



Appeal Decisions

Site visit made on 19 September 2023

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 19 December 2023

Appeal A Ref: APP/B4215/W/23/3314318

363 Wilmslow Road, Manchester M14 6XU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Feltham Management Limited against the decision of Manchester City Council.
- The application Ref: 133618/JO/2022, dated 26 April 2022, was refused by notice dated 25 July 2022.
- The application sought planning permission for: *Erection of two storey rear extension to create 9no. self-contained flats together with various other works including internal alterations, the rebuilding of gate piers, the laying out of car parking and the provision of a cycle store and refuse store* without complying with conditions attached to planning permission Ref: 127016/FO/2020, dated 4 June 2021.
- The conditions in dispute are:

No 2 which states that: *The development hereby approved shall be carried out in accordance with the following drawings and documents:*

363-OD-0102 01 Proposed and Existing site plan- as received on the 28th May 2020

363-OD-0110 Rev 02 Cross Section (As Proposed)

363-OD-0111 Rev 02 Interior Details (Sheet 1)

363-OD-0112 Rev 02 Interior Details (Sheet 2)

363-OD-0113 Rev 02 Window Details (Sheet 1)

363-OD-0114 Rev 02 Window Details (Sheet 2)

363-OD-0115 Rev 02 Front Steps Details

363-OD-0116 Rev 02 External Works Details

363-OD-0117 Rev 01 Window Details (Sheet 3)

363-OD-0119 Rev 01 Replacement Window Shutters

363-OD-0120 Rev 01 Window Shutters (View)

363-OD-0121 Rev 01 Suspended Ceiling Datasheets

All as received via email on the 14th September 2020.

363-OD-0109 Rev 03 Elevations (As Proposed)

363-OD-0118 Rev 02 Roof Details- both as received via email on the 17th October 2020.

363-OD-0108 Rev 04 Floor Plans (As Proposed)- as received via email on the 20th May 2021.

The reason given for the condition is: *To ensure that the development is carried out in accordance with the approved plans. Pursuant to policies SP1 and DM1 of the Core Strategy.*

No 10 which states that: *Before first occupation the windows in the side elevation of the rear extension facing towards 361 Wilmslow Road (north elevation) shall be obscure glazed to a specification of no less than level 5 of the Pilkington Glass Scale or such other alternative equivalent and shall remain so in perpetuity.*

The reason given for the condition is: *To protect the amenity and living conditions of the adjacent residential property from overlooking or perceived overlooking and in accordance with policies SP1 and DM1 of the Core Strategy.*

Appeal B Ref: APP/B4215/Y/23/3314319
363 Wilmslow Road, Manchester M14 6XU

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to vary or discharge conditions of a listed building consent.
- The appeal is made by Feltham Management Limited against the decision of Manchester City Council.
- The application Ref: 133619/JO/2022, dated 26 April 2022, sought to vary condition Nos 2,5,6,7,8 of a listed building consent Ref: 127017/LO/2020 granted on 4 June 2021.
- The works proposed are: *The erection of two storey rear extension to create 9no. self-contained flats together with various other works including internal alterations, the rebuilding of gate piers, the laying out of car parking area and the provision of a cycle store and refuse store.*

- The conditions in dispute are:

No 2 which states that: *The development hereby approved shall be carried out in accordance with the following drawings and documents:*

363-OD-0102 01 Proposed and Existing site plan- as received on the 28th May 2020.

363-OD-0110 Rev 02 Cross Section (As Proposed)

363-OD-0111 Rev 02 Interior Details (Sheet 1)

363-OD-0112 Rev 02 Interior Details (Sheet 2)

363-OD-0113 Rev 02 Window Details (Sheet 1)

363-OD-0114 Rev 02 Window Details (Sheet 2)

363-OD-0115 Rev 02 Front Steps Details

363-OD-0116 Rev 02 External Works Details

363-OD-0117 Rev 01 Window Details (Sheet 3)

363-OD-0119 Rev 01 Replacement Window Shutters

363-OD-0120 Rev 01 Window Shutters (View)

363-OD-0121 Rev 01 Suspended Ceiling Datasheets

All as received via email on the 14th September 2020.

363-OD-0109 Rev 03 Elevations (As Proposed)

363-OD-0118 Rev 02 Roof Details – both as received via email on the 17th October 2020.

363-OD-0108 Rev 04 Floor Plans (As Proposed) – as received via email on the 20th May 2021.

