. The listed building stands prominently along one edge of The Polygon and faces out towards Clapham Common and Holy Trinity Church. It dates from the early 18th century and is part of the expansion of what was a small farming settlement, when wealthier merchant classes built fine houses and villas around the Common.
10. The terrace was built to accord with the fashions of the time and the appearance of other new buildings that fronted the Common, with a formal front façade and a sense of hierarchy across the three primary floors topped

¹ List Entry Number: 1064964

with a prominent cornice and parapet. This gives it considerable aesthetic value, particularly as its front face has seen little change. It serves to define this edge of Clapham Common and holds an important relationship with Holy Trinity Church. These aspects of its setting thus also contribute to its significance.

11. Internally, the terrace is simple. Each dwelling is narrow and without a rear wing. The appeal dwelling originally had a small front and back room to the ground floor and a similar division to other floors. It is understood that the other two dwellings are similarly arranged. The interior has seen a considerable level of change that includes the loss of all the spatial divisions to the basement and ground floor. However, what survives on the floors above, and remaining details such as the chimney breasts, contribute to an understanding of the building's plan form and the way it would have functioned in the past. These details, and other retained historic fabric such as joinery, add to the building's significance. Although less important than its front façade, these characteristics, as well as its largely unaltered rear façade and original roof form, serve to give the building a degree of authenticity and value that goes beyond its front façade.
12. It is suggested that the terrace was primarily listed because of its association with the Common and Church. Although this is mentioned in the list description, this is noted as only a partial reason for designation. Such references are often found in old list descriptions. However, the way we evaluate and appreciate the significance of a heritage asset has developed considerably since the 1970s. For the reasons already given, I have found that the building's interior, rear façade, and roof form also contribute to the asset's significance. I cannot therefore conclude that if the building was in a different place it would not be listed, or that changes beyond its front façade would not harm its significance.
13. The appeal building stands within the Clapham Conservation Area (CCA). The CCA centres on the eastern half of the Common that is within the Council's area. It includes the buildings that face onto it and a densely developed area to the north. The significance of the CCA is primarily derived from the Common as a high quality historic open space, the interplay between its surrounding buildings and the Common, and its high quality built environment that includes a large number of 18th century buildings. The listed terrace, as an 18th century building that faces over and is one of the buildings that defines the historic extent of the Common, is a key contributor to the CCA's significance.
14. The house was originally heated by fireplaces that were set into two chimney breasts that extended out from the side wall and sat centrally within the front and back rooms. The rear chimney breast has been removed in its entirety below roof level.
15. For the reasons given the building's interior is not without significance. The chimney breasts are an element of primary historic structure. Additionally, they broaden our understanding of how the dwelling was occupied and are important to the layout of the rooms. Thus, they contribute to its authenticity. Even with the loss of internal partitions, if the rear chimney breast still existed at the lower levels the front and back room arrangement would be much more

apparent. The two chimney breasts would serve as evidence of how the dwelling was heated and occupied across all floors.

16. It is suggested that this could be mitigated to a degree by inserting a downstand the same width and depth as the removed chimney breast beneath the ceiling in the ground floor room, to mark the position of the removed structure. This insertion would be misleading and false and would not therefore accord with established conservation principles as a means to mitigate the harm. In fact, the added detail may make the situation less clear, particularly as it would be unrelated to a chimney breast above.
17. It is suggested that the chimney breast was removed for structural reasons. No evidence to support this is given, and it is likely that repairs would have been more straightforward than removing the entire structure and carrying out further work to support the retained external chimney. I therefore give little weight to this and for the reasons given conclude that the removal of the rear chimney breast has had a harmful impact on the building's significance. Given that the interior of the listed building is of a low level of significance, the level of harm is also low.
18. The proposal also includes the formation of the roof terrace. This required the removal of the original form of the roof, which most likely involved the loss of historic fabric. I do accept that the roof terrace is well contained. The outer roof slopes are finished in clay tiles with a clay ridge tile, so that from the ground the terrace is not obvious. There is however the potential for furniture such as parasols, or tall plants to be visible above the level of the ridge. Views of such would quickly catch the eye from the ground, highlighting the presence of the terrace, and detracting from the appearance of the building's principal façade.
19. Additionally, there are numerous tall buildings close to the site from where the building's roof would be visible. These include balconies where views over the area's historic roof tops would be enjoyed and valued. From these perspectives the excavated part of the roof and its use as a roof garden would appear entirely at odds with the otherwise traditional appearance of the building and that of the remaining section of adjacent roof. This intervention has also reduced the integrity of the listed building by removing a portion of its original roof form. Given that this visual impact can be experienced from several nearby vantage points, the formation of the terrace has also had a harmful impact on the character and appearance of the CCA.
20. The level of harm to the listed building is low however, given that its visual impact is limited and the outer slopes of roof are retained and finished appropriately. In terms of the CCA the level of harm is also low, given that the visual impact is limited and only relates to a small area of the designation.
21. The existing roof terrace on the adjacent portion of roof, which is also part of the listed building, was consented by the Council in the 1980s. I appreciate that it is reasonable for the appellant to expect that a similar decision should be made at his property. However, this decision was made a long time ago. It would appear that a lack of visibility from the ground was sufficient for the proposal to be accepted.

