

Appeal Decision

Site visit made on 5 October 2016

by Mr J P Sargent BA(Hons) MA MRTPI

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

Decision date: 21 October 2016

Appeal Ref: APP/H5390/C/16/3146582
23 Wood Lane, London W12 7DP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Mohamed Belbegra against an enforcement notice issued by the Council of the London Borough of Hammersmith & Fulham.
 - The notice was issued on 27 January 2016.
 - The breach of planning control alleged in the notice is failure to comply with conditions attached to planning permission 2011/02285/FUL granted on 14 October 2011.
 - The development to which the permission relates is the excavation of the front and rear garden to create lightwells in connection with the enlargement at basement level.
 - The conditions in question are Conditions 2 and 4 (the disputed conditions), which read:
Condition 2: The development shall be carried out and completed only in accordance with the approved drawings
Condition 4: No part of the extended basement shall be used or occupied until the metal grille is installed over the front lightwell, flush with the surrounding ground level. The grille shall thereafter be retained, and no railings shall be constructed around the lightwell.
Reason for both conditions: To ensure a satisfactory external appearance and to prevent harm to the street scene, in accordance with Policy EN8B of the Unitary Development Plan, as amended 2007, and the Council's supplementary design guidance for lightwells.
 - The notice alleges that the conditions have not been complied with in that railings have been constructed around the light well, contrary to the approved drawings.
 - The requirements of the notice are:
Remove from the land the hand railings and guard railings to the front lightwell and replace with a horizontal grille in accordance with drawing Nos A101 (Revised drawing received 13.9.11) and A104 Rev 1 of planning permission (2011/02285/FUL) dated 14 October 2011.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Act as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended is also to be considered.
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Decision

1. The appeal is allowed and the enforcement notice is quashed. In accordance with section 177(1)(b) and section 177(4) of the Act as amended, Conditions 2 and 4 attached to the planning permission Ref 2011/02285/FUL dated 14 October 2011, are discharged.
 2. Planning permission is granted for the application deemed to have been made under section 177(5) of the Act as amended for the excavation of the front and rear garden to create lightwells in connection with the enlargement at basement level at 23 Wood Lane, London W12 7DP without complying with
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Conditions 2 and 4 on planning permission 2011/02285/FUL dated 14 October 2011 but subject to the other condition attached to that permission insofar as it is still capable of taking effect, namely:

- 1) Any alterations to the elevations of the existing building shall be carried out in the same materials as the existing elevation to which the alterations relate.

Ground (a) appeal and deemed planning application

Main Issue

3. The main issue in this case is the effect of the works on the character and appearance of the area.

Reasons

4. This appeal concerns a hotel in a terrace that stands some 4.5m back from the pavement. The properties in the row are of a Victorian style and seem to be of some age.
5. In 2011 planning permission was granted for the formation of a lightwell to the front (the original permission). Under the disputed conditions this was supposed to be covered by a horizontal grille lying flush with the ground level. However, contrary to these conditions the Appellant has formed railings around the lightwell. A staircase has been installed down to the customers' dining area in the basement and so now the lightwell also acts as an emergency escape. No plans showing this revised arrangement have been submitted.
6. The Council's supplementary design guidance says vertical railings around front lightwells will be resisted so as to avoid an undue clutter. It adds that this requirement may only be relaxed when there is over 6m between the front elevation and the road - a circumstance that does not apply in this case.
7. However, when coming from the south the railings before me are concealed by solid wooden fencing along the front boundary of 21 Wood Lane, and, if approaching from the other direction, the works are screened by front walling with close boarded fencing on top at 27-31 Wood Lane. The unauthorised railings are apparent to some degree across the more open frontage of 25 Wood Lane but even then their impact is mitigated to a great extent by the angled views through the fencing along the boundary with the appeal property.
8. As a result, the railings are only really visible from the limited length of Wood Lane directly in front of the Appellant's hotel. From here they match the railings along the front boundary of No 23, though they not as long or as tall. They are also set back behind an otherwise open forecourt, are visually permeable, and are of a design that is sympathetic to the appearance of this row. Therefore, to my mind they are not unduly prominent or discordant but constitute a subservient, discreet feature at the property.
9. I have noted that linked appeals concerning an enforcement notice and a refusal of planning permission were recently dismissed for the retention of an enlarged lightwell, its surrounding safety screen and alterations to the front elevation at basement level next door at No 25¹. The safety screen subject of those appeals is still on the site around the top of the lightwell. It is closer to

¹ Appeal references APP/H5390/C/16/3142438 & APP/H5390/W/16/3142442 dated 15 August 2016

the pavement and longer than the railings before me, and it comprises opaque glazed panels within a metal frame.

10. In assessing those appeals at No 25 the Inspector found that, in summary, the lightwell was not discreet (because of its scale), it substantially altered the external appearance of the building and, taking into account the bi-folding doors to the basement and the safety screen, the development failed to reflect the simple architectural style and was not inconspicuous. He therefore concluded the development had a harmful effect on the appearance of the property and the terrace.
11. However, the appeal I am considering concerns the railings only and does not relate to the size of the lightwell, the formation of stairs or the alterations to the building. Moreover, the railings at No 23 are further from the road than the safety screen at No 25, and, as stated, they are shorter. They are also of a less solid appearance and of a more sympathetic design. I consider such factors are material differences to the circumstances before the Inspector at No 25, and so that decision does not lead me to different findings in this case.
12. In the light of the above the 2 disputed conditions can be discharged. Having regard to the *Planning Practice Guidance* it is good practice to repeat the relevant remaining conditions from the original planning permission, unless they have already been addressed. Condition 1 is no more applicable, but I shall re-impose Condition 3 on the original permission as I have no information before me about its status.
13. Accordingly I conclude the works do not create a cluttered appearance and do not harm the character or appearance of the area. As such, they are not contrary to Policy BE1 in the *London Borough of Hammersmith and Fulham Core Strategy* or Policy G3 in the Council's *Development Management Local Plan*, while any conflict with the *Planning Guidance Supplementary Planning Document* is not sufficient to warrant refusal. The appeal therefore succeeds under ground (a) and planning permission is granted for the application deemed to have been made under section 177(5) of the Act as amended.

Ground (g) appeal

14. Given my findings in relation to the ground (a) appeal there is no need for me to address the appeal under ground (g).

J P Sargent

INSPECTOR