



Appeal Decisions

Site visit made on 15 July 2024

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2024

Appeal A Ref: APP/E5900/Y/24/3338399

13 Newell Street, Tower Hamlets, London E14 7HP

- 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 J Suntherland against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref is PA/23/01768.
 - The works proposed are described as: roof alterations, the refurbishment of property throughout, and alterations to the non-historical layout at second floor.
-

Appeal B Ref: APP/E5900/W/24/3338400

13 Newell Street, Tower Hamlets, London E14 7HP

- 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 J Suntherland against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref is PA/23/01767.
 - The development proposed is described as: roof alterations, the refurbishment of property throughout, and alterations to the non-historical layout at second floor.
-

Decision – Appeal A

1. The appeal is dismissed.

Decision – Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. The name of the appellant given on both appeal forms is a Mr James Sunderland. This differs from the name of the first applicant given on both application forms, which I have used above. Nevertheless, I am satisfied that the first applicant and the appellant are one and the same.
 4. The description of the proposed development and works given in the application form is brief. The proposed plans and documents submitted with the applications provide further detail of the works and development proposed, which are as follows:
 - A mansard roof extension;
 - The provision of a chimney cowl;
 - The repair and redecoration of all windows;
 - The inset or restoration of the existing downpipe on the front elevation;
-

- The provision of a rainwater downpipe separate to the soil pipe on the rear elevation;
 - The replacement of the existing plastic downpipe above the ground floor with a cast iron replica;
 - The repair of stucco on the front elevation;
 - The repair or replacement of the doorbell;
 - The repainting of the door on the front elevation;
 - The painting of the balustrade to the front;
 - The realignment and reveal of the door step;
 - The provision of stone paving on the path to the front door to match those of the neighbours; and
 - The replacement of flagstones within the front railings.
5. The internal works are:
- The provision of stairs to the loft area;
 - The rearrangement of the internal layout on the second floor;
 - The repair of damaged coving in the rear ground floor room; and
 - The repair of damaged skirting in the first floor front bedroom.
6. The above list is proposed as a scheme of alteration and refurbishment. I have, therefore, determined the appeals on this basis, noting that there is no request for me to issue a split decision, should I consider some elements of the scheme acceptable.

Main Issues

7. The two appeals concern the same scheme under different, complementary legislation. Having regard to the duties imposed by the legislation¹ and the provisions of the National Planning Policy Framework (the Framework), I have considered both schemes together, identifying the main issues as follows:
- whether or not the proposal would preserve the Grade II listed building, 11-23 Newell Street, or any features of special architectural or historic interest which it possesses; and
 - whether or not the proposal would preserve or enhance the character or appearance of the St Anne's Church Conservation Area.

Reasons

Special interest and significance

8. The building occupying the appeal site is a three storey residential property with a basement. It is within a row of terrace properties, where numbers 11-23 (odd) are designated as a Grade II listed building. The listing description (list entry number 1065097) dates the building from the mid 18th century.
9. Having regard to the evidence before me, the special interest and significance of the Grade II listed building is both historic and architectural. The historic plan form of the property across its floors is legible, including the prominent winding staircase. I also noted a significant number of other internal and external historic features on the property, some of which are mentioned in the

¹ Sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

list of works and development. That many of these are intact and retained adds to the special interest and significance of the heritage asset.

