



Appeal Decision

Site visit made on 6 July 2017

by Susan Wraith Dip URP MRTPI

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

Decision date: 15 August 2017

Appeal Ref: APP/N1540/C/16/3161713

Land at 20 Bury Road, Harlow, Essex, CM17 0ED

- The appeal is made under s174 of the Town and Country Planning Act 1990 [hereafter "the Act"] as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs Jane Jasper against an enforcement notice issued by Harlow Council.
 - The notice was issued on 30 September 2016.
 - The breach of planning control as alleged in the notice is: Without planning permission, alteration to the front of property No. 20 Bury Road: removal of original timber framed door and replacement with a UPVC framed door (as shown in Appendix 1).
 - The requirements of the notice are:
 - 1) Remove the UPVC framed door at the front of the property (as shown in Appendix 1).
 - 2) Insert an original and traditionally designed solid timber door matching the original which was removed, or a neighbouring property where an original survives (samples provided in Appendix 2).¹
 - 3) Remove from the land to which this notice relates all materials, debris and other paraphernalia which results from complying with steps one (1) and (2).
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in s174(2)(a) and (f) of the Act. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under s177(5) of the Act.
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Decision

1. It is directed that the enforcement notice be corrected by:
 - (i) In paragraph 3, deletion of "UPVC framed door" and substitution of "composite door and frame"; and
 - (ii) In paragraph 5(i), deletion of "UPVC framed door" and substitution of "composite door and frame".

Subject to these corrections the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under s177(5) of the Act.

Matters concerning the enforcement notice

2. Before I proceed to consider the appeal I must ensure the notice is in good order. Whilst the notice alleges a UPVC door, the door is in fact of a composite

¹ Requirement 2) also includes the following advisory note: Traditionally designed doors feature two long rectangular single pane windows either side of a central knocker. In some instances original doors feature rectangular wooden panels rather than windows. Other doors feature decorated stain glass window panes. Any fenestration must be single glazed. Reclaimed door would be acceptable.

nature made up of a combination of materials including galvanised steel and hardwood reinforcement, glass reinforced plastic coating and insulating polyurethane foam as well as UPVC.

3. I shall correct the notice by deleting reference to a UPVC door in the allegation and the requirements and substituting "composite door and frame". Whilst the reasons for issuing the notice at paragraph 4 also refer to a UPVC door, things have moved on since the Council drafted these reasons. The matter is looked at afresh through the appeal. Therefore, there is no need for me to make any corrections under this paragraph.
4. I shall make the above corrections under the available powers of s176(1)(a) of the Act. I am satisfied that no injustice will arise to either of the main parties in me so doing.

The appeal on ground (a) and the deemed application

Planning policies and statutory requirements

5. Policy BE9 of the Adopted Replacement Harlow Local Plan 2006 is cited in the enforcement notice. I have also been referred to policies BE1 and BE10. Taken together these policies seek to ensure that new development strengthens local character including in terms of materials and detailed design and that, within conservation areas, is not detrimental to the architectural or historic character and appearance of the conservation area.
6. Planning law requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise.²
7. Reference has been made to the National Planning Policy Framework [hereafter "the Framework"] which sets out the Government's planning policies for England and how it expects these to be applied at local level. The Framework is a material consideration for this appeal.
8. Section 12 of the Framework is concerned with conserving and enhancing the historic environment. It states (amongst other things) 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 conservation³. A conservation area is a designated heritage asset to which this national policy applies.
9. Whilst the development plan policies referred to above pre-date the Framework they are in general conformity with it. Policies BE9 and BE10, however, do not expressly provide for the balanced approach, as set out in paragraph 134 of the Framework, which states that where less than substantial harm is identified to the significance of a heritage asset that harm should be weighed against the public benefits of the proposal in reaching a decision. The weight that I afford to policies BE9 and BE10, therefore, is limited in that respect.
10. The Old Harlow Conservation Area Character Appraisal and the Old Harlow Conservation Area Management Plan are documents adopted by the Council to help with the management of development and change in the conservation area and are further material considerations for the appeal. They are to be read in conjunction with the Article 4 Direction which, in effect, takes away the rights

² S38(1) and (6) of the Planning and Compulsory Purchase Act 2004 and s70(2) of the Town and Country Planning Act 1990.

³ This is set out in paragraph 132 of the Framework.

normally enjoyed by householders to carry out works to their properties and means that alterations (such as the replacement of doors and windows) require express planning permission from the Council.

11. S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in the exercise of planning powers in conservation areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. It imposes a statutory duty on the decision maker to apply this test when considering development proposals within a conservation area.

