
Appeal Decisions

Site visit made on 16 December 2019

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 27 January 2020

Appeal A: Ref: APP/A5270/C/19/3230711

Appeal B: Ref: APP/A5270/C/19/3230712

34 Chatsworth Road, Ealing, London W5 3DB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - Appeal A is made by Mohmed Mansur and Appeal B is made by Zeinah Zarouk against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The enforcement notice was issued on 13 May 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, the construction of a pitched roof canopy porch to the front of the premises.
 - The requirements of the notice are
 - I. Remove the front pitched roof canopy porch in its entirety and restore the pre-existing pillared porch as depicted on the attached photograph; and
 - II. Remove all resultant debris
 - The period for compliance with the requirements is three months.
 - Appeal A is proceeding on the grounds set out in sections 174(2)(a)(f)(g) of the Town and Country Planning Act 1990 as amended.
 - Appeal B is proceeding on the grounds set out in sections 174(2)(f)(g) of the Town and Country Planning Act 1990.
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Decision

1. The appeals are dismissed and in respect of Appeal A, planning permission is refused on the application deemed to have been made under Section 177(5) of the 1990 Act as amended and the enforcement notice is upheld.

The appeal under ground (a) and the deemed planning application

2. Ground (a) is that planning permission should be granted for the matters stated in the notice.
3. The main issue is whether the development would preserve or enhance the character or appearance of the Hanger Hill (Haymills) Estate Conservation Area (the Conservation Area).
4. Conservation Areas are designated heritage assets as defined by the National Planning Policy Framework (the Framework) and great weight is to be given to its preservation and conservation. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 also requires that special attention be given to the desirability of preserving or enhancing the character or appearance of a conservation area.

5. The dwellings on Chatsworth Road are largely detached and the prevailing pattern of porch arrangements is of simple pillar type canopies with flat roofs to the front of the dwelling. Dwellings either side of the appeal dwelling have modest flat canopies with no pillars and the pattern of simple porch arrangements adds to the character of the Conservation Area.
6. The Conservation Area Management Plan states that to be acceptable front porches must be designed to match the style and materials of the existing house. To maintain the character of the area, there is an Article 4 Direction in force which removes permitted development rights for alterations to front elevations and new front porches.
7. The appeal porch replaced the original porch which had the prevalent simple design of a flat roof and pillars. The appeal porch is of a different style, taller, extends along the front of the dwelling and has a monopitch roof and guttering. The porch also has orange timber cladding both to the side and front fascia in a wide block across the length of the front of the porch roof. The appellant indicates that he has followed the shape and design of No 28 Chatsworth Road but with different dimensions and colours. However, the traditional pillar type flat front porch is prevalent in Chatsworth Road and the difference in materials and overall mass mean that the two porches are not comparable in any event.
8. The combination of height, scale, projection and design is not in keeping with the overall style of the dwelling and is harmful to the Conservation Area. The harm would be less than substantial. In accordance with paragraph 196 of the Framework, the harm identified should be weighed against the public benefits of the development. However, no public benefits are advanced by the appellant.
9. Although the appellant seeks to retain the existing porch and adjust the front roof top and adjust some dimensions and paint the timber cladding a different colour without details of plans, materials or dimensions, it is not clear what is envisaged and the merits of what is being proposed cannot therefore be assessed. Whilst it may be the case that removal is more costly than adjustments, that is not a matter that outweighs my finding of harm particularly when the nature and extent of those adjustments is not known.
10. The development is therefore contrary to Policy 7.8 of the Spatial Development Strategy for London Consolidated with Alterations since 2011 Adopted March 2016, Policy 7C of Ealing's Development Management DPD (2013) and Policy 1.1 of the Adopted Ealing Development Core Strategy (2012) which collectively seek to ensure that new development preserves the significance of heritage assets.

The appeal under ground (f)

11. The appeal on ground (f) is that the requirements of the notice exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. With regard to ground (f), it is essential to understand the purpose of the notice. Under s173(4)(a) of the 1990 Act, one of those purposes is to remedy the breach of planning control by restoring the land to its condition before the breach took place. In the notice, the matters which constitute the breach of control are the construction

of a pitched roof canopy porch to the front of the premises. The notice requires the removal of the pitched roof canopy porch in its entirety and to restore the pre-existing pillared porch as depicted on the photograph provided and to removal all resulting debris. The purpose of the notice is therefore clearly to remedy the breach of planning control by restoring the land back to its condition before the breach took place. As the steps require no more and no less, they are not excessive requirements. As such, the ground (f) appeal must fail.

The appeal ground under ground (g)

12. The appeal on ground (g) is that the period for compliance specified in the notice falls short of what is reasonable. The period of 3 months has been provided for compliance. At the time of lodging the appeal, the appellant was concerned that the compliance period would fall within the school summer holidays when the appellant would be away on holiday. However, as summer holidays have passed, I consider a three month compliance period to comply with the terms of the notice to be reasonable. The appeal on ground (g) therefore fails.

Conclusion

13. For the reasons given, I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application (Appeal A).

E. Griffin

INSPECTOR