
Appeal Decision

Site visit made on 14 February 2017

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 24 February 2017

Appeal Ref: APP/Y5420/C/16/3152511

4 Morley Avenue, London N22 6LY

- 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 Mrs Myrofora Theodorou against an enforcement notice (EN) issued by the London Borough of Haringey (the LPA).
 - The enforcement notice was issued on 19 May 2016.
 - The breach of planning control as alleged in the notice is the installation of uPVC windows to the front elevation at ground and first floor.
 - The requirements of the notice are as follows:
 1. Remove the uPVC windows installed to the front elevation of the property.
 2. Remove all resultant debris as a result of complying with requirement 1.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on grounds (a) and (c) as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed (see formal decision below).

Matters of clarification and background information

2. There is a minor typographical error in the enforcement notice. The postcode of the property should have read N22 6LY and not N22 6NG. I will correct the notice and I am satisfied that no injustice has been caused by this minor error.
3. The two-storey, mid-terraced appeal dwelling is located on the south side of Morley Road and lies within the late C19, early C20, Noel Park Estate and the Noel Park Conservation Area (NPCA). The NPCA is subject to an Article 4 Direction (A4D). This removes permitted development rights for development which affects the front and side elevations of buildings.

The Appeal on ground (c)

4. To be successful on this ground it must be shown that either there is a planning permission in place for the works carried out, or that one is not required because, for example, the works constitute permitted development. The merits of the case do not fall to be considered under this ground.
5. I have noted that the Appellant's arguments under this ground include the fact that, although the Council provides planning guidance in many languages, the Appellant's language, which is Greek, is not included. It is contended that this is a failure on the part of the Council and that, in effect, the Appellant has never been informed that her property was within the NPCA or that there was an A4D in place.
6. Whilst sympathising with the Appellant on this point, it cannot be a defence against an enforcement notice to argue that one did not know about any statutory

designations, whether that be in relation to conservation areas or listed buildings. Matters such as this are usually brought to the attention of building owners during the conveyancing period and, in any case, such details are also usually set out in the planning section of a Council's website. A Council is not obliged to provide advice in every language and, whilst understanding the issue, it is unfortunate in this case that Greek was not included.

7. The fact remains that the NPCA is still one of the Boroughs designated conservation areas. Although the Appellant states that the Council has '*to-date not enforced the A4D*' and that it is unclear to her if the Council '*still regard Noel Park as a Conservation Area*', there is no evidence before me on either of these points. I have the Council's statement indicating that the property is, indeed, within the NPCA. I also have a copy of the A4D relating to this part of the Borough. There is nothing to suggest that the direction or the status of Noel Park as a conservation area have been rescinded. I must, therefore, proceed on the basis that the NPCA is still one of Haringey's heritage assets (as a conservation area) and that the A4D remains in place. The Council also refers to the Draft NPCA Character Appraisal and Management Plan which went before Cabinet as a report in November 2015. It is clear to me therefore that the Council still regards this part of the Borough as one of its important conservation areas.

8. Turning back to the ground (c) appeal, it is clear that planning permission was not sought for the alteration works carried out. These works have materially altered the appearance of the dwelling. They do not constitute permitted development because such rights were removed by the A4D which is still in place. It follows that a contravention of planning control has occurred and the appeal must fail on this first ground.

The Appeal on ground (a)

9. The appeal on this ground is made on the basis that planning permission ought to be granted for the uPVC windows as installed. The main issue is the effect that the works have had on the character and appearance of the NPCA. In reaching my conclusions I have paid special attention to the requirements of section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA).

10. The relevant policies are SP11 (Design) and SP12 (Conservation) of the Haringey Local Plan 2013 (HLP) and saved policies UD3 (General Principles) and CSV5 (Alterations and Extensions in Conservation Areas) of the Haringey Unitary Development Plan 2006 (UDP) and policies 7.4 (Local Character), 7.6 (Architecture) and 7.8 Heritage Assets and Archaeology of the London Plan 2015.