Main issue

12. When taking into account the planning policies, statutory duties and the evidence submitted by the parties, the main issue in the appeal is the effect of the composite door upon the character and appearance of the Old Harlow Conservation Area.

Effect upon the character and appearance of the conservation area

13. The conservation area has the character and appearance of an old market town which expanded in Victorian and Edwardian times on the coming of the railway. The Bury Road and New Road Character Area, within which the appeal property is located, is characterised by rows of highly attractive terraced and semi detached homes in planned form on a regular sequence of plots. Whilst there is some variety in design there are unifying features including the traditional panelled timber doors to the property fronts which provide an attractive and colourful visual element contributing to the area's strong and distinctive character. These historic properties are of significance both in terms of their individuality and their group value.
14. The appeal property is positioned within a terrace of two storey red brick dwellings ornamented by brick detailing. The façade is of quite simple design, each dwelling having uniformity with each front door providing a focal point. The terrace is specifically identified, in the Conservation Area Appraisal, as being one which makes a positive contribution to the character and appearance of the conservation area.
15. The replacement composite door has two long rectangular single pane windows either side of a central knocker. To that extent it is not dissimilar from the design of the traditional timber doors. However, there are a number of significant differences. For example, its UPVC frame has a stark, white and shiny appearance which is not in keeping with the grain and painted finish of the traditional timber doorframes with their more slender profiles. Whilst designed with a textured finish to resemble wood, the glass reinforced plastic surface appears moulded onto the door and lacks the authenticity of a painted timber surface. The modern manufactured appearance of the door is also different from the crafted appearance of a traditional timber door with its subtle detailing which might include panelling, dovetailed joints and beading for example.
16. Overall, the door appears as a modern and discordant element which detracts from the architectural integrity of the terrace and which erodes the unity of the traditional timber doors of the surrounding properties, those being a defining characteristic of the conservation area.

17. I acknowledge that a number of other nearby properties have replacement doors in modern materials. I do not know the planning circumstances of these other cases and have not been told whether any are the subject of action by the Council. However, in a conservation area modern replacements are not justified by other pre-existing modern alterations. The test is whether the works, in themselves, preserve or enhance the character or appearance of the conservation area. By replacing a traditional timber door with a modern replacement that small part of the history and architectural integrity of the conservation area is lost. Thus, whilst being less than substantial, the effect upon the significance of the conservation area is negative nevertheless.
18. I have considered whether the benefits of the works outweigh this identified harm. I am told that the door has improved the thermal efficiency and security of the dwelling. However, I cannot see why these qualities could not be found with a timber replacement. The door is of durable design and will not discolour and fade. I acknowledge that its "low maintenance" quality will be of benefit to the appellant. However, the weathering effect upon a painted timber door is part of what adds to its character. The design of the door, in this respect, does not result in an enhancement to the conservation area. When taking into account the significant weight that must be given to conserving the area, as set out in the Framework, I find that the harm is not outweighed by these limited benefits in these overall circumstances.
19. I have taken into account all other matters raised including that there would be financial implications for the appellant in complying with the notice. However, none change the conclusion I have reached in my consideration of the main issue.

Conclusions on ground (a) and the deemed application

20. I find on ground (a) that the development fails to preserve or enhance the character and appearance of the conservation area and, thus, offends the policies of the development plan. The public benefits are limited and do not outweigh the harm.
21. Therefore, I conclude on ground (a) that the appeal should fail. The deemed application shall be refused.

The appeal on ground (f)

22. An appeal on ground (f) is that the steps of the notice exceed what is necessary to remedy the breach or, as the case may be, to remedy any injury caused by the breach. The basis of the appeal on ground (f), in this case, is unclear. The notice is seeking a complete remedy of the breach. As the breach alleged is a replacement door it follows that the breach is rectified by the removal the replacement door. This step goes no further than necessary to remedy the breach.
23. A further requirement of the notice is to insert a traditionally designed solid timber door to match that which was removed, or to match other similar traditional timber doors in the area; and which could be a reclaimed door. S173(4)(a) provides that a breach may be remedied by restoring the land⁴ to its condition before the breach took place. This step, in requiring the insertion of a door to match that removed, falls within the scope of S173(4)(a) as it

⁴ In the interpretation given at s336 of the Act the term "land" includes a "building".

restores the building to its former condition. Additionally, it provides for a range of other design options for a replacement timber door. I do not find it excessive.

24. No alternative lesser steps have been suggested by the appellant and there is no obvious alternative that I can identify. The appeal on ground (f) fails.

Conclusion

25. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the deemed application.

Susan Wraith

Inspector