22. The way significance is considered and how proposals to alter historic assets are assessed has changed considerably since the 1980s, including the legislative framework that surrounds such decisions. With reference to buildings that contribute positively to the character and appearance of a conservation area, Historic England guidance² advises that the extent to which their contribution is considered as positive depends not just on their street elevations but also on their integrity as historic structures and the impact they have in three dimensions, perhaps in an interesting roofscape or skyline. Such guidance reiterates that the impact of a proposal on the integrity of an asset considered as a whole is important, and I have established that the proposal's visual impact when viewed from other elevated positions nearby is relevant.
23. Therefore, I have assessed the proposal before me on the basis of its merits and current guidance. I am unable to conclude that the adjacent roof terrace means that I should find the appeal proposal to be acceptable.
24. At my visit I saw several examples of other roof terraces and balconies nearby. However, most are associated with more modern buildings; and, other than the roof terrace on the adjacent roof which I have addressed already, there are no roof terraces in a sufficiently similar listed building context that alter my findings on the merits of the appeal proposals.
25. The appellant refers to the Council's acceptance of alterations at No. 1 The Polygon, which included a new partition across a chimney breast. It is however clear from the Council's submissions that this matter was carefully considered, and the harm acknowledged and weighed against other benefits. Changes to No. 8 are also referred to; however, there is nothing to suggest that interventions to this dwelling have included harmful plan form changes.
26. More generally, The Polygon has seen significant intervention over time, including recent alterations to the public realm. However, the spatial characteristics between the appeal building, the Common and the Church are maintained. Furthermore, changes to other buildings that have seen most of the original roofs lost only serve to reinforce the importance of retaining the original form and appearance of the appeal building, beyond the simple conservation of front façades.
27. In terms of the National Planning Policy Framework (Framework) the harms would be less than substantial but would nevertheless be of considerable importance and weight. Paragraph 208 of the Framework establishes that any harm should be weighed against the public benefits of the proposal.
28. The appellant advises that the chimney was redundant and that its removal has improved its interior, particularly within the small upper rooms. The dwelling is modestly sized, and the two rear rooms to the first and second floor are small. Removing the chimney breast from these rooms has undoubtedly made the rooms easier to use and furnish.
29. However, the historic plans suggest that a bathroom was in place prior to the removal of the chimney breast, demonstrating that the room was previously able to accommodate this function. Furthermore, there is nothing before me to suggest that enlarging the size of the rear rooms was essential for the

² Historic England 2019 Conservation Area Appraisal, Designation and Management Second edition, Historic England Advice Note 1

dwelling to function and thereby secure the building's optimal viable use. Even if the rear rooms retained the chimney breast, the house would still have two large front facing bedrooms that would be commensurate with the scale of living space to the floors below. This benefit is therefore only of a private nature.

30. The garden is described by the appellant as deficient. Although small, at my visit I found it to be a pleasant outside space that is well laid out and benefits from a good degree of privacy thanks to its mature shrubs. Furthermore, the building faces over an area of high quality public space that the occupants of the dwelling can use. I accept that the roof terrace is an asset to the house, and no doubt greatly valued by its occupants for its privacy, sunlight, and wonderful views; however, I cannot agree that it is essential to enable the building to function as a family sized dwelling. The roof terrace is therefore no more than a private benefit to the occupants of the dwelling.
31. It is suggested that the replacement of the rear windows should be accepted as a public benefit, given that the work was carried out voluntarily by the Appellant. The historic windows were however replaced without consent, and the current windows regularised this breach of listed building control. It is reasonable to assume from the submissions that the Council would have pursued this matter had the appellant not addressed it voluntarily. I do not therefore consider it appropriate to give weight to this as a public benefit.
32. However, historic photos show that the replacement of the rear ground floor window is a positive intervention, as the window that existed in this position when the building was listed in 1974 did not follow a traditional sash pattern. This window fitting has enhanced the appearance of the building at the rear and can be accepted as a public benefit.
33. The removal of the spiral staircase and installation of a downstand beam are proposals that seek to lessen the level of harm caused by the existing unauthorised alterations. I have found that the formation of the roof terrace and loss of the chimney breast would still be harmful even if these changes were made. Therefore, these matters cannot be weighed in the heritage balance as public benefits.
34. The roof terrace provides access to the roof that is useful for maintenance, and keeping the building in good repair is a public benefit. However, this could be easily achieved by forming a hatch in the valley. Indeed, such openings are commonly found in buildings with an internal valley and serve as an effective way to keep valleys and gutters clear of debris. Therefore, I give little weight to this matter as a public benefit.
35. The replacement of the rear ground floor window is the only public benefit that carries reasonable weight. I need to consider this in the context of paragraph 205 of the Framework which states that great weight should be given to the conservation of heritage asset. Although the level of harm I have identified is low overall I am unable to conclude that it would be outweighed by the public benefit.
36. In summary, the proposal would fail to meet the requirements of the LBCA as it would harm the special interest of the listed building and fail to preserve the character or appearance of the CCA. It would also fail to accord with Policy

HC1 of The London Plan 2021 and Policies Q5, Q8, Q11, Q20 and Q22 of the Lambeth Local Plan 2020-2035. Together these Policies seek to ensure that proposals conserve the significance of listed buildings, preserve or enhance the character or appearance of conservation areas, are well designed, and make a positive contribution to historic context and integrity.

Conclusion

37. For the reasons above, the appeals should be dismissed.

A Tucker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

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FOR THE LOCAL PLANNING AUTHORITY:

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