The reason given for the condition is: *To ensure that the development is carried out in accordance with the approved plans. Pursuant to policies SP1 and DM1 of the Core Strategy.*

- No 5 which states that: *Prior to the installation of the new false ceiling to the ground floor of the property, a detailed method statement for its installation including: details of the types, fixing method and position of supporting structures and ceiling in relation to existing heritage features; materials and finishes of the ceiling; details of the refurbishment and repair of original fabric to be concealed by the ceiling including a full record of the original fabric to be concealed; together with the details of the new cornicing to be installed to the new ceiling including moulding specifications and design, shall be submitted to and approved in writing by the City Council as local planning authority. The approved details shall be installed in accordance with the agreed details prior to the first occupation of the development hereby approved.*

The reason given for the condition is: *In the interests of visual amenity, and because the proposed works affect a building which is included in the Statutory List of Buildings of Special Architectural or Historic Interest so careful attention to building work is required to protect the character and appearance of this building in accordance with saved policy DC19.1 of the Unitary Development Plan for the City of Manchester and policies SP1, EN3 and DM1 of the Core Strategy.*

No 6 which states that: *No rainwater goods nor pipes shall be installed nor affixed other than rainwater goods and pipes constructed of cast iron and coloured black. All such goods shall be kept coloured and be in situ prior to the first occupation of the development hereby approved.*

The reason given for the condition is: *In the interests of visual amenity and because the proposed works affect a building which is included in the Statutory List of Buildings of Special Architectural or Historic Interest and careful attention to building work is required to protect the character and appearance of this building in accordance with saved policy DC19; of the Unitary Development Plan for the City of Manchester and policies SP1, EN3 and DM1 of the Core Strategy.*

No 7 which states that: *No works to install the timber panelling and shutters to ground floor windows shall commence until details of the work has been submitted to and approved in writing by the City Council as local planning authority. The details shall include method statements for their installation; details of materials and their finishes; and fixtures and fittings required for their installations. The development shall be subsequently carried out in accordance with the agreed details prior to the first occupation of the development hereby approved.*

The reason given for the condition is: *In the interests of visual amenity and because the proposed works affect a building which is included in the Statutory List of Buildings of Special Architectural or Historic Interest and careful attention to building work is required to protect the character and appearance of this building in accordance with saved policy DC19.1 of the Unitary Development Plan for the City of Manchester and policies SP1, EN3 and DM1 of the Core Strategy.*

No 8 which states that: *The details of the picture rails, moulded skirting boards, acanthus design console brackets within hall, as indicated on the approved drawings shall be installed prior to the first occupation of the development hereby approved.*

The reason given for the condition is: *In the interests of visual amenity and because the proposed works affect a building which is included in the Statutory List of Buildings of Special Architectural or Historic Interest and careful attention to building work is required to protect the character and appearance of this building in accordance with saved policy DC19.1 of the Unitary Development Plan for the City of Manchester and policies SP1, EN3 and DM1 of the Core Strategy.*

Decisions

1. **Appeal A:** The appeal is allowed in so far as it relates to condition No 10 of planning permission Ref:127016/FO/2020, dated 4 June 2021. Planning permission is allowed for the erection of two storey rear extension to create 9no. self-contained flats together with various other works including internal alterations, the rebuilding of gate piers, the laying out of car parking and the provision of a cycle store and refuse store, 363 Wilmslow Road, Manchester M14 6XU, in accordance with application Ref:133618/JO/2022, dated 26 April 2022, without compliance with condition No 10, previously imposed on planning permission Ref: 127016/FO/2020, dated 4 June 2021, and subject to the amended condition No 10 and the conditions set out in Schedule 1 attached.
2. The appeal is dismissed insofar as it applies to condition No 2 of planning permission Ref: 127016/FO/2020, dated 4 June 2021.
3. **Appeal B** - The appeal is dismissed.

Preliminary Matters and Background

4. The two appeals concern elements of the proposed development and works to the same building which have been submitted by the same appellant under different, complementary legislation. Therefore, to avoid duplication, I have dealt with them together, except where otherwise indicated.

