

Appeal Decision

Site visit made on 3 October 2016

by **A U Ghafoor BSc (Hons) MA MRTPI**

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

Decision date: 1 November 2016

Appeal Ref: APP/T5150/C/16/3146706

85 A-D Dartmouth Road, London NW2 4ER

- 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 Richard Littler against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice, numbered E/14/0763, was issued on 25 February 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the installation of a hardstanding to the front of the premises and the erection of a brick front and side boundary wall and piers to the front of the premises.
 - The requirements of the notice are to:
 - (1) Remove the hard surface from the front area hatched in black on the plan attached to the notice.
 - (2) Remove all arising materials and debris associated with the hardstanding to ensure that the surface material comprises soil.
 - (3) Remove the front and side boundary wall and piers, and remove all associated debris and materials from the premises.
 - (4) Erect a 1m high close boarded fence along the boundaries of 83 and 87 Dartmouth Road.
 - (5) Erect a battered brick wall to the front of the premises adjacent to the pavement, using materials, and of a design and height as shown in the attached photograph, ensuring that a gap of no more than 2.5m wide is provided for the access to the premises. The gap must be parallel to the drop kerb.
 - (6) Plant a hedge along entire width of front boundary wall.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. 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.

Ground (a)

2. The **main issue** to consider is whether the development preserves or enhances the character or appearance of the Mapesbury Conservation Area (CA).
 3. The CA's special interest is derived from the architectural style of buildings and geometric layout of tree-lined streets. The locality is defined by properties with deep forecourts and low brick boundary walls located between tall piers. Front landscaped gardens make a significant contribution to the setting of the CA. An article 4 direction restricts permitted development rights for the construction of hard standing within curtilages.
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4. No. 85 is used as self-contained flats. The appellant claims that the property's frontage was in *absolute disarray* and the hard surface and boundary walls have improved its look. It is contended that the frontage has been modernised at considerable expense, and the occupiers were unaware express planning permission is required. Be that as it may, I consider that the development is unacceptable. This is because the front has been virtually paved over; there is little or no opportunity for soft landscaping. Additionally, red brick walls and piers with pyramid style coping stone have been erected along the boundaries. These features together with the scale of hardstanding detract from the quality of the street scene, given the design and layout of the forecourt. In my assessment, the development appears inconsistent with the simple architectural style of the host building and is out of keeping with the suburban setting of the CA.
5. There is an added complexity because insufficient evidence has been provided to show the hard surface is constructed from porous material or provision has been made for surface water run-off. The design increases likelihood of rainwater run-off onto the adjacent highway.
6. The appellant contemplates an alternative scheme in that the hard surface could be reduced and flower beds created, especially along the front. While that type of layout might address concerns about the visual impact of the development, it would require significant building work. The alternative scheme would fundamentally change the nature of the development originally enforced against. Planning conditions cannot be imposed to make materially harmful development acceptable in planning terms.
7. The claim that the development should be permitted owing to the existence of similar paved frontages in the street, including in and out vehicle accesses with semi-circular drives, does not stand up to scrutiny. There is hard surface and brick wall frontages in Chatsworth Road, but the Council state it is not situated within the designated CA. I do not consider visually harmful development should be allowed just because there are examples of paved forecourts in the locality. Each proposal needs to be evaluated upon its individual merits. These arguments do not provide clear and convincing justification to grant planning permission for harmful development.
8. 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. I therefore conclude that the development fails to preserve the character or appearance of the CA. Accordingly, the scheme fails to comply with policies BE2, BE7, BE25, BE28 and EP12 to Brent Unitary Development Plan 2004, saved by direction of the Secretary of State, broadly consistent with national policy found in paragraph 56, 126, 131 and 132 to the National Planning Policy Framework.

Ground (f)

9. It is necessary to consider whether the steps required by the notice are excessive. From the document as a whole, it seems to me that it seeks to remedy the breach of planning control. The merits of the alternative scheme advanced have been evaluated. I do not consider that scheme would achieve the purpose behind the notice's requirements. Even if an alternative view is to prevail, the appellant has not shown how the steps could be formulated so as to give effect to that proposal.

10. In my assessment, detailed building work is necessary to remove sections of the paved area to create flower beds for soft landscaping. There is also lack of drainage provision for surface water run-off. These details would need submitting to the Council for its approval. This action cannot be required by a variation to the notice. I therefore find the latter cannot be rephrased without introducing significant degree of imprecision. Ambiguity in the notice's terms has the potential to create interpretational issues. That is unacceptable because of the potential consequences for non-compliance.
11. Nothing short of total compliance would achieve the purpose behind the requirements. The steps required are not excessive. Therefore, ground (f) must fail.

Conclusions

12. For the reasons given above and having regard to all other matters, my inescapable conclusion is that ground (a) and the deemed application should not succeed. Ground (f) fails as the requirements are not excessive. I have therefore upheld the enforcement notice and refused to grant planning permission on the deemed application.

A U Ghafoor

Inspector