
Appeal Decisions

Site visit made on 19 June 2017

by Gloria McFarlane LLB(Hons) BA(Hons) Solicitor (Non-practising)

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

Decision date: 29 June 2017

Appeal A: Appeal Ref: APP/Q5300/C/17/3169717 19 Bourne Avenue, London, N14 6PB

- 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 Rakesh Patel against an enforcement notice issued by the Council of the London Borough of Enfield.
- The enforcement notice, numbered ENF/16/1171, was issued on 10 February 2017.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised replacement of ground and first floor windows with uPVC windows to the front of the premises.
- The requirements of the notice are:
 1. Remove the uPVC windows installed at ground and first floor to the front of the premises.
 2. Remove all resulting material from the premises.
- The period for compliance with the requirements is three calendar 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.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Decision.

Appeal B: Appeal Ref: APP/Q5300/W/17/3169713 19 Bourne Avenue, London, N14 6PB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Rakesh Patel against the decision of the Council of the London Borough of Enfield.
- The application Ref 16/05356/HOU, dated 18 November 2016, was refused by notice dated 16 January 2017.
- The development proposed is to replace windows on front elevation.

Summary of Decision: The appeal is allowed and planning permission granted.

Procedural matter

1. The description of the development in Appeal B is stated on the application as 'replace windows on front elevation' as stated above. The notice of refusal, however, describes the development as 'the replacement of existing front windows with uPVC windows (retrospective)'. The latter description reflects more accurately the breach of planning control that is the subject of Appeal A. I will therefore determine the appeals on the basis of the latter description.
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The appeal on ground (a), the deemed planning application and the s.78 appeal

2. In these appeals and the deemed planning application I have to determine whether, in effect, planning permission should be granted for the development stated on the notice, that is, the replacement of ground and first floor windows with uPVC windows to the front of the premises. From the reasons for issuing the notice and from the reasons for refusal I consider that the main issue is the whether the uPVC windows preserve or enhance the character and appearance of the Meadway Conservation Area.
3. The appeal property is a two storey detached dwelling on the eastern side of Bourne Avenue within a predominantly residential area of similar properties. It is located within the Meadway Conservation Area and an Article 4(2) direction is in force which relates, among other things, to the improvement or other alteration of a dwellinghouse where any part of the improvement or other alteration would front a highway.
4. The Meadway Conservation Area Character Appraisal states that in exercising its duty to preserve or enhance the character and appearance of the Conservation Area¹ the Council does not seek to stop all development but to manage change in a sensitive way to ensure that those qualities which warranted designation as a Conservation Area are sustained and reinforced rather than eroded². When considering the details and materials of the house types in the Conservation Area the Appraisal refers to such things as the brick details, small oriel windows and tiled porches. There is no mention of the windows as specific features although the replacement of painted softwood windows with uPVC is listed as one of the many changes that have damaged the area's character³.
5. The windows that have been inserted at No 19 match in all respects, save for being uPVC, the original windows I noted at the neighbouring house in that they have the same leaded detail and are of the design and appearance. The patterned diamond detail is also the same. I noted that a large number of other houses had similar uPVC windows; indeed the number houses in the area that had traditional wooden windows was the minority. The Council has not provided any information about the planning status of any of the other windows in the area and whilst I appreciate that they do not justify the grant of planning permission for the windows at No 19 I take them into account as reflecting the current character of the area and I note that all of the windows I saw, including those at No 19, whether wooden or uPVC were of the same design and pattern resulting in conformity of window design which gave the houses a cohesive appearance.
6. Whilst I accept that the uPVC windows are a departure from the original wooden joinery it seems to me that given their similar appearance to the original windows and the conformity of pattern and design with all the other windows I saw I do not consider that they cause any significant harm to the Conservation Area and they do not fail to preserve or enhance the character or appearance of the area.

¹ S.72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990

² Paragraph 1.1.1 of the Conservation Area Appraisal

³ Paragraph 3.3.11 of the Conservation Area Appraisal

7. The Appellant has referred to other features of the uPVC windows, such as added security, energy efficiency and maintenance, which I have taken into account although these matters do not add any weight to my conclusion on the merits of the development so far as the main issue is concerned.
8. Policy DMD44 of the Council's Development Management Document seeks to preserve and enhance heritage assets and requires that development affecting them should seek to complement the asset in all respects of their design, materials and detailing. From what I saw I do not consider that the windows at No 19 are in breach of this policy for the reasons given above. Nor do the replacement windows conflict with Policy DMD37 of the Development Management Document and Policy CP31 of the Council's Core Strategy which seek among other things to improve the quality of the built environment.
9. I therefore conclude that the uPVC windows preserve or enhance the character and appearance of the Meadway Conservation Area and that they comply with the development plan policies to which I have been referred.

Appeal A: Conclusion

10. For the reasons given above, and taking all other matters into account, I conclude that the appeal should succeed on ground (a) and planning permission will be granted.

Appeal B: Conclusion

11. For the reasons given above I conclude that the appeal should be allowed.

Decisions

Appeal A: Appeal Ref: APP/Q5300/C/17/3169717

12. 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 replacement of ground and first floor windows with uPVC windows to the front of the premises at 19 Bourne Avenue, London, N14 6PB referred to in the notice.

Appeal B: Appeal Ref: APP/Q5300/W/17/3169713

13. The appeal is allowed and planning permission is granted for the replacement of ground and first floor windows with uPVC windows to the front of the premises at 19 Bourne Avenue, London, N14 6PB in accordance with the terms of the application, Ref 16/05356/HOU, dated 18 November 2016 and the plans submitted with it.

Gloria McFarlane

Inspector