5. In 2015 planning permission and listed building consent¹ (2015 approvals) were granted for the erection of a part single, part two-storey rear extension to the existing building together with excavation of the rear garden and internal alterations in association with the creation of 9 flats. However, the permitted scheme was not implemented, and the ensuing development/works were unauthorised. Subsequently, applications for planning permission and listed building consent² were made seeking to regularise the development/works and to propose various alterations to address the Council's concerns regarding their effect on the listed building. These applications were dismissed at appeal in July 2019 (2019 appeals). The development/works were also subject to enforcement action.
6. In the light of the findings of the dismissed appeals, a further planning permission and listed building consent were granted in June 2021³ (the approved schemes) to regularise the development/works. The evidence before me suggests that this scheme was the subject of considerable negotiation taking account of the original approved scheme, the unauthorised development/works and appropriate mitigation considered to address the harm to the significance/special interest of the listed building.
7. The current appeals relate to applications to change elements of these latter approved schemes. They would affect the external elevation of the building, including the extension, as well as the interior.
8. In respect of Appeals A and B, the appellant seeks to vary condition No 2 (the approved plans) to substitute alternative drawings and to amend details of the approved development/works. In addition to the proposed amended details that would arise from varying specific listed building consent conditions, the following additional amendments sought are:
 - the use of stone effect concrete steps at the main entrance in lieu of natural stone design and to allow reconfigured joints. The reason given by the appellant is that the existing steps are complimentary to the elevation in terms of their colour and texture; they match the coping around the basement lightwells and gateposts, and the simplified joints would remove the visual distraction to the front elevation.
 - Changes to the windows in the rear of the existing building and rear extension. This includes:
 - i. Retaining existing window openings in the rear elevation of the extension with stretcher bond heads, to drop the sills and install sprung sliding sash windows at the first-floor level of the extension and glazed timber patio doors at ground level. Retain concrete sills and paint black. Retain stretcher bond heads to windows in rear elevation of original building. The reason given is to provide windows with a vertical emphasis and to improve levels of light in the rooms. Painted concrete sills will provide consistency with the appearance of those to the front and side elevation. None of the windows in the original building comprising

¹ Application Ref: 107448/FO/2014/S1 and 107449/LO/2014/S1

² 120505/FO/2018 and 120506/LO/2018

³ Application Ref:127016/FO/2020 and 127017/LO/2020

No 363 have swept arch heads and the detail is therefore not true to the original building.

- ii. Omit blind windows in the side elevation of the proposed rear extension. The reason given is that they are not a feature characteristic to the original building or group comprising Norton Place.
- Removal of drawings relating to internal works (Appeal A only). The reason given is that these details are covered by the listed building consent.
9. In respect of Appeal A, the appellant requests that Condition No 10 (timescale for installing obscure glazing) is varied to allow the partial occupation of the property prior to the installation of obscure glazing in flats 5 and 6.
10. In respect of Appeal B, the appellant seeks to remove condition No 5 (ceilings). It is proposed to retain the installed suspended ceiling and omit further works to the concealed original ceiling and cornice together with the omission of the replica cornice below the suspended ceiling. The reason given is that the works would conceal the original ceiling, the replication of the cornice beneath the suspended ceiling would impact on the perceived floor to ceiling height, would adversely impact on the character of the space, be overbearing and oversized and would serve to confuse a future understanding of the history of the building. Further, the removal of the now in situ suspended ceiling to repair the original above is likely to cause further damage that would need to be repaired. The appellant considers that the repair work is not necessary from a practical perspective.
11. The appellant seeks to remove condition No 6 (rainwater goods) and to use aluminium heritage style rainwater goods in lieu of cast iron which is specified in the approved drawings. The reason given is that aluminium rainwater goods are capable of resembling cast iron aesthetically. They require less maintenance and have health and safety advantages.
12. The appellant seeks to remove condition No 7 (timber panelling and shutters) as it is not proposed to install these features. Instead, it is proposed to install contemporary, minimally styled skirting and architrave. The reasons given are that deep skirting as approved impacts on the visual impression of the height of the room, and the introduction of inauthentic detailing would serve to confuse the understanding and legibility of the building.
13. Finally, the appellant seeks to vary condition No 8 (hall decoration) to revise the trigger for reinstatement within the ground floor hall area. It is suggested that the reinstatement works are undertaken prior to the first occupation of flat Nos 1-4. The reason given is that it would allow partial occupation of the building prior to the completion of all works.
14. The appeal building forms part of a Grade II listed terrace. The Council's reasons for refusing the applications to amend the original scheme were that the development and works would fail to preserve or enhance the Grade II designated heritage asset causing harm that cannot and has not been justified by the public benefits.
15. For clarity, each element will be discussed, referencing the conditions proposed to be varied or removed. I will deal with the condition No 2 (the approved

plans) for each appeal towards the end of my decision as the acceptability of these depends partly on my findings in relation to the other conditions.

Main Issue

16. The main issue in both appeals is whether or not the consequences of varying/removing the conditions would preserve the Grade II listed building, Norton Place, and any of the features of special architectural or historic interest that it possesses, and whether its significance as a designated heritage asset would be preserved.

Reasons

Significance of the listed building

17. Norton Place was listed in 1974 (Ref.1270510) and is a terraced row of three houses. The appeal building is the dwelling on the southern end of this terrace. The list description mentions that Norton Place is mid-19th century with alterations, and of two storeys with basement and attic. It is finished in stucco with sandstone dressings painted black, and a slate roof. It describes the ornate, architectural detailing of the frontage, including its canted bay windows and doorcases. It notes that the rear and interior of the building were not inspected.
18. Despite the division into three dwellings, the listed building is designed to be read as one grand, architectural composition. Its impressive Italianate-style elevation fronting Wilmslow Road includes complimentary but more modest architectural detailing extending to the side elevations. It is located within a busy urban area with historic buildings of similar size to either side which together are set back from the tree-lined road with a similar building alignment. In front of the listed building are forecourts to each property, enclosed by low boundary walls. The alignment of the road and its width allows the architectural detailing of the frontage and side gables of the listed building to be clearly appreciated making it a visually prominent and distinctive local landmark.
19. The Inspector, when considering the 2019 appeals, assessed the special interest and significance of the listed building, including the contribution made by the appeal building, and examined similar issues to the appeals before me. Documents drawn from included heritage statements, a consultation from Historic England and photographs of the appeal property prior to the unauthorized works, together with images relating to the other properties in the terrace. Therefore, based on the evidence before me and my observations, given the similarities, I see no reason to depart from the previous Inspector's assessment of significance, and I make no apology in drawing from those findings.
20. In summarising, in 2019 it was considered that the special interest and significance of the listed building related in a large part to the high aesthetic value of the visual coherence and legibility of the front elevation and gable ends of the terrace. It was considered that these elements provided a connection with the historic development of the area and demonstrated the architectural craftsmanship of the time.
21. It was also noted that the plainer more utilitarian rear elevation of the listed building was typical of the hierarchy of architectural treatment for a historic

property of this type. Reference was made to photographs of the rear of the appeal property before the unauthorised development/works, as well as the rear of the other two properties which collectively exhibited relatively plain historic detailing with similarly sized, narrow rear extensions, modestly sized sliding sash windows and a lack of embellishment. The Inspector concluded that the rear elevations provided evidential value and contributed to the significance of the building to a modest degree.

22. They also considered that the craftsmanship and architectural hierarchy of the exterior translated to the interior of the listed building. Drawing on the photographic evidence prior to the unauthorised works at the appeal property it was noted that a substantial amount of the historic features had remained. This included decorative plasterwork, cornices, timber panelling and shutters in the principal rooms, as well as impressive ceiling heights. It was considered that the interior contributed to an appreciation of the original plan form, spatial qualities and décor of the building and the relationship between room hierarchy and decorative treatment could be clearly read. Despite more recent, sometimes harmful, alterations, neglect and damage to the appeal property, in historic and evidential terms the Inspector concluded that the interior contributed to the special interest and significance of the building to a moderate degree.
23. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Paragraph 189 of the National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.
24. The extent of the listing was also previously examined as part of the 2019 appeals, noting that the list description is for identification purposes only and for older listings they are not intended to be a comprehensive or exclusive record of the special interest or significance. Also, that the whole building is listed, including the interior, and the omission of an element from the list description does not mean that it is of no interest. In the absence of any new information, I have no reason to re-examine these arguments.
25. The heritage value of more recent alterations, such as those undertaken whilst a medical practice, would have been considered by the Council as part of its determination of the applications in 2015. These were also explored by the Inspector during the appeals. The Inspector considered that the historic interior contributed to the special interest and significance of the listed building and the removal of some changes made by the medical practice (such as partitions) would be an enhancement to its significance. I therefore have no reason to go over old ground or to take a different view. Although I recognise that later alterations can add to the layering of a building's history, unauthorised works considered to cause harm cannot be regarded as adding to its special interest or significance.
26. Paragraph 199 of the Framework sets out 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 200 goes on to advise that significance can be harmed or lost through the alteration or

destruction of those assets and that this should have clear and convincing justification.

Historic detailing in the ground floor rooms (Appeal B: Condition No 5 (ceiling) and Condition 7 (window shutters and panelling)).

27. The contribution that the decorative treatment of the principal ground floor rooms makes to the special interest and significance of the listed building was examined during the 2019 appeals. It was noted that the 2015 approvals would allow these rooms to be reinstated and their historic interior repaired and refurbished. These approvals were regarded as a 'yardstick' for assessing the heritage impact. The Inspector concluded that the evidence suggested that the internal decorative features, including the plasterwork ceilings, windows shutters and panelling in the principal rooms were reasonably intact, if in poor condition, prior to the unauthorised alterations. As a result of the cumulative effect of the unauthorised alterations, the ability to appreciate the character of the higher status rooms within the overall hierarchy of room proportions and decoration, had been considerably weakened and was not acceptable. I have no reason to disagree with the findings of that Inspector. Indeed, I saw for myself the effect of the unauthorised works within these rooms which are largely devoid of historic features and, apart from the sash windows, are undistinguishable from a modern, minimal interior.
28. The approved scheme has a clear design intent based on the findings of the 2019 appeals, to recreate the room hierarchy and décor that existed prior to the unauthorised works and based on the 2015 approvals. It seeks to mitigate the harm caused to the historic interior by reinstating period detailing whilst making compromises to accommodate some of the applicant's stated requirements for how the rooms need to function. In this regard, the approved drawings include detailed drawings of the decorative ceiling, shutters and panelling and the modifications required.
29. The approved scheme involves the installation of a repositioned suspended ceiling with a replica cornice below and condition No 5 requires the submission of further details. I accept that this would not be an authentic reinstatement, that the historic floor to ceiling heights within the rooms would be reduced which may make the cornice appear unduly large, and it may potentially confuse the legibility of the building. Also, the original cornices may not have been appreciated in their original form for some time. However, the Council considered that the ceiling solution was an acceptable compromise to reinstate the historic interior and to accommodate services within the apartments, and I share this view.
30. In relation to the window shutters and panelling, the approved scheme requires their reinstatement and condition No 7 requires the submission of further details. I again accept that the reduced floor to ceiling height along with the and lobby entrances may alter how the period details are appreciated in these rooms. This may to some extent affect the legibility of the spaces. The detailing of the shutters and panelling may also need to be amended to take account of thermal upgrading. However, again I share the Council's view that the approved scheme is an acceptable compromise to recreate the historic interior and accommodate the conversion.
31. Notwithstanding the above arguments relating to the treatment of the ceiling, shutters and panelling detailed within the approved scheme, it must be

remembered that the removal/concealment of this historic detailing is unauthorised. The Council, therefore, has the option to pursue enforcement action to secure the faithful reinstatement of these features. The removal of the two conditions would effectively endorse the unauthorised removal/concealment of historic features, leaving the building devoid of significant elements of period detailing which contribute to the building's significance. Furthermore, condition No 5 also requires the restoration of the historic cornice. Removing the condition would leave it vulnerable to further deterioration.

32. The appellant suggests that the original shutters have been lost and replication is not consistent with best conservation practice, also that the reinstatement ignores the passage of time with no one style being more important than another. Further that the original interior design can still be appreciated in the hall and stairway of the appeal property and adjoining buildings. However, the appellant chose not to implement the approved scheme and well documented historic features identified as being of significance were removed without consent.

Rainwater goods (Appeal B: Condition No 6)

33. The use of authentic historic materials is an important part of retaining the architectural and historic integrity of historic buildings. In my experience and based on evidence of surviving historic rainwater goods on the listed building, the original rainwater goods would have been cast iron. Also, part of the public benefit argument relating to the approved scheme was the historic enhancement to the front and side elevation of the property. The reinstatement of cast iron rainwater goods was considered by the Council to form part of that enhancement work and indeed during the appeals the Inspector noted that the appellant suggested the replacement of plastic rainwater pipes with cast iron as part of the package of works to address the harm caused to the exterior.
34. Although rainwater goods of cast aluminium of a heritage profile may have a similar appearance to cast iron, I have no adequate details before me to make any comparisons between the historic surviving rainwater goods on the terrace and what is proposed. I therefore cannot be certain that they would resemble the original. The incremental change of original materials used in the construction of this Victorian terrace could harm the overall aesthetic and evidential heritage value of the building. Furthermore, there is no adequate evidence to substantiate the arguments that aluminium requires less maintenance than cast iron or that there are health and safety advantages. Cast iron is highly durable if properly maintained. Cast iron rainwater goods are typically used on buildings of this age and character and I see no adequate reason to depart from their use, especially when there is evidence of historic rainwater goods on the terrace.

Timing for reinstatement works within the hall (Appeal B: Condition No 8)

35. Although the appellant considers that the works required under condition No 8 should be delayed allowing the partial occupation of the building prior to these works, the removal of these features was unauthorised. I consider that their reinstatement is a fundamental aspect of the approved scheme and I have been presented with no adequate reasons as to why these works should be overly onerous or time-consuming. Reinstatement before occupation of the

units would also ensure that future occupiers are not unduly impacted by ongoing works within the entrance hall.

Timing for installation of obscure glazing (Appeal A: Condition No 10)

36. The Council has no objection to the proposed amendment to the wording of condition No 10 which is set out in the appellant's Planning Statement of Case at paragraph 1.4. I have no reason to disagree with their conclusion.

Variation of plans condition (Appeal A and B: Condition No 2)

37. Notwithstanding my findings in relation to the above conditions which will have a bearing on my acceptability of the proposed variation of the plans, the proposed amended plans also include several other changes which are considered below:

38. *Steps:* The steps to the front door are currently unauthorised. I have noted above that at the planning appeal the Inspector highlighted the high aesthetic value of the visual coherence and legibility of the front elevation and its architectural craftsmanship. The Inspector remarked that the loss of the single slab, stone steps up to the front door and their replacement with smaller sections with visible joints was a modest detractor from the aesthetic qualities of the main entry point. The approved scheme requires the faithful reinstatement of the stone steps with whole slabs for each step, and detailed drawings form part of those permissions.

39. I have viewed the stone steps in the adjoining properties and the photographic evidence of the steps at the appeal property prior to their removal. In my view the artificial stone has a poor aesthetic appearance compared to the natural stone. It does not match the colour and texture of natural stone nor have I any evidence of how this material will weather over time. Even with the proposed reduction in the number of joints, the steps will not replicate the historic appearance of the original natural stone single slabs. In such a prominent location it is important that this central feature is reinstated in authentic materials and detailing to maintain the unified appearance and integrity of the front elevation of the listed building.

40. Although it is suggested by the appellant that the artificial stone would match the coping material around the basement lightwells alongside, I note that the approved drawings (Ref.363-OD-0116 Rev 02) indicates that the copings are required to be natural stone. Furthermore, I have no adequate evidence before me that natural stone in the size required cannot be located or that there are health and safety concerns regarding working with such large pieces of stone. The unauthorised removal of features and the difficulty of potential reinstatement is not justification for the approved scheme.

41. *Design details of rear extension:* I have noted above that the rear of the listed building, characterised by its relatively plain historic detailing and modestly sized windows contributes to its significance. The Inspector, in considering the unauthorised extension, highlighted the crude and ill-considered design detailing and the horizontal emphasis of the windows which failed to respond to the character and architectural finesse of the host building. Jarring elements, such as the full height French windows were also considered to be at odds with the traditional simplicity and utilitarian appearance of the elevation. The

subsequent approved scheme illustrates window sizes, design and detailing more reflective of the historic features of the listed building.

42. The proposed amended scheme seeks to retain the width of the unauthorised openings on the rear-facing elevation of the extension and to drop the sills of the smaller windows so that they are all of equal size. A further patio door would be formed. The size and design of these changes to the openings would substantially dilute the traditional proportions and design treatment of the approved scheme and be at odds with the findings in the 2019 appeals.
43. The proposed openings would allow more natural light and have a vertical emphasis, but they are too large for the scale of the rear extension and would contrast with the window proportions and detailing to openings in the adjoining outriggers. They would unnecessarily draw the eye and look out of place. I have no evidence before me that a building of this age and character would typically have openings of this size and appearance at the rear, especially given the architectural hierarchy that I have referenced. Whilst the approved scheme was not based on an exact replication of historic detailing, it respects the traditional simplicity and utilitarian appearance of the wider elevation.
44. Whilst the 2015 approved drawings do not show swept arches on the proposed extension, it appears to me from the photographs of the appeal property prior to the unauthorised works that the rear elevation included window heads with swept arches (Fig 16c, Council's appeal statement). The adjacent buildings also show some windows retaining this detail. It is therefore entirely appropriate to incorporate this traditional detailing into the proposed extension to assist in its integration. Furthermore, the same photograph also appears to show that at least one of the historic rear windows in the property had the swept arched detailing and this appears to have been removed as part of the unauthorised works. Reinstatement of this detail is appropriate in accordance with the approved scheme.
45. The windows on the historic rear elevation predominantly have projecting sills without joints which are buff painted. I consider that there would be no harm in using concrete sills for the extension, filling the joints as necessary, and painting them. However, painting them black would contrast with the existing buff coloured rear sills and unnecessarily draw attention to the extension. Although on the gable end the sills of the extension would be viewed alongside the back painted sills of the listed building, the difference in the walling material between the historic building and the extension would mean that buff painted sills would still be appropriate on the extension.
46. Blind windows may not be a feature of the appeal building or listed building but this is a large extension in comparison with the adjoining outriggers and without this detail the elevation would appear bland and overbearing. The blind windows are therefore necessary to break up the large massing of brickwork.
47. The reference to the detailed drawings relating internal historic features could be removed from the planning approval as these matters solely relate to the listed building consent. However, drawing No363-OD-0208 Rev.1 is still proposed to be referenced in the planning approval and this still refers to internal historic detailing so there would be little merit in this change. I note that it is also proposed to vary drawing number 363-OD-0116 Rev 01, but the approved drawing is 363-OD-0116 Rev 02.

48. The changes sought through these appeals go against the principles and carefully detailed reinstatement works that have previously been considered as part of the 2019 appeals and included in the approved scheme. They would reverse a number of key elements of the 2021 approvals and their cumulative effect would erode and remove features considered to assist in overcoming harm which had been identified.
49. In view of the above, I find that the consequences of varying conditions No 2 of the approved planning permission (Appeal A) and varying conditions No 2 and No 8, and removing conditions No 5,6 and 7 of the approved listed building consent (Appeal B), would fail to preserve the Grade II listed building and any of the features of special architectural or historic interest that it possesses, and would fail to preserve its significance as a designated heritage asset. Therefore, the expectations of the Act would not be met. Paragraph 199 of the Framework advises that when considering the impact of a proposal on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through alteration or destruction of those assets and any such harm should have a clear and convincing justification. I find the harm in the context of the significance of the heritage asset, in the language of the Framework, would be less than substantial in this instance. This commands considerable importance and weight and is not a less than substantial objection to the proposal.

Public Benefits

50. Where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimal viable use.
51. The appellant submits that the proposed changes would result in the re-use of a designated heritage asset, secure its long-term future and include works to enhance the listed building and its setting. It is also stated that the scheme would contribute to the stock of residential dwellings in a sustainable location. However, these factors would have informed the Council's assessment and determination of the approved scheme, which did not cause harm to the significance of the listed building, and therefore any public benefits in these respects should not be double counted. It is suggested that the property has been empty for some time and vulnerable to flooding and vandalism. However, the evidence before me suggests that the occupants had to leave due to the unauthorised works by the appellant causing the vacancy of the building. Furthermore, there is no adequate evidence before me that the proposed changes are necessary to achieve the optimal viable use of the building as there is an outstanding approved scheme which can be implemented.
52. It is suggested that the works required to implement the approved scheme would involve new construction which would use resources unnecessarily, causing harm to the environment. It is claimed that many of the minor design alterations required would result in significant rebuilding with no historic benefit and would be especially onerous. However, the appellant chose not to implement the approved scheme and undertook unnecessary works which were both harmful to the significance of the listed building and wasted resources. The suggestion that the proposed changes would allow them to complete the works in a timely and economically viable way is not accepted as the appellant

chose not to implement the approved scheme which has resulted in the delay and increased costs.

53. Given the above, I conclude that the public benefits identified would be of insufficient weight to outweigh the great weight to be given to the harm to the designated heritage asset. As such, the proposal would not comply with paragraph 202 of the Framework. In addition, there is no clear and convincing justification for the harm to the significance of the designated heritage asset. Consequently, on balance, condition No 2 of the planning permission and conditions No 2,5,6,7 and 8 of the listed buildings consent are reasonable and necessary in the interests of preserving or enhancing the listed building, and any features of special architectural or historic interest that it possesses.
54. Hence, the proposal, insofar as it relates to the above conditions, would fail to satisfy the requirements of the Act and the Framework. It would also conflict with Policies SP1, DM1 and EN3 of the Core Strategy for the City of Manchester (CS) and saved Policy DC 19.1 of the Unitary Development Plan for the City of Manchester (UDP). These policies, amongst other things, seek to protect and enhance heritage assets. As a result, the proposal would not be in accordance with the development plan as a whole.
55. I conclude that the consequences of varying condition No 10 of the planning permission would preserve the listed building, Norton Place, and any features of special architectural or historic interest that it possesses. As such, in this respect, the proposal would satisfy the requirements of the Act and the Framework. In this respect, it would also comply with CS Policy SP1, DM1 and EN3 and UDP saved policy DC 19.1.

Other Matters (both appeals)

56. The appellant suggests that the current planning approvals were a result of pressure from the Council to arrive at a scheme that the Council was prepared to support, and they were facing a real prospect of prosecution because of the unauthorised works. However, in my view, the impact of the unauthorised works was thoroughly tested at the 2019 appeals and the Council used the findings of this as well as the original 2015 planning approvals to inform the approved schemes. The appellant chose not to implement the 2015 scheme, and in my view, the approved schemes were a result of collaboration between the Council and applicant to mitigate the harm caused to the listed building and in the context of pending enforcement action.

Conditions (Appeal A)

57. The appellant has submitted wording for how they wish condition No 10 to be varied. I have considered this against the advice set out in both the Framework and the Planning Practice Guidance. I have adjusted the plan reference to refer to the existing approved floor plans. To assist with clarity, decision notices for the grant of planning permission under section 73 should also repeat relevant conditions from the original planning permission unless they have already been discharged. As I have not been provided with any information which confirms whether any of the conditions have been discharged, I have attached all of the previous conditions again, amending them where necessary in the interests of precision and clarity.

