
Appeal Decision

Site visit made on 1 November 2016

by Diane Fleming BA (Hons) MRTPI

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

Decision date: 23 November 2016

Appeal Ref: APP/T5150/C/16/3149031

124 The Fairway, Wembley, London HA0 3TJ

- 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 Hayder Hassan against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice was issued on 16 March 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the formation of a hard surface to the front garden of the premises (Sudbury Court Conservation Area Article 4(1)).
 - The requirements of the notice are: Step 1 Remove the unauthorised hard surface from the front garden of the premises, so it comprises soil only, and Step 2 Turf over the area where the hard surface formerly stood.
 - The period for compliance with the requirements is one month.
 - 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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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the formation of a hard surface to the front garden of the premises on land at 124 The Fairway, Wembley, London HA0 3TJ referred to in the notice.

Main Issues

2. The main issues are i) the effect of the development on the Sudbury Court Conservation Area (CA), having regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA; and ii) whether the development is likely to increase the risk of flooding in the area.

Reasons

Character and appearance

3. The CA is centred on a residential estate which was largely built before the Second World War as a planned suburban neighbourhood. It made use of Garden Suburb principles and The Fairway was laid out as a central spine road which provides access to Northwick Park, an area of open space. On the corners of some crossroad junctions along The Fairway semi-detached houses, such as the appeal site, are turned through 45 degrees to face the junction.
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This creates an attractive enclosed area and the junction overlooked by the appeal site, in particular, acts as a gateway to the park. The majority of houses have generous garden plots which are bounded by low, castellated walls. In some cases, front gardens are enclosed by hedges which together with the tree-lined roads, adds to the rural character of the area and forms part of its distinctive appearance.

4. Some changes have taken place in the CA since it was built, principally the provision of hard standings and garages for off-street parking. Such is their prevalence I consider that these have now become part of the established character and appearance of the area. The Council made an Article 4 Direction in 1993 to protect the CA from 'unsympathetic and insensitive development'¹. This removes a number of permitted development rights and means that works, such as the provision of a hard surfaced area, requires express planning permission from the Council.
5. At the appeal site there was a large front garden that wrapped around part of the side of the house. It was bisected by a path leading to the front door. From the Council's aerial photograph it appears that there was also a small hard standing on the far side of the garden adjacent to the boundary with No 122 The Fairway. The boundary line between the rear and side garden at No 124 has now been adjusted by bringing the boundary fence nearer to the road to provide a larger, enclosed private area. A new hard standing has been created by extending the former hard surfaced area on to part of the remaining side garden although the width of the access point and dropped kerb remains as it was.
6. The Council are of the view that the size of the hard standing has had an adverse effect on the character and appearance of the CA. However, I saw that the development has maintained the original line of the footpath to the front door as well as a noticeable portion of the side garden. Cars parked on the hard standing would be to the side of the property and therefore not a dominant feature in front of the appeal dwelling or its matching pair. The semi-rural view of the principal elevation is thus preserved as is the contribution that it makes to the street scene and the approach to the entrance to Northwick Park.
7. Whilst the hard standing is larger, the narrow access to it has been retained which has meant that the adjacent street tree is unaffected by the development. In addition, the long, unbroken line of the castellated wall continues to provide a definitive edge to the property, an important feature in the area. The hard standing has been surfaced in block pavers, a material suggested by the Council's Design Guide² as being suitable and they match those used at No 122 adjacent. I also consider that their colour does not detract from the distinctive red brick used in the castellated wall.
8. The Design Guide also advises that the Council will seek to retain at least 50% of the total front garden area when considering proposals for off-street parking. This is also required in Policy BE7 of the Council's Unitary Development Plan³. The appellant submits that such a balance has been achieved by this development but the Council disagree. I have not been provided with any

¹ Sudbury Court Conservation Area Design Guide (the Design Guide)

² Section 5.2

³ Brent Unitary Development Plan – 2004 (UDP)

definitive calculations from either party but at my site visit I saw that the balance between hard and soft areas was roughly even. The supporting text to the policy though emphasises that the purpose behind the requirement 'for more than half' of a garden area to remain is to maintain adequate green space between a building and the road. This allows for landscaping and protects the suburban character. I consider the development at the appeal site does not intrude upon the front garden area and there is plenty of space left for planting, thus the suburban character is preserved.

9. The appellant has submitted a number of photographs of other hard standings in the area, some of which are larger than the development at the appeal site. Whilst these were not labelled I was able to recognise some of them during my site visit. I consider that not all of them are directly comparable to the appeal site and I do not have full details of the circumstances that led to these developments being built. In any case, I have determined the appeal on its own merits.
10. For all these reasons I conclude that the character and appearance of the CA is preserved by the development and, as such, it accords with Policies BE2, BE7, BE25 and BE28 of the UDP. These require that new developments respect the quality of existing spaces and that gardens should be retained where they form an integral part of the character of an area, amongst other matters. I give weight to these policies as they are consistent with the National Planning Policy Framework's (the Framework) requirement for good design.

Flooding

11. The Council are concerned that the construction of the hard standing increases the risk of flooding in the area as it is alleged that it has not been built with either porous or permeable materials. The use of such materials would ensure the surface water run-off would be contained within the curtilage of the house. The appellant makes no comment in respect of this matter as the works were carried out before he bought the property.
12. I saw that the hard standing is surfaced with block pavers which are an acceptable porous material⁴ provided, for example, they are laid on a suitable substrate. It is not clear from the Council's Statement of Case whether an officer visited the site during the construction of the hard standing as the only photograph submitted with the Statement shows that the side garden surface was intact and work was proceeding on the new fence. Although letters were sent to the occupier of the appeal site, no mention is made of any site visits. It has therefore not been explained how the Council obtained its information to support its concerns about flooding.
13. In the event that the block pavers have been laid on an unsuitable substrate, I am satisfied that this would not lead to surface water run-off outside the property. This is because the hard standing has been laid with a moderate slope from the boundary with No 122 down towards the large front garden of the appeal property where surface water can then be absorbed.
14. For these reasons I conclude that the development is unlikely to increase the risk of flooding in the area and, as such, it accords with Policy EP12 of the UDP which is concerned with flood prevention. I give weight to this policy as it is

⁴ Guidance on the permeable surfacing of front gardens September 2008 Department of Communities and Local Government

consistent with the Framework's requirements to ensure flood risk is not increased.

Conditions

15. No conditions have been suggested by the Council in the event of planning permission being granted. Since the development being granted planning permission was substantially complete when the notice was issued, none are necessary.

Conclusion

16. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted.

D Fleming

INSPECTOR