

Appeal Decision

Site visit made on 27 July 2017

by Andrew Dale BA (Hons) MA MRTPI

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

Decision date: 08 August 2017

Appeal Ref: APP/Y5420/C/16/3164881
118A West Green Road, London N15 5AA

- 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 Abdi Abdullahi Mohamed against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The notice, dated 4 November 2016, was issued under ref. UNW/2015/00146.
 - The breach of planning control as alleged in the notice is "Without planning permission the installation of UPVC windows on the front elevation."
 - The requirements of the notice are to:
 - "i. Remove the UPVC windows that have been installed on the front elevation of the property;
 - ii. Remove any resultant debris".
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the ground set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the 1990 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.

Background

2. The appeal property is a three-storey terraced building on the northern side of West Green Road. Like many other properties in the same terrace (nos 100 to 126A West Green Road), which occupies the land between West Green Road's junctions with Grove Park Road and Lawrence Road, the appeal property has two floors of residential accommodation above a ground floor commercial use. The site falls within the designated Clyde Circus Conservation Area.
 3. The appeal and the enforcement notice concern the uPVC windows which have been installed at first and second floor levels in the front elevation of the residential accommodation above the ground floor commercial use at no. 118A. There are six windows in total, three on each of the first and second floors.
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The appeal on ground (a) and the deemed planning application

4. In assessing whether planning permission ought to be granted for what is alleged in the notice, I consider the main issue is whether the unauthorised development preserves or enhances the character or appearance of the Clyde Circus Conservation Area.
5. It is unfortunate that the appellant was unaware that the property is situated within a conservation area. The subject conservation area is a designated heritage asset of some significance. The part around the appeal site is characterised by the busy commercial activity found along West Green Road and by the uniformity of the three-storey Victorian or Edwardian terraced buildings that line the northern side of the road.
6. The three-storey terraced block between nos 116 to 126A, which contains the appeal property, is architecturally more interesting and distinguished than the adjoining terrace between nos 100 to 114. It is of brick and slate construction. There is considerable embellishment at first floor level including a triangular pediment over the central window in each property. The party walls have notable brick kneelers at roof level. The appeal property is prominent as it lies on the outside of a bend in West Green Road and is one of four properties (nos 116, 116A, 118 and 118A) where their upper parts are aligned in a pronounced staggered formation to the road. I consider that the appeal property and the host terrace at nos 116 to 126A make a positive contribution to the character and appearance of the conservation area.
7. I have not been supplied with any drawings or photographs of the old, pre-existing wooden sash windows. The appellant indicates that they were in a poor condition such that the building was prone to draughts and the windows were dangerous to open. The poor condition of the previous windows would not justify replacing them with windows of unsatisfactory design, appearance, quality and materials; rather it was an opportunity to improve the character and quality of the area. Even though the double-glazed uPVC windows have no doubt been professionally installed, I feel that such an opportunity has been wasted in this case.
8. The Council explains that it has already negotiated with the neighbouring property owners at no. 118 to have the original timber-framed sash windows reinstated. I saw these at the site visit and they seemed to me to be sympathetic to the period, character and appearance of the building. This property is a good example to follow. There is also evidence of such windows at other properties in the terrace, particularly those at no. 124A and no. 126 (first floor only).
9. In contrast, the windows now installed at no. 118A have relatively thick uPVC frames, a top-opening mechanism and an overly modern appearance. They lack the detailing, elegance and opening style of timber sash windows, are clumsy in appearance, especially where the opening and fixed lights meet, and are unsympathetic to the traditional appearance and architectural composition of the host property and terrace. All this is brought into relief given the proximity of the adjacent timber sash windows at no. 118. A high quality design solution has not been adopted at the appeal property.

10. It is true that a number of other properties in the same terrace now have double-glazed uPVC windows. The Council is aware of these and points out that a number of the windows have become immune from enforcement action by virtue of the passage of time. The loss of original details, such as windows, can be a cumulative process which, if left unchecked, can be damaging to the conservation of the built heritage. The other properties with uPVC windows are not good examples to follow. The Council could only be rightly accused of double standards if it had granted planning permission for the installation of uPVC windows in the front of the same terrace in the recent past. There is no evidence before me to suggest that it has granted any such planning permissions.
11. There are always likely to be financial implications where unauthorised development takes place without the necessary planning permission and has to be subsequently put right. This factor carries little weight in the planning balance. There is no apparent reason why replacement timber sash windows could not have been installed to address the concerns about energy efficiency and safety the appellant had with the pre-existing windows.
12. In all, I find that the enforcement notice correctly asserts that the unauthorised uPVC windows, by reason of their unsympathetic design and inappropriate materials, are considered to be an incongruous form of development that detracts from the character and aesthetic quality of the host building as well as the wider Clyde Circus Conservation Area. The development fails to preserve or enhance the character or appearance of that conservation area. I attach considerable importance and weight to this matter given my statutory duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The significance of the designated heritage asset – the conservation area – has been diluted.
13. As is often the case, there have been changes to the development plan background since the issue of the enforcement notice but when read together the relevant policies referred to below continue to place emphasis on high quality design and the conservation of designated heritage assets. The development fails to respect Policies 7.4, 7.6 and 7.8 of the London Plan, Policies DM1 and DM9 of the Council's Local Plan Development Management Development Plan Document 2017 (which have replaced saved Policies UD3 and CSV5 of the Council's Unitary Development Plan) and Policies SP11 and SP12 of the Council's Local Plan Strategic Policies 2017 (which simply consolidates the 2013 version).
14. In terms of the National Planning Policy Framework (the Framework), the magnitude of the harm to the significance of the designated heritage asset may properly be considered to be less than substantial. That being the case, paragraph 134 of the Framework advises that the harm should be weighed against the public benefits of the development, including securing optimum viable use. In this respect, the appellant has not really articulated any points in this appeal that could be included as a public benefit. There are no public benefits identified that can be considered to outweigh the harm I have found. The balance of judgment therefore remains firmly in favour of the preservation of the conservation area. Paragraph 132 of the Framework indicates that great weight should be given to a designated heritage asset's

conservation when considering the impact of development upon its significance.

15. I find on the main issue that the unauthorised development does not preserve or enhance the character or appearance of the Clyde Circus Conservation Area. There is conflict with the development plan and I find no other material considerations of sufficient weight to justify a grant of planning permission. I conclude that the appeal on ground (a) should fail and that planning permission should not be granted on the deemed planning application.

Andrew Dale

INSPECTOR