10. Although there is some slight variation in individual properties within the listed terrace, the appellant's heritage statement points to common characteristics in the front elevation of the row, including the scale of the buildings, the building line, and the consistent parapet line. Having observed the buildings from Newell Street, I can agree that there is a pleasing harmony to the terrace and consistency in the front façades, despite certain alterations and extensions to individual properties. In addition to this, I also noted the staggered rear elevation of the terrace, which is a common feature of such terraces and, as such, demonstrates the authenticity of the heritage asset and the group value of the properties it comprises.
11. Save for the roof form of numbers 11 and 17, the properties within the terrace have the historic 'M' shaped roof, which Historic England describe as a defining feature of London terraced houses of this period. This roof shape results in a subservient roof form and allows the front elevation and parapet detail of the building to take prominence. The low profile of the surviving 'M' shaped roofs in the row are also evident from views to the rear.
12. All of the above contribute to the special interest and significance of the listed building as a whole.
13. The appeal site is within the St Anne's Church Conservation Area (SACCA), which is dominated by the landmark Church of St Anne's (a Grade I listed building). The St Anne's Church Conservation Area appraisal and guidelines document, dated October 2007, informs that the purpose of the conservation area designation was to 'safeguard the visual setting of St Anne's Church, which provides a focal point and visual marker in Limehouse'. Whilst the listed church is clearly the focal point of the SACCA, the appraisal highlights the historical interest of the heritage asset, which includes its industrial and maritime connections. The appraisal also identifies the prominence of the listed church as being 'secured by a significant group of listed buildings and respectful low scale and urban character which surrounds the historic church'. This points to the architectural interest of the conservation area and is pertinent to the appeals before me; the appeal building is within the group of listed buildings mentioned in the appraisal.

The effect of the proposals

14. Paragraph 205 of the Framework informs 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. Paragraph 206 goes on to say that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

Mansard roof extension:

15. The proposed roof extension would result in the extension upwards of the party walls shared with both adjoining properties to support the mansard roof shape. It would also add substantial volume to the existing roof structure, entirely changing the shape of the roof from the existing 'M' shape to a mansard roof shape.

16. The appellant suggests the mansard roof shape is a common feature on 18th and 19th century terraced townhouses. He also points to the Mansard roof extension at 17 Newell Street and the care taken in the design of the proposal to replicate this. I have, however, had regard to Historic England's reference to the existing roof shape as a defining feature of London terraced properties of this period. Indeed, there still exists a number of examples of the 'M' shaped roof form within this listed terrace row, indicating that this forms part of the historic design and construction of most of these properties.
17. We know that the Mansard roof shape of No 17 is a modern addition; it does not reflect the historic form of the properties in this group along Newell Street. I acknowledge permission may have been granted for this. Whatever the reasons for its approval might have been, it does not change the fact that this roof form is out of keeping with the historic form of the Georgian terrace. I would say the same with regard to the proposal that is before me.
18. I acknowledge that the proposal would retain the parapet detail on the front elevation and that any views of the proposed roof extension would be limited from Newell Street. Nevertheless, the integrity of the listed building would be undermined. Furthermore, when viewed from the rear, the substantial bulk of the extended roof towards the rear of the property would alter the subservient nature of the existing roof form. The additional height that would be added to the rear elevation would further erode the uniformity in the height of the terrace row, excluding of course No 17. For these reasons I can agree with Historic England, that the mansard roof extension would harm the group value of the listed terrace by further erosion of the historic Georgian roofline.
19. The roof may have been subject to repairs, and it may have been substantially replaced. Nevertheless, these previous repairs and/or roof replacement were clearly sympathetic to the historic roof form. That some or all of the existing roof may not be original in terms of its fabric does not justify the replacement of it with that proposed.
20. Whilst the intention to retain and reuse existing historic materials is to be commended, this does not provide sufficient justification for the scheme proposed.
21. For the reasons given above, the mansard roof extension and associated development and works would not preserve the listed building or any features of special architectural or historic interest which it possesses. I conclude as such, having regard to the duties imposed under sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the 1990 Act).
22. In view of my conclusions above, the proposal would be detrimental to the contribution the terrace row makes to the special interest and significance of the SACCA. Whilst public views of the mansard roof extension from Newell Street would be limited, it would be a prominent addition when viewed from St Anne's Passage and the entrance gates to St Anne's Church, as is the existing mansard roof extension to No 17. The development and works would cause harm to the existing built form in this part of the SACCA, and would neither preserve nor enhance the character or appearance of the SACCA as a whole. It would not, therefore, accord with the presumption set out in section 72(1) of the 1990 Act. On this basis, this element of the proposal would cause harm to the significance of these designated heritage assets.

