



Appeal Decision

Unaccompanied site visit made on 15 April 2019

by Tim Belcher FCII, LLB(Hons), Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 31 January 2020

Appeal Ref: APP/F5540/C/18/3205362
160 Gunnersbury Avenue, London, W3 8LB

- 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 1990 Act").
 - The appeal is made by Ash Sahni ("the Appellant") against an Enforcement Notice issued by the Council of the London Borough of Hounslow ("the Council").
 - The Enforcement Notice was issued on 16 May 2018.
 - The breach of planning control as alleged in the Enforcement Notice is without planning permission the installation of UPVC windows on the front elevation of the house.
 - The requirements of the Enforcement Notice are: i) Remove the UPVC windows from the front elevation of the house. ii) Reinstall the original timber casement windows; and iii) Remove the resultant debris from the Land.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in Section 174(2)(a) of the 1990 Act.
 - **Summary of Decision:** The appeal is dismissed, and the Enforcement Notice is upheld with variations.
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Procedural Matters

1. In my Appeal Decision I will refer to:
 - a) The Gunnersbury Park Conservation Area as "the Conservation Area".
 - b) The front windows at No. 160 which have been replaced as "the Original Windows".
 - c) The replacement front windows at No. 160 as "the Replacement Windows".
2. No. 160 is within the Conservation Area. There is a statutory duty when dealing with appeals relating to buildings in Conservation Areas that special attention is paid to the desirability of preserving or enhancing the character or appearance of that area ("the Conservation Area Test"). This is the approach that I have adopted in dealing with this appeal.
3. No. 160 is subject to an Article 4 Direction which removes permitted development rights to, amongst other things, replace windows that front on to a highway.

Reasons - Ground (a) and the deemed planning application – that planning permission should be granted for what is alleged in the Enforcement Notice.

Policy

4. The Development Plan for the area includes Policies CC1, CC2 & CC4 of the London Borough of Hounslow Local Plan ("the Local Plan").

5. The Local Plan explains that:

- a) The Council will recognise the context and varied character of the Borough and seek to ensure that all new development conserves and takes opportunities to enhance their special qualities and heritage.
 - b) The Council will retain, promote and support high quality urban design to create attractive places.
 - c) The Council will conserve and take opportunities to enhance the significance of the Borough's heritage assets as a positive means of supporting an area's distinctive character and sense of history.
 - d) Any development within a Conservation Area must conserve and take opportunities to enhance the character of the area.
6. The Council have also produced a Character Appraisal for the Conservation Area ("the Appraisal"). The Appraisal explains, amