



Appeal Decisions

Site visit made on 15 August 2016

by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 September 2016

Appeal A Ref: APP/X5210/C/16/3144543

Appeal B Ref: APP/X5210/C/16/3144544

Flat 5, 50 Belsize Square, London NW3 4HN

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr T Moore (Appeal A) and Ms M Davies (Appeal B) against an enforcement notice issued by the Council of the London Borough of Camden.
- The enforcement notice, numbered EN14/0880, was issued on 6 January 2016.
- The breach of planning control as alleged in the notice is without planning permission, the replacement of timber sash window with French doors and erection of railings above portico at first floor level.
- The requirements of the notice are to:
 - (1) Remove the French doors and railings to the front elevation at first floor level.
 - (2) Reinstate a timber-framed window, and
 - (3) Make good any damage to the original building.
- The period for compliance with the requirements is six months.
- Appeal A is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended, and Appeal B is proceeding on ground (g). Since the prescribed fees have not been paid within the specified period for Appeal B, the initial appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended do not fall to be considered.

Summary of Decision: The appeals succeed only in part in relation to the period of compliance, but otherwise the enforcement notice is upheld as varied in the terms set out below in the formal decision.

Appeal C Ref: APP/X5210/W/15/3141456

50 Belsize Square, London NW3 4HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission as amended.
- The appeal is made by Mr and Mrs T Moore against the decision of the Council of the London Borough of Camden.
- The application Ref 2015/3854/P, dated 7 July 2015, was refused by notice dated 10 December 2015.
- The development proposed is described in the application form as follows: *A retrospective application for the replacement of the existing rotten timber sash window with a new white painted double glazed hardwood window with a fixed double glazed plane above.*

Summary of Decision: The appeal is dismissed.

Preliminary matters

1. From the written submissions it is apparent reference to the *railings* in the council's decision notice to refuse planning permission is erroneous. This is because it had been removed prior to determination of the planning application on officer recommendation. In Appeal A, the terms of the deemed application are directly derived from the allegation and planning permission is sought for the replacement of timber sash window with French doors and the erection of railings above portico at first floor level. I shall proceed on this basis.

Appeals A and C – ground (a) and s.78

2. The site is situated within an area designated as the Belsize Park Conservation Area (CA). It is subject to an article 4 Direction which, amongst other things, restricts permitted development rights for the enlargement, improvement or other alteration of a dwelling. Against this background the common **main issue** in both Appeals is as follows: *Whether the development preserves or enhances the character or appearance of the CA.*
3. Policy CS14 of the London Borough of Camden Local Development Framework Core Strategy 2010-2025 (CS) sets out the approach to promoting high quality places and conserving the borough's heritage. Among other things, the purpose is to ensure places and buildings are attractive by preserving and enhancing the rich and diverse heritage assets including CA's. Policy DP24 of the Development Policies 2010-2025 (DMP) seeks to secure high quality design and policy DP25 relates to development in CA's. The cited policies are broadly consistent with advice found in paragraphs 17, 56, 126, 128 and 131 of the National Planning Policy Framework.
4. Essentially, the appellants claim that the French doors replace a rotten sash window and metal railings have been installed as a feature. The contention is that the development carried out causes no harm to the character and appearance of the host building or CA. They consider that together with no. 50A, a former coach house, this part of the CA has changed so the development does not harm its character. That there is a lack of architectural cohesion between the site and the adjoining property, no. 49 Belsize Square. This is because the latter has changed in physical appearance and lost all of its original features. They argue, forcefully, that no. 50 does not form part of a symmetrical pair. That the front main entrance door is not recessed and French doors have been installed on the front elevation at basement level. I disagree with the advanced planning assessment for the following reasons.
5. The significance of the heritage asset is derived from its historic and architectural interest. The character of the CA is mainly defined by buildings arranged in pairs exhibiting mid-19th Century Italianate villa style design. While there has been change to properties in the CA, consistent building heights, recessed sash windows diminishing in size on successive upper floors with classically detailed surrounds, canted three-light bays on the ground floor and steps up to porticoes are locally distinctive features that reinforce the special interest of this heritage asset.
6. The front facade to the appeal property retains its historic features. For example the grand entrance portico served by steps, the recessed sash windows diminishing in size on successive upper floors and the classically detailed surrounds. Given its location and positioning, no. 50 is visible in views along the Square and it makes a positive contribution to the character of the street scene and heritage asset.

7. Flat 5 is situated at first floor level to no. 50. The French doors are bespoke and made from hardwood, they appear as two-leafed glazed doors that reach floor-level and the original classical surround has been retained. The new casement is painted in a white colour. In my assessment, the replacement doors do not respect and reflect the historic architectural style of the host building as the design is incompatible with its fenestration detail. The rectangular panes of glass combined with the thick vertical feature that serves as the centre post between the two doors is inconsistent with the slender profile and appearance of existing sash windows. The design and layout of the French doors harm the external appearance of the host building.
8. Metal balustrade has been painted in black, is narrow in diameter, and the perpendicular bars are set apart thereby permitting views of the front elevation including French doors. Nevertheless, the railings form a perimeter means of enclosure to the flat roof. Whilst the use of the latter could, potentially, be controlled by imposing a planning condition, I consider that metal railings of this type and kind are at odds with the historic architectural style of the host building. Their design and positioning is out of keeping with the Italianate style and harms the appearance of the host building.
9. The appeal property is located within a prominent part of the street because of its positioning adjacent to no. 50A the built form of which is lower. I observed that the external alterations to its front are noticeable from the street. The French doors and railings add clutter to the front elevation. Whether considered individually or collectively, I find that the French doors and railings result in demonstrable harm to the external appearance of the host building and prevailing architectural style of buildings in the CA.
10. In terms of the NPPF, harm caused to significance of the CA is less than substantial. There is, nevertheless, real and serious harm which requires clear and convincing justification. In support of the development the following arguments are made.
11. The appellants maintain that this part of the CA has evolved over time, because French doors and metal railings can be found in the locality. On the other hand the council say there are 52 residential buildings in Belsize Square and 13 have these features; four benefit from planning permission granted between 1966 and 2014. The appellants make reference to no. 6A but there are significant differences. For example, metal railings have been permitted to form a roof terrace but the full height sash window would remain. I therefore find no evidence to support the claim that planning policy is applied inconsistently.
12. In any event, even if an alternative view is to prevail, applications for planning permission should be considered upon their individual merits. In doing so, my assessment is that the majority of buildings in this part of the CA retain their historic architectural features. In contrast, French doors and metal railings are not a characteristic feature of the heritage asset. The development is at odds with the quality of the CA and erodes distinctiveness. I do not consider that the existence of other development justifies or provides a strong enough reason to grant planning permission for this harmful development.
13. There is some concern about the manner in which the planning application was handled by the council. But that is a matter not for my determination.
14. Nothing in the design and access statement and heritage impact assessment alters my findings above.

15. On balance, the other considerations advanced in support do not outweigh the real and serious harm to the character and appearance of the CA I have identified above.
16. Pulling all of the above points together, in my planning judgement Appeals A and C development fails to preserve or enhance the character or appearance of the CA. Accordingly, the schemes fail to comply with CS policy CS14, DMP policy DP24 and policy DP25, and is at odds with the main aims and objectives of the CA statement.

Appeals A and B – ground (g)

17. The notice requires considerable building work so as to remove the French doors and railings, reinstate with a timber-framed window, and make good any damage to the original building. A slightly extended period would allow this work to be arranged and carried out. I therefore find that a compliance period of nine months is reasonable given the nature of the work required. Ground (g) succeeds to this extent.

Appeals A, B and C - overall conclusions

18. Having considered all other matters, ground (a) and s.78 appeals fail and planning permission will be refused. Nine months is reasonable compliance period and ground (g) succeeds as the notice will be varied. I shall therefore refuse planning permission on the deemed application, and dismiss s.78 appeal, and uphold the notice after a variation to the period of compliance.

Formal decisions

Appeal A Ref: APP/X5210/C/16/3144543

19. The appeal is allowed on ground (g) and the enforcement notice is varied by the deletion of the following text *within a period of six months of the notice taking effect*, in section 5 what you are required to do, and the substitution therefor by the following text: *Within a period of nine months of the notice taking effect*.
20. Subject to the variation above, the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B Ref: APP/X5210/C/16/3144544

21. The appeal is allowed on ground (g) and the enforcement notice is varied by the deletion of the following text *within a period of six months of the notice taking effect*, in section 5 what you are required to do, and the substitution therefor by the following text: *Within a period of nine months of the notice taking effect*.
22. Subject to the variation above, the appeal is dismissed and the enforcement notice is upheld.

Appeal C Ref: APP/X5210/W/15/3141456

23. The appeal is dismissed.

A U Ghafoor

Inspector