The Planning Inspectorate

Appeal Decision

Site visit made on 24 January 2017

by Thomas Shields MA DipURP MRTPI

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

Decision date: 21 February 2017

Appeal Ref: APP/U5360/C/16/3157409
39-41 Oldhill Street, London, N16 6LR

- 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 Yoel Rosenthal (Anlock Limited) against an enforcement notice issued by the Council of the London Borough of Hackney.
- The notice was issued on 25 July 2016.
- The breach of planning control as alleged in the notice is without planning permission, the replacement of existing timber sliding sash windows at first and second floor levels with uPVC windows.
- The requirements of the notice are:
  1. Remove the unauthorised uPVC framed windows
  2. Reinstate timber sash windows with frames and glazing bars that match the building's previously existing windows, prior to the installation of the unauthorised uPVC framed windows (please refer to photograph Fig.1 attached to this notice).
  3. Remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the property and its premises.
- The period for compliance with the requirements is 3 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 (the Act). Since the prescribed fee has been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act falls to be considered

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 Act.

The appeal on ground (a)

2. The appeal building is a Victorian end of terrace three storey property occupying a corner location at the junction of Oldhill Street with Stamford Grove East. The ground floor of the building is used for commercial purposes with residential accommodation at first and second floors. It lies just inside the Northwold and Cazenove Conservation Area (NCCA) and close to several locally listed and listed buildings. The nearest of those is the Grade II listed Grove House to the rear of the site in Stamford Grove East.

3. Having regard to all of the evidence before me I consider the main issue in this appeal is the effect of the replacement uPVC windows at first and second floor

on the character and appearance of the building and the NCCA, a designated heritage asset[1].

4. Paragraph 132 of the National Planning Policy Framework (2012) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This reflects my statutory duty under section 72(1) Planning (Listed Buildings and Conservation Areas) Act 1990 to give special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

5. The appellant's interpretation of the Council's 2010 Conservation Area Appraisal is that the row of properties that the appeal site forms part of does not make any architectural, historical and heritage led contribution to the wider NCCA. The Council argue that an assessment was carried out of which parts of Oldhill Street should be included within the NCCA and only those parts which merited protection were included. On this basis the building merited protection in its own right.

6. Given the age and design of the building, and its contextual relationship with the historical pattern of development in the area I consider that this row of properties, including the appeal building, contributes positively to the character and appearance of the NCAA. The presence of roller shutters and fascia signs to commercial units at ground floor level, air conditioning units on the Stamford Grove East elevation, and uPVC windows in other nearby buildings, do not persuade me that is no longer the case. Nor do they, as argued, make the largest contribution to establishing the character and appearance of this particular length of Oldhill Road.

7. The new windows are made from white uPVC, the hinged top half opening outwards from the middle of the frame. They do not reflect the materials, detailed design, or functionality of the sash windows they replaced which were of painted timber with glazing bars, comprising nine panes over a single sash to the front, and four pane sash windows to the Stamford Grove East elevation. I accept that similar uPVC windows are in place in the upper floors in the rest of the row in the block, and to the properties at Nos. 1 to 6 Market Parade. However, this corner property is prominent in street views. The obvious modern design and appearance of the new windows detracts from the traditional character and appearance of the building, significantly harming its character and appearance and that of the NCCA.

8. The replacement windows are also at odds with the guidance in the Council's SPD[2] that any residential alteration should respect the architectural character of the original building and its setting, and advises that any replacements for traditional painted timber and vertical sliding sash windows should match the original windows with regards to proportions, choice of materials, size of frame and glazing bars. Modern materials, such as uPVC and aluminium, and changes to window frame patterns, are generally unacceptable for traditional building forms.

9. In conclusion, the replacement new windows result in significant harm to the character and appearance of the NCCA. As such, the development fails to

[1] National Planning Policy Framework (2012) Annex 2: Glossary, page 51.
[2] Residential Extensions and Alterations SPD (2009)

preserve or enhance the character and appearance of the NCCA. Although, the harm is less than substantial in terms of the Framework[3] it is not outweighed by any public benefits. It thereby also conflicts with Policies 24 and 25 of the Core Strategy (2010), and Policies DM1 and DM28 of the Development Management Local Plan (2015) which, taken together, seek to enrich and enhance the built environment and require all development to make a positive contribution to the historic environment, high quality design, and seek to protect conservation areas.

10. Planning conditions would not overcome the harm I have identified.

11. The appeal therefore fails.

Thomas Shields

INSPECTOR

[3] National Planning Policy Framework (2012), paragraph 134