Other elements of the proposal:

23. Aside from the works and development I consider above, the Council do not object to the other elements of the proposed scheme. I can agree that the repair and redecoration of certain internal and external features of the appeal building are necessary for the long term conservation of the heritage asset. Furthermore, the proposed provision of a chimney cowl, separate rear elevation rainwater pipe, and the provision of stone paving at the front entrance would also be in the interests of the building's conservation. Whilst limited detail has been provided with regard to some of the proposed elements of the scheme, appropriate conditions could be imposed to require the necessary detail.
24. In view of the above, and having regard to the nature and extent of the remaining proposed elements of the scheme, I am satisfied that they would preserve the listed building and any features of special architectural or historic interest which it possesses. They would also preserve the character and appearance of the SACCA. I am also satisfied that they would cause no harm to the significance of these designated heritage assets. They would, therefore, comply with the presumptions set out in sections 16(2), 66(1) and 72(1) of the 1990 Act. These conclusions do not, however, alter those above with regard to the effect of the proposed roof extension.

Public Benefits and Heritage Balance

25. Whilst I have found no harm to the significance of the designated heritage assets in respect of elements of the internal and external works, as set out above, I cannot conclude the same with regard to the proposed mansard roof extension. Due to its nature and extent, I find the harm caused to the heritage assets would individually and cumulatively be less than substantial, but nevertheless of considerable importance and weight. In these circumstances, paragraph 208 of the Framework informs 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.
26. There would be some economic benefit that would result from the construction phase of the proposal. This public benefit would, however, be of limited weight, in view of the scale of the development and works proposed. The likely improvements to the thermal efficiency of the property are also noted, although there is nothing before me to suggest that similar benefits could be achieved via a less harmful scheme.
27. The appellant has provided substantial detail and evidence to demonstrate that the existing roof form and internal roof arrangement is inadequate, particularly with regard to the drainage of surface water that collects on the roof. I saw the existing valley of the 'M' shaped roof and the internal channel, the intended purpose of which is to carry water from the valley to the rear gutter. It is clear that this arrangement is not operating as it should, and I have no doubt that this is inadequate during periods of heavy rain. Indeed, I noted the damage caused to the internal fabric of the property that results from the inadequacies of the existing roof drainage arrangement.
28. The mansard roof extension would include drainage that would be fit for purpose and would prevent any further damage to the heritage asset from water ingress. This would be of benefit to the conservation of the heritage

asset. It would also improve the comfort of the building's occupiers and the safety of their living conditions, thus improving the condition of a property that forms part of the local housing stock. These matters can only weigh in favour of the proposal in this heritage balance. Indeed, this is mentioned in some of the letters of support of the scheme. I cannot, however, be satisfied that the proposed scheme is the only means of resolving the existing problems caused by the current drainage situation, whilst providing the same public benefits.

29. I have noted the alternative schemes considered by the appellant. The appellant suggests that the alternatives considered would cause harm to the special interest and significance of the heritage assets. I can only agree with this, noting that most of the options considered would result in the loss of the current 'M' shape of the roof. Notwithstanding this, I do not have sufficient detail, including plans, of the alternative schemes considered in order for me to make an informed comparison with the scheme proposed, such that I can conclude that the current scheme is the least harmful option of resolving the current drainage problems.
30. Indeed, I note that the first option is likely to result in an M shaped roof in some form, albeit with a central valley higher than the existing. Whilst this scheme would still require drainage through the rear roof section, the problems the appellant suggests are associated with this (i.e. blockages from debris falling on the roof) are common to most drainage arrangements.
31. In addition to this, the alternative schemes considered do not appear to address the structural sagging, identified as the reason for the failure of the current arrangement. Simply put, the evidence before me does not assist me in concluding that the proposed scheme is the least harmful resolution to the existing problems experienced at the property or that any other schemes would not result in the same benefits. In all of the above respects, clear and convincing justification has not been provided for the harm to significance I have found.
32. The appellant points to the benefits of the scheme as a whole, including the external works of repair to the building. I have found these to be acceptable and have no reason to conclude that these would only occur on the grant of permission and consent for the mansard roof extension.
33. I am mindful that securing the listed building's optimum viable use should weigh in the balance. In this regard, the appellant suggests that the condition of the property would deteriorate further if the problems with the existing arrangement are not resolved. He also points to the difficulty in securing insurance for the property. I have sympathy with the appellant on these matters. However, for the reasons given above, I am not persuaded that the scheme before me is the most appropriate means of resolving the current problems, such that I can conclude that to secure the listed building's optimum viable use, consent ought to be granted.
34. All things considered, the proposed scheme would fail to preserve the listed building and would neither preserve nor enhance the character and appearance of the SACCA. Furthermore, I cannot be satisfied that any clear and convincing justification exists for the identified harm to the significance of the designated heritage assets in this case. The Framework makes clear in paragraph 205 that great weight should be given to the conservation of a heritage asset. The public benefits I have identified are not sufficient to outweigh the harm that

would occur to the Grade II listed building, 11-23 Newell Street, and the SACCA. I can, therefore, only conclude that the proposal would cause harm to the significance of these heritage assets, in conflict with chapter 16 of the Framework.

35. For the reasons given above, the proposal would conflict with the requirement of Policy HC1 of the London Plan, dated March 2021 (LP), to conserve the significance of heritage assets. It would also fail to comply with the requirement of Policy S.DH3 of the Tower Hamlets Local Plan 2031, adopted January 2020 (THLP), to preserve and, where possible, enhance the borough's heritage assets in a manner appropriate to their significance. In addition, the scheme would fail to positively respond to the context, and the architectural language would not complement and enhance the proposals immediate and wider surroundings, in accordance with Policy S.DH1 of the THLP.

Other Matters

36. Relevant to Appeal B, section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise.
37. In this regard, I have already considered the suggested public benefits of the scheme earlier in this decision. Whilst these are also relevant to the overall planning balance for Appeal B, the weight attributed to these is limited for the reasons given.
38. The appellant has pointed to other schemes of development and works granted consent by the Council in the vicinity of the appeal site. However, I have limited details of the schemes referred to. As such, I am unable to make an informed comparison with the case before me. Nevertheless, I have identified harm in the case that is before me, having considered the particular circumstances relevant to this case.
39. I acknowledge the support for mansard roof extensions in paragraph 124(e) of the Framework. I note, however, that this support is where their external appearance harmonises with the original building. For the reasons already given, I cannot regard the proposed mansard roof extension as a proposal that would be in harmony with the appeal property.
40. I have found the proposal to be in conflict with the development plan, when read as a whole. Having regard to all matters raised, I have no reason to conclude that my determination of Appeal B should be made otherwise than in accordance with the development plan.
41. On a separate matter, to the rear of the appeal site is the Church of St Annes, which is a Grade I listed building. This is an impressive building set within a defined church yard, which is currently used as public open space. Although not referred to by the Council in its evidence, the church yard walls, railings, gates, and gate piers are also Grade II listed. This enclosure forms a boundary with the appeal site.
42. The site is also in proximity to a number of other listed buildings, including the Grade II listed Limehouse Town Hall, the British Sailors Society buildings and the railway viaduct. There are listed buildings within the churchyard, including

the Grade II listed war memorial. From the information before me, the special interest and significance of these assets primarily stem from, singularly or in combination, their archaeological, historic and/or architectural interest. However, pertinent to the appeals, they are also derived, to a greater or lesser extent, from their respective urban settings.

43. Given the location and extent of the proposed scheme of works and development (including the mansard roof extension) in relation to these other listed buildings, the settings of these designated heritage assets would be preserved and the contribution they make to the assets' significance would not be harmed. This would accord with the presumption set out in section 66(1) of the 1990 Act; the provisions in the Framework regarding the conservation and enhancement of the historic environment; Policy HC1 of the LP; and Policies S.DH1 and S.DH3 of the THLP. I note that neither the Council nor Historic England raise any concerns in this respect.

Conclusions – Appeal A and Appeal B

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

J Moss

INSPECTOR