11. These policies accord with those set out in the National Planning Policy Framework (NPPF) and in particular sections 7 (Requiring good design) and 12 (Conserving and enhancing the historic environment). The NPPF is a major material consideration, as is Planning Policy Guidance (PPG) and in reaching my conclusions I have had regard to all of the relevant policies and guidance set out within the two documents.

12. Having seen the uPVC windows and walked around the NPCA, it is evident that despite many houses retaining their traditional timber windows and doors, a large proportion of dwellings have had windows and doors replaced over the years. In my view most of the replacements have detracted from the houses themselves as well as from the character and appearance of the NPCA.

13. The original window and door patterns and their materials play a significant role in determining the overall character of the area. The replacements, particularly

some of the uPVC ones, have had a most devastating effect on the homogenous and uniform design qualities of the estate. I found some installations to be distinctly harmful and during my visit I was able to see all of the examples to which the Appellant has referred: from No 9 through to No 206.

14. I have not been made aware of the planning status of these examples and it may well be that some have become lawful through time and could not be subject to enforcement action. However be that as it may, there are many installations that are completely at odds with the traditional timber components. These include those at Nos 9, 38, 68, 87, 97, 99, 100, 138, 136, and 183. As well as being constructed from inappropriate materials (mainly uPVC) the replacement windows to these properties make no attempt to replicate the window patterns of the traditional designs. They look alien and obtrusive within the street scene.

15. Some others, notably at Nos 13, 52, 119 and 206 make some attempt to match frame and glazing bar patterns of the timber windows. Unfortunately these attempts to match the timber window patterns have been far from successful. Section sizes, meeting transoms and wrong proportions to pane sizes have, in my view, all resulted in visually harmful situations within the NPCA.

16. Turning to the appeal windows, there has clearly been a more successful attempt at trying to replicate the timber window patterns. The top hung lights, although outward opening as opposed to sliding, stand proud of the lower lights and the pane proportions are similar to those at No 6, which retains its timber windows. However, the top rail of the bottom lights (at both ground and first floors) can still be seen, rather than being overlapped by the bottom rails of the top lights and this renders the windows as being distinctly noticeable and strident.

17. It is this detailing which results in the windows being perceived as being out of scale and alien to the front elevation. Even in uPVC, windows of an appropriate design could be acceptable. But when these windows (with non-overlapping top lights) are seen against the more slender and elegant timber sections and detailing of those at No 6, they appear as obtrusive and visually harmful elements. I do not consider, therefore, that these particular windows preserve or enhance the character or appearance of the NPCA. It may well be that the windows could be altered to appear more similar to the adjacent timber windows but that would be a matter between the Appellant and the LPA.

18. I sympathise with the Appellant's predicament and acknowledge that the character and appearance of the area has been eroded over the years by inappropriate works carried out to the frontages of many nearby properties. However, the fact that other installations have caused harm to the NPCA cannot, in my view, be a justification for allowing even more inappropriate window installations within this part of Haringey. The LPA would not have granted permission in the first instance for these windows and I do not consider that the circumstances justify granting permission at this appeal stage.

19. I find that the uPVC windows are contrary to policies SP11 (Design) and SP12 (Conservation) of the HLP; saved policies UD3 (General Principles) and CSV5 (Alterations and Extensions in Conservation Areas) of the UDP and policies 7.4 (Local Character), 7.6 (Architecture) and 7.8 (Heritage Assets and Archaeology) of the LP. They are also contrary to the NPPF policies in section 7 and 12. I consider that the harm caused is '*less than substantial*' but in any case, there are no public benefits which outweigh the harm caused (see paragraph 134 of the NPPF). The appeal also fails, therefore, on ground (a) and planning permission will not be granted for the retention of the windows as installed.

Other Matters

20. In reaching my conclusions, I have taken into account all of the other matters raised by the Appellant and the Council. These include the initial grounds of appeal and all subsequent submissions. However, none carries sufficient weight to alter my conclusions on the grounds of appeal and nor is any other factor of such significance so as to change my decision.

Formal Decision

21. I direct that the enforcement notice be corrected by deleting the postcode N22 6NG and by substituting therefor the postcode N22 6LY.

22. The appeal is dismissed and the notice is upheld as corrected. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Anthony J Wharton

Inspector