
Appeal Decision

Site visit made on 20 February 2017

by L J O'Brien BA (Hons) MA

a person appointed by the Secretary of State for Communities and Local Government

Decision date: 27 March 2017

Appeal Ref: APP/C5690/C/16/3155435

The Land and premises at first and second floor level 207 Deptford High Street, London, SE8 3NT as shown edged red on the plan attached to the enforcement notice.

- 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 H Freeman against an enforcement notice issued by the Council of the London Borough of Lewisham.
 - The enforcement notice was issued on 30th June 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the installation of UPVc windows on the front elevation of the premises at first and second floor level.
 - The requirements of the notice are 1a Remove the UPVc window from the front elevation of the premises at first floor level as shown on Photograph A attached to the notice and, 1b Replace with a timber framed sliding sash window to match the former window on the front elevation of the premises as shown on Photograph B attached to the notice. 2a Remove the UPVc window from the front elevation of the premises at second floor level as shown on Photograph A attached to the notice and, 2b Replace with a timber framed window to match the former window on the front elevation of the premises as shown on Photograph B attached to the notice. 3 Make good all damage to the building resulting from compliance with requirements 1 and 2 above. 4 Remove all materials, debris waste and equipment resulting from compliance with requirements 1 – 3 above.
 - The period for compliance with the requirements is 6 months after the Notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Main Issue

2. The main issue in this appeal is the effect of the development on the character and appearance of the area; including whether or not it would preserve or enhance the character or appearance of the Deptford High Street Conservation Area.

Reasons

3. Both parties agree that No 207 Deptford High Street, the appeal property, is within the Deptford High Street Conservation Area (CA). The CA is a 'heritage asset' as defined by the National Planning Policy Framework, which seeks to ensure that heritage assets are conserved in a manner appropriate to their significance. Where a development would lead to substantial or less than substantial harm to the significance of an asset, the harm should be weighed against the public benefits.
4. Deptford High Street is broadly characterised by a dense development pattern made up of a number of largely similar properties with a mix of uses; generally the appearance is that of commercial uses with residential above, lining either side of the road.
5. The appeal property is a typical three-storey terraced building on the High Street with a commercial use on the ground floor and residential apartments above. The windows on the front elevation of both the first and second floor of the building have been replaced with UPVc.
6. Whilst fenestration varies along the High Street the prevailing characteristics are white timber framed windows, many of which appear to be sash opening, with a traditional appearance. The frames of the replacement windows at No 207 differ from the former windows and other traditional windows in the area particularly in respect of their proportions. The thicker UPVc frames appear bulky when compared to the much narrower and less prominent frames of nearby windows. As such the replacement windows appear incongruous and out of keeping with the character and appearance of the area. The windows also appear disproportionately large and visually conspicuous when viewed in the context of the host dwelling.
7. The windows were closed at the time of my visit. However, the parties do not dispute that the replacement windows are pivot opening and their appearance supports this statement. I concur with the view of the Council that the pivot type opening would be further at odds with the character and appearance of the High Street when open, thus compounding the harm to the character and appearance of the Conservation Area.
8. The appeal site exhibits a number of characteristics which can be said to typify those found throughout the CA and the character and appearance of the former windows made a key contribution to the positive impact of the building on the significance of the heritage asset. For the reasons outlined above, I consider that the replacement windows are harmful to the character and appearance of the host dwelling and fail to preserve or enhance the character and appearance of the Deptford High Street Conservation Area. Due to the small scale of the development it causes 'less than substantial harm' to the significance of the heritage asset, but that harm is still sufficient to carry considerable weight against the appeal. There is no public benefit that would outweigh the harm.
9. The development is consequently in conflict with DM Policy 30 and DM Policy 36 of the Development Management Local Plan Adoption Version November 2014, Core Strategy Policy 15 and Core Strategy Policy 16 of the Core Strategy Development plan document, adopted June 2011. These policies, amongst other things, seek to ensure a high quality of design which is sensitive to the local context and responds to local character and strive to guarantee that

development conserves and enhances the borough's heritage assets, such as conservation areas. The Council also require that materials are chosen sensitively and should match or complement existing developments. I also find the development to be at odds with Core Strategy Objective 10 which aims to protect the borough's distinctive character by ensuring that new developments and alterations to existing buildings are sensitive and appropriate to their context and preserve or enhance the borough's heritage assets.

10. I also consider that the scheme does not comply with policies 7.4 and 7.6 of the London Plan (LP), March 2015 which requires development to have regard to the pattern and grain of existing spaces and streets and complement local architectural character. The development also fails to accord with policy 7.8 of the LP which relates specifically to heritage assets and requires development to be sympathetic to their form, scale, materials and architectural details.
11. I acknowledge the other examples of UPVc windows in the area, however, unlike the circumstances set out in the appeal decision paragraph cited by the appellant, these examples are not so common as to have become part of the character of the High Street. Furthermore, I have not been provided with full details of their planning status. I have no reason to dispute the Council's statement that some of these are subject to enforcement action and also agree that others have different contexts and differ in terms of quality to those at the appeal site. Moreover, in my view a number of the examples I noted, including one example of an open pivot style opening window, cause harm to the character and appearance of the area and such harm should not be perpetuated. In any event, each case must be treated on its own merits.
12. The appellant draws attention to the fact that the Council has not sought to control replacement windows in the Conservation Area by issuing an Article 4 Direction. However, whilst replacement windows can be permitted development, they are not beyond control, because such permission would be subject to a condition requiring external materials to be similar in appearance to those used on the exterior of the existing building.
13. I also note the appellant's view that the refurbishment of the building, including the insertion of the windows, has enhanced the street scene. I am, however, of the view that such enhancements could be achieved through the use of alternative windows which would better respect the character and appearance of the area.
14. I have considered all other matters raised, including the appellant's desire to improve the thermal efficiency of the building, but this does not change my conclusion that the appeal should be dismissed and planning permission should be refused.

Laura O'Brien

Appointed person