



Appeal Decision

Site visit made on 10 March 2026

by Jennifer Wallace BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th April 2026

Appeal Ref: APP/Z5630/Y/26/3377243

37-39 High Street, Kingston Upon Thames KT1 1LQ

- 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 Nando's Chickenland Ltd. against the decision of Royal Borough of Kingston Upon Thames.
 - The application Ref is 25/01339/LBC.
 - The works proposed are removal of the infill panels at first floor level.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to an application for listed building consent where the building lies within a conservation area. I have had special regard to sections 16(2) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which require me to 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; and to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
3. The application was advertised in some cases as a planning application rather than an application for listed building consent, as did the appeal consultation. However, the opportunities for comments were consistent with those required and so I am satisfied there was not prejudice to the interests of any parties.

Main Issue

4. The main issue is whether the proposal would preserve the Grade II* listed building 37-41 High Street¹ or any features of special architectural or historic interest which it possesses.

Reasons

Special Interest and Significance

5. 37-41 High Street is a Grade II* listed building. It dates from the 16th century, and is timber framed with a jettied upper floor. Originally in use as two dwellings, it now appears to be in commercial use. The appeal pertains to Nos 37-39 which is in use as a restaurant at both ground and first floor levels. At first floor level within the

¹ List Entry Number: 1358459 Date first listed: 30 July 1951

part of the building the subject of the appeal, the timber roof structure can be readily appreciated.

6. From the information before me and my observations at my site visit, I find the special interest and significance of the listed building to be mainly derived from its architectural and historic interest as a vernacular domestic property, adapted to meet changing economic patterns of land use. Important contributing factors to this which are pertinent to the appeal are its use of traditional methods of construction and materials, surviving historic fabric and the legibility of its plan form.

Works and Effects

7. The works proposed are the removal of the infill and a window at first floor level. The timber frame would be retained and protected in part by a glazed screen. This was previously the exterior wall of the building but has subsequently been enclosed by a modern, glazed extension.
8. When viewed from the ground floor of the glazed extension, the infill panels, with their rough exterior, have the appearance of an exterior elevation. This complete wall allows for a clear demarcation to be made between the original elevations of the building, and its modern extension, notwithstanding the differentiation in materials. This adds to the ability to appreciate the architectural special interest of the property, and also its historic interest by allowing the evolving phases of the building to be readily discernible. This allows the original plan form to be readily understood.
9. It may be that the infill material is more modern than the timber frame. However, irrespective of its age, the removal of the infill would reduce the ability to understand the stages of the development of the listed building as it would no longer be quite so readily appreciable as an external wall.
10. At first floor, the supporting roof trusses are readily visible which allows the architectural interest of the building to be clearly appreciated. The removal of the infill would reduce the sense of enclosure typical of modest vernacular buildings of the time. Consequently, the ability to appreciate the architectural and historic special interest of the building would be harmed.
11. The proposed works would fail to preserve the Grade II* listed 37-41 High Street or any features of special architectural or historic interest which it possesses. This would be contrary to the requirements of section 16(2) of the Act and so would harm the significance of the designated heritage assets.

Public Benefits and Balance

12. Paragraph 212 of the National Planning Policy Framework (the Framework) sets out that great weight should be given to the asset's conservation, irrespective of whether this would amount to substantial harm, total loss or less than substantial harm to significance (and the more important the asset, the greater the weight should be). Paragraph 213 further advises that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification.
13. Given the contribution of the infill panels to the special interest of the listed building, I find that the harm to its significance I have identified above would be less than substantial and in the mid-point of that category. This harm carries

considerable importance and weight. In such circumstances, paragraph 215 of the Framework confirms that these harms should be weighed against the public benefits of the proposal, which includes securing the asset's optimum viable use.

14. There would be economic benefits while the proposed works were undertaken. There is no substantive evidence before me that the works would be necessary to secure the ongoing use, or the optimal viable use of the building. It is put forward that the first floor is somewhat dark for diners. This was not my assessment of the first floor area, which was brightly lit and provided an attractive, usable space. It is unclear what difficulty the lack of connectivity between the first and ground floors is posing to the operation of the restaurant. Nor is it clear how the removal of the infill would address this given the relatively limited floorspace at ground floor level that lies beyond the affected wall and the proposed installation of the glazed screen. Accordingly, I attach limited weight to these public benefits.
15. The installation of a glazed screen to protect the timbers would not mitigate the harm to the significance of the Grade II* listed building I have identified. It may be that similar proposals have been allowed elsewhere, including in the next door unit which is part of this listed building. However, I do not have full details of those proposals before me and I have assessed the proposal before me on its own merits.
16. The proposal would not preserve the Grade II* listed 37-41 High Street or any of the features of special architectural or historic interest which it possesses. This would be contrary to the requirements of sections 16(2) of the Act, and the provisions within the Framework which seek to conserve and enhance the historic environment. It would also be in conflict with London Plan 2021 Policy HC1 and Royal Borough of Kingston Upon Thames Core Strategy (April 2012) Policies CS8, DM10 and DM12 which taken together require the special interest of heritage assets to be conserved and enhanced.

Other Matters

17. The site lies within the Kingston Old Town Conservation Area no. 1 (CA). Its character and appearance are mainly derived from its development as the regional commercial centre based on the Saxon heart of Kingston. It evidences the pattern of growth over many centuries, including as a medieval market town. The appeal site is an example of vernacular building and adds to the historic interest and thus the significance of the CA as a designated heritage asset.
18. The proposal involves internal works only and would therefore have a neutral effect and so would preserve the character and appearance of the CA as a whole. I note the Council had no concern in this regard.

Conclusion

19. For the reasons given above, the appeal should be dismissed.

Jennifer Wallace

INSPECTOR