The Planning Inspectorate

Appeal Decision

Site visit made on 11 December 2019

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th January 2020

Appeal Ref: APP/V5570/C/19/3224833
2 St Paul Street, London, N1 7AB.

- 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 Ms M E Daly against an enforcement notice issued by the Council of the London Borough of Islington.
- The enforcement notice, numbered ENF/2017/353, was issued on 31 January 2019.
- The breach of planning control as alleged in the notice is the widening of the front lower ground floor access to the front lightwell and the provision of timber doors and panel glazing.
- The requirements of the notice are (i) remove the timber doors, panels, and frames and associated glazing and fixing; (ii) reinstate the opening to the lower ground floor elevation to the size and dimension of that noted on the attached plan 1319(P)01 and make good the replacement infill in materials, finish and colour to match the existing; (iii) reinstate timber framed doors to fit the reduced size of opening to the design, style, thickness of frames and glazing bar pattern and colour to match the existing as noted in the photograph attached to the notice.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (c) of the Town and Country Planning Act 1990 as amended.

Summary of the decision: The appeal is dismissed, the notice is upheld and planning permission is refused.

Appeal on ground (c)

1. Under this ground the appellant needs to demonstrate that there has not been a breach of planning control because, for example, the work has already been permitted.

2. I note that planning permission was sought in August 2016 for a part 3 storey rear extension and lower floor full width extension. The proposal was revised during the consideration of the application and planning permission was granted on the 17 October 2016 under the ref. P2016/3301/FUL. The description of the development permitted is set out in the decision notice as "Erection of a part two storey and part full width single storey ground floor rear extension and installation of 5 no. photovoltaic solar panels at roof level". The decision notice lists the 12 plans that were approved in condition No.2. and these, all with the prefix of 1319(P), are 01; 02; 02 [sic]; 04; 05; 06; 08A; 09A; 10A; 11A; 14A and 15A.

3. The appellant's agent says that the work to enlarge the front lower ground floor access to the lightwell was indicated on the permitted scheme, (as well as pre-application plans discussed with Council officers), and is therefore permitted. Reference is made to drawings 1319(P)01 and 1319(P)07. On these I note

that drawing 1319(P)01 shows the existing ground floor plan with the two element door to the lightwell, whereas the drawing of the proposal (referred to as 1319(P)07A in Appendix D of the appellant's statement) indicates that the lower front lightwell access is to be enlarged.

4. However, I do not consider that the dotted lines shown on this segment of that plan give a clear and obvious indication that the changes to the front access were to be considered as part of the proposal which otherwise relates to extensions and other work to the rear of the property. I would have expected such an alteration on the plan to be supported by proper drawings of the changes to this main front elevation of the building. In any event drawing 1319(P)07A is not one of the approved plans listed in condition no.2.

5. There is an apparent reference to the accessway on the section drawing 1319(P)15A but while there is an annotation pointing to the access door with the number (3) the Notes specified on the drawing referring to no.(3) refers to a "New flat roof to extension – (no access)". It is therefore not relevant to the appeal issue.

6. In assessing this ground I have placed most weight on the details of the proposal as described in the original application forms, the planning decision notice which grants the planning permission and the actual approved plans but none of these explicitly relates to or authorises the widening of the front lower ground floor access to the front lightwell and the provision of timber doors and panel glazing. On the basis of all of the evidence before me I have to conclude that the works to the lower ground floor access have not been permitted. The appeal on this ground therefore fails.

Appeal on ground (a)

7. The host property is an end of terrace house with the front door raised above street level and accessed by an external staircase. There is a lower ground level which faces a lightwell and the photograph attached to the notice shows that previously there was in the front wall an access door with two vertical glazed panels. The property lies in the Arlington Square Conservation Area and an Article 4 Direction has removed 'permitted development rights' to alter or extend the properties under Schedule 2, Part 1, Class A of the 2015 GPDO[1].

8. The Council describes the terrace as having an appealing and uniform character and appearance with exposed London stock brick, cornice detailing and butterfly roofscape behind. I also noted at my site visit that most of the properties in the terrace have timber sash windows at the front including in the lightwell, and this architectural form contributes to the special character and appearance of the terrace. However, the Council accepts that at some stage in the past the window to the lightwell in the host property has been changed to a door although it retained the width of a sash window.

9. The work specified in the notice and the installation of a glazed panel either side of the door materially changes the appearance of the opening and its symmetrical form with the main windows above. The enlarged opening appears significantly at odds with the overall appearance of the host property and harms its character as well as its contribution to the street scene of the terrace. The work does not preserve or enhance the character or appearance of

[1] The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GPDO)

the area but harms it. I find that the work specified in the notice conflicts with the provisions of Policies DM2.1 (Vii), DM2.3(i) of the Local Plan-Development Management Policies; Policy CS 9 of the Core Strategy and Policy 7.8(D) of the London Plan.

10. I have taken account of the appellant's representations about the circumstances of the replacement door and the nature of other development in the vicinity of the site. However, it appeared to me at the site visit that the attractive architectural appearance of the local properties in the terrace was mainly intact including the form of windows in lightwells, and the Council has explained the background to the more modern form of development opposite the site. I have also taken account of the letters of support from local people.

11. Nevertheless, the National Planning Policy Framework (NPPF) indicates in paragraph 193 that great weight has to be given to the conservation of the heritage asset. While the work in the notice has resulted in 'less than substantial harm' to the asset it has not been shown to have public benefits or was necessary to secure the optimum viable use of the property as indicated in paragraph 196 of the NPPF.

12. I therefore conclude that the other considerations put forward do not outweigh the conflict with the development plan or the harm that the works cause. Therefore, planning permission should not be granted and the appeal on this ground fails.

Formal decision

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

David Murray

INSPECTOR