58. As applications under section 73 of the TCPA cannot be used to vary the time limit for implementation of the development, specification of the date by which the permission shall be begun is necessary. A condition in the planning permission specifying the relevant plans is necessary as this provides certainty.
59. Condition Nos 3,4,5,6,7 and 8 previously imposed on the original planning permission all remain necessary to safeguard the special architectural or historic interest and significance of the listed building: method statement for works, materials to be used, refuse storage, landscaping, layout of carparking and cycle store. Condition No 9 remains necessary to manage the occupancy of the dwellings.

Conclusion (both appeals)

60. For the reasons given above, I conclude that Appeal A should be dismissed in relation to Condition No 2 but allowed in relation to Condition No 10, and Appeal B should be dismissed. Therefore, a new planning permission is granted in relation to Appeal A, subject to the schedule of conditions listed in the attached schedule.

G Bayliss

INSPECTOR

Appeal A – Ref: APP/B4215/W/23/3314318

Conditions: Schedule 1.

- 1) The development hereby permitted shall begin not later than the 4 June 2024, which is the expiration date of the approved planning permission Ref: 127016/FO/2020.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 363-OD-0102 01 Proposed and Existing site plan
 - 363-OD-0110 Rev 02 Cross Section (As Proposed)
 - 363-OD-0111 Rev 02 Interior Details (Sheet 1)
 - 363-OD-0112 Rev 02 Interior Details (Sheet 2)
 - 363-OD-0113 Rev 02 Window Details (Sheet 1)
 - 363-OD-0114 Rev 02 Window Details (Sheet 2)
 - 363-OD-0115 Rev 02 Front Steps Details
 - 363-OD-0116 Rev 02 External Works Details
 - 363-OD-0117 Rev 01 Window Details (Sheet 3)
 - 363-OD-0119 Rev 01 Replacement Window Shutters
 - 363-OD-0120 Rev 01 Window Shutters (View)
 - 363-OD-0121 Rev 01 Suspended Ceiling Datasheets
 - 363-OD-0109 Rev 03 Elevations (As Proposed)
 - 363-OD-0118 Rev 02 Roof Details
 - 363-OD-0108 Rev 04 Floor Plans (As Proposed)
- 3) No development shall commence (including any demolition or site set up works) until a method statement for the construction works to be undertaken to implement the development hereby permitted has been submitted to and approved in writing by the City Council as local planning authority. The submitted statement shall include methods to protect the listed building whilst works are being carried out on the building and at the site. The development shall be subsequently carried out in accordance with the agreed details.
- 4) No development shall commence unless and until samples and specifications of all materials including mortar specification to be used on all external elevations of the development and including: gate posts; front steps; and, all hard landscaping materials have been submitted to and approved in writing by the City Council as local planning authority. The development shall be subsequently carried out in accordance with the agreed materials.
- 5) Within one month of the date of the development hereby permitted commencing, the detailed scheme for the storage (including segregated waste recycling) and disposal of refuse shall be submitted to the City Council as local planning authority. The details of the approved scheme shall be implemented as part of the development and shall remain in situ whilst the use or development is in operation.
- 6) Notwithstanding the approved plans, within one month of the commencement of development, a hard and soft landscaping treatment scheme including frontage hedgerow planting shall be submitted to and approved in writing by the City Council as local planning authority. The approved scheme shall be implemented not later than 12 months from the date the buildings are first occupied. If within a period of 5 years from the date of the planting of any tree or shrub, that tree or shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously

damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place.

- 7) The car parking as indicated on the approved site layout drawing, shall be laid out and demarcated prior to the first occupation of the development hereby approved and shall be retained thereafter for sole use by the occupiers of the development.
- 8) The bicycle store indicated on the approved plans shall be installed prior to the first occupation of the development hereby permitted and shall remain in situ whilst the development is in use.
- 9) The residential use hereby permitted shall be used only as private dwellings (which description shall not include serviced properties or similar uses where sleeping accommodation (with or without other services) is provided by way of trade for money or money's worth and occupied by the same person for less than ninety consecutive nights) and for no other purpose (including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 10) Before first occupation of flats Nos 5 and 6 as identified on drawing 363-OD-0108 Rev 04, the windows in the side elevation of the rear extension facing towards 361 Wilmslow Road (north elevation) shall be obscure glazed to a specification of no less than level 5 of the Pilkington Glass Scale or such other alternative equivalent and shall remain so in perpetuity.

End of Conditions Schedule 1.