



Appeal Decision

Site visit made on 7 January 2020

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2020

Appeal Ref: APP/T5150/C/19/3235526 234 East Lane, Wembley HA0 3LQ

- 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 Ali Adnan Haider against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice was issued on 9 July 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, the installation of uPVC windows to the front elevation of the premises, the erection of single and two storey side to rear extensions and roof extensions, the erection of a detached outbuilding in the rear garden, and the installation of solar panels to the roof of the premises. ("The unauthorised development")
 - The requirements of the notice are:
 1. Remove the uPVC windows to the front of the premises.
 2. Install replacement windows which precisely replicate the original windows in terms of stained leaded lights, even sight lines, drip rails, materials, shape and design.
 3. Demolish the single and two storey side to rear extensions and roof extensions, demolish the detached outbuilding in the rear garden, and remove the solar panels from the premises.
 4. Remove all associated debris, items and materials arising from that demolition and removal, and all materials associated with the unauthorised development from the premises, and restore the premises back to its original condition before the unauthorised development took place.
 - The period for compliance with the requirements is 9 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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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.

Preliminary Matter

2. At the time of my visit, demolition of the outbuilding had commenced and solar panels referred to in the enforcement notice had been removed. Nevertheless, it is the breach of planning control stated in the notice that must be considered and the steps which must be taken that are specified in the notice, rather than the breach which remains on site at the time of my visit and those steps which have not been complied with by the time of my visit.

Reasons

The appeal on ground (a)

3. The main issues in the ground (a) appeal are the effect of the development on the character and appearance of the area, including the Sudbury Court Conservation Area, and the effect of the development on the living conditions of neighbouring occupiers, with particular regard to outlook.

Character and Appearance

4. The appeal site is within the Sudbury Court Conservation Area and therefore section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
5. The area is characterised by individually designed and constructed houses largely built in the late 1920s. They feature projecting bays which add to their attractiveness. One of the key design features of the area is the spacious positioning of the houses, set back from gently curved tree-lined roads with generous rear gardens. Houses in the area exhibit particular attention paid to their architectural composition and details such as windows, doors and porches.
6. Evidence indicates the windows which previously existed on the front of the appeal building were elegant, slender and timber-framed. By comparison, the windows which now exist have chunky uPVC frames which are uneven around the opening parts compared to those panes which are fixed. I therefore do not accept that they match the appearance or configuration of those which existed previously. This is clear when comparing Image 1 and 2 provided by the Council. This change significantly harms the character and appearance of the area including the conservation area.
7. An extension to the property has been constructed which is part single storey and part two storey. It has a roof over it which overhangs it significantly. It includes a substantial rear dormer and has a roof pitch which does not reflect that of the original property. These extended parts of the property dominate the building and are harmful to the character and appearance of the area. The effect is clear when viewed from the rear and is seen from neighbouring homes and gardens. The effect, particularly that caused by the roof pitch, is particularly obvious when viewed from the front as the property sits opposite a large public open space from where there are long views of the property.
8. The Sudbury Court Conservation Design Guide recognises that gardens are as important to the character of the conservation area as the houses and provide an aesthetic and environmental value. The appeal property has a deep rear garden which, together with the open and verdant garden areas of neighbouring properties, makes an important contribution to the character of the area.
9. Whilst demolition of the outbuilding has commenced, its height and footprint were clear to me from those parts of it which remained. From the information available, it is clear the outbuilding had a significant footprint and mass. So despite the size of the rear garden of the appeal property, the outbuilding would have appeared as a dominant structure within the garden and would have been harmful to the area's character and appearance including the conservation area.

10. From the information available to me, including the photographs provided by the Council, it is clear the solar panels referred to in the enforcement notice were incongruous features which were particularly visible from the street. They were harmful to the character and appearance of the area including the conservation area.
11. Given the size and scale of the development identified by the enforcement notice, and its effect on the conservation area as a whole, I consider it causes less than substantial harm to the character and appearance of the conservation area. Nevertheless, any harm to the significance of a designated heritage asset should require clear and convincing justification. In accordance with paragraph 196 of the National Planning Policy Framework, I must weigh the harm against the public benefits of the development.
12. The appeal scheme increases the amount of accommodation available to occupants of the appeal dwelling and may have reduced the energy usage of the property to some extent although there is limited evidence to support this. However, based on the information available, these are not public benefits of sufficient weight to outweigh the harm to the conservation area in this case. I conclude therefore overall that the appeal development harms the character and appearance of the area, including the conservation area.
13. As such, in respect of this main issue, the development does not comply with Policies DMP1 and DMP7 of Brent's Development Management Policies Document 2016, Policy CP 17 of Brent's Core Strategy 2010, the Sudbury Court Conservation Area Design Guide 2015, the Residential Extensions & Alterations Supplementary Planning Document 2 2018 ('SPD2') or Supplementary Planning Guidance No 20 Buildings in Gardens within Conservation Areas ('SPG20').

Living Conditions

14. The rear garden outbuilding was very close to the property boundary and was of a considerable height and footprint. From the information available to me, the outbuilding would have appeared as an overbearing feature when viewed from the neighbouring properties at the side and rear. As a result it would have harmed the outlook of the occupants of those properties and consequently their living conditions. As such, it did not comply with Policies DMP1, DMP7 or CP 17 noted above, SPD2 or SPG20.
15. The enforcement notice identifies that the single and two storey side to rear extensions and roof extensions are harmful to the amenity of the occupiers of neighbouring properties, with particular regard to outlook from their habitable rooms and gardens. But there is limited evidence which satisfies me this is the case or from precisely where this effect is appreciated. So I have not found harm as a result of this element of the development in this specific regard.
16. As part of the ground (a) appeal the appellant has proposed remedial works, drawing on previous planning permissions which have been granted. However, under section 177 of the Town and Country Planning Act 1990 (as amended), the planning permission which may be granted under ground (a) may only be in respect of the matters stated in the enforcement notice. So the deemed planning application for the enforcement appeal cannot include an alternative scheme. In any event, there is no evidence to indicate the earlier planning permissions referred to by the appellant remain extant or that they would be approved if applied for again.

Considering all of the above points, overall I conclude that the appeal on ground (a) fails.

The appeal on ground (f)

17. Under section 173(4) of the above Act, when serving an enforcement notice the Council may seek to (a) remedy the breach of planning control, or (b) remedy any injury to amenity which has been caused by the breach. In this case, the purpose of the enforcement notice is to remedy the breach of planning control. This is explicitly stated in Schedule 4 of the notice. Whilst the appellant proposes remedial works, no lesser steps have been suggested which would achieve the purpose of the notice, nor are there any which are obvious. As such, the appeal on ground (f) fails.

Other Matters

18. The appellant states the replacement uPVC windows to the front of the property were installed with a grant approved by the Council. But the information provided indicates a grant was approved by a housing department of the Council for **repair** work. Repair is not the same as replacement. The information provided indicates a request to allow the installation of uPVC windows instead of repair was made after the grant for repair was approved. Moreover, no evidence has been provided that the above request was approved by the Council as local planning authority.
19. Whilst requiring the removal of uPVC windows may mean grant money was not spent efficiently, in this case this consideration must be balanced against the need to preserve or enhance the character or appearance of the conservation area. In light of the harm identified above, I am not satisfied this consideration is a good enough reason to allow the uPVC windows to remain, given the statutory requirement that I must pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Conclusion

20. For the reasons given above I conclude that the appeal does not succeed. I uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

L Perkins

INSPECTOR