

Appeal Decision

Site visit made on 11 October 2016

by Paul Freer BA (Hons) LLM MRTPI

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

Decision date: 24 October 2016

Appeal Ref: APP/X5990/C/16/3149903

Land at 77 Lothrop Street, London W10 4JD

- 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 Ms Peggy Roehrig against an enforcement notice issued by City of Westminster Council.
 - The notice was issued on 21 April 2016.
 - The breach of planning control as alleged in the notice is, without the requisite planning permission and within the last 4 years, the installation of a metal railing gate fitted forward of the front door and metal bars installed forward of the fanlight above the front door.
 - The requirements of the notice are:
 - a) Remove the metal railing gate and hanging stile installed forward of the front door, shown outlined in red lines on Photograph A attached to the notice; and
 - b) Remove the metal bars installed forward of the fanlight above the front door, shown outlined in blue lines on Photograph A attached to the notice.
 - The period for compliance with the requirements is nine months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
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Summary Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision

The appeal on ground (a) and the deemed planning application

1. The ground of appeal is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The City Council has stated one substantive reason for issuing the enforcement notice, from which the main issue raised is whether the development alleged in the notice preserves or enhances the character or appearance of the Queens Park Estate Conservation Area.
 2. The City Council describe the Queens Park Estate Conservation Area as an important and remarkably intact example of a philanthropic cottage estate, and as such is unique in Westminster. The character and appearance of this conservation area is derived in no small part by the intimate scale of the buildings combined with consistent and intricate detailing to the front elevations, including windows and doors. In order to preserve this level of detailing to individual buildings as well as the homogeneity of the conservation area as a whole, the City Council has promoted an Article 4 Direction that, amongst other things, stipulates that planning permission is required for physical alterations which would alter the appearance of the front elevation.
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3. The appeal property itself is a two-storey cottage located towards the centre of Lothrop Street. The cottages in this road are handed in pairs, such that the entrances to alternate pairs of houses are conjoined. The repetition of this pattern throughout the length of Lothrop Street gives this road a cohesive and distinctive appearance, which is further enhanced by the intricate detailing that is common to the majority the cottages. In relation to the appeal property, this takes the form of a double-entrance porch beneath a mono-pitch roof, and which features decorative brickwork in the shape of an arch over each entrance supported by substantial decorative brackets. The front doors to the individual properties in this pair, which although painted different colours appear to be identical in design and feature fanlights above, are recessed beneath this porch.
4. The metal railing gate has been installed forward of the front door, with the metal bars above installed forward of the fanlight. At the time the enforcement notice was issued, the metal railing gate and metal bars were painted white but, at the time of my site visit, both had been painted black. Nevertheless, the frame of the metal railing gate is relatively thick and both the upper and lower sections of the gate feature decorative patterns. Consequently, and notwithstanding being painted black, the metal railing gate is visually intrusive and obscures much of front door. Similarly, the black-painted metal bars are also visually intrusive and partly obscure the fanlight over the door.
5. As a result, the metal railing gate and the metal bars obscure, at least in part, one of the features from which the character and appearance of the host property is derived, and which it shares with other cottages in the street. The presence of the metal railing gate and the metal bars also distinguish the appeal property from its neighbour, and therefore unbalances the pair. This has the effect of disrupting not only the symmetry of this pair of cottages but also of disrupting the rhythm of the repeating pattern of handed front elevations on Lothrop Street which, as set out above, is one of its distinctive characteristics.
6. For all these reasons, I conclude that the installation of the metal railing gate fitted forward of the front door and the metal bars installed forward of the fanlight above the front door harm the character and appearance of the Queens Park Estate Conservation Area. I therefore conclude that the development alleged in the enforcement notice is contrary to Policies 7.1, 7.4 and 7.6 of The London Plan, as well as Policies S25 and S26 of the Westminster City Plan and Policy DES9 of the City of Westminster Unitary Development Plan. These policies indicate, amongst other things, that the heritage assets in Westminster will be conserved. The development also fails to accord with the importance attached in the National Planning Policy Framework (Framework) to the desirability of sustaining and enhancing the significance of heritage assets.
7. Whilst I consider that the development harms the character and appearance of the Queens Park Estate Conservation Area, the harm to the significance of this designated heritage asset is less than substantial. In accordance with paragraph 134 of the Framework, it is necessary to weigh this harm against the public benefits of the development but in this case I have no evidence before me to suggest that there are any public benefits that arise from it.
8. Nevertheless, whilst there is no public benefit arising from the development, I am mindful of the personal circumstances of the appellant. These

circumstances are set out in the appeal documentation and I do not repeat them here. It is sufficient to say that I find these circumstances to be compelling and that there is credible evidence that the appellant's safety might be at risk should the metal railing gate and the metal bars be removed. I note that the City Council acknowledges these circumstances and accepts that, by providing a substantial and physical barrier, the metal railing gate may be psychologically important to the appellant in her particular circumstances. I agree, and consider that this principle also extends to the metal bars in front of the fanlight.

9. Consequently, this is one of those situations where, exceptionally, the personal circumstances of the appellant outweigh the less than substantial harm to the character and appearance of the conservation area. It follows that this only applies for as long as the appellant resides at the appeal property. I therefore intend to grant a planning permission that is personal to the appellant, and subject to a condition that requires the metal railing gate and the metal bars to be removed should the appellant move out of the property. I note that the City Council has suggested a condition to this effect should I be minded to allow the appeal. I understand that the City Council carries out regular reviews of this conservation area and I consider that this permission should also be time-limited in order that the City Council can monitor the situation as part of those regular reviews. This will ensure that the character and appearance of the conservation area will be restored promptly once the personal circumstances of the appellant are no longer applicable.
10. The City Council has also suggested a condition that the metal railing gate and the metal bars should be painted black. As indicated above, that had already taken place by the time of my site visit but, on the basis of the photograph attached to the enforcement notice, it is apparent that the metal railing gate and the metal bars were even more visually intrusive when painted white. In order to minimise the conspicuity of the metal railing gate and the metal bars, I therefore consider that a condition requiring them to not be repainted in another colour is necessary and I shall impose such a condition.

Conclusion on the ground (a) appeal

11. Having regard to the above, I conclude that planning permission ought to be granted. The appeal on ground (a) succeeds and planning permission will be granted, subject to the conditions that I set out in the Formal Decision below.

Formal Decision

12. The appeal is allowed and the enforcement notice is quashed.
13. Planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the installation of a metal railing gate fitted forward of the front door and metal bars installed forward of the fanlight above the front door at 77 Lothrop Street, London W10 4JD, as shown on the plan attached to the notice, subject to the following conditions:
 1. When the premises cease to be occupied by Ms Peggy Roehrig or at the end of 5 years from the date of this Decision, whichever shall occur first, the metal railing gate fitted forward of the front door and metal bars installed forward of the fanlight above the front door shall be removed.

2. The metal railing gate fitted forward of the front door and metal bars installed forward of the fanlight above the front door shall not be painted or repainted in any colour other than black.

Paul Freer

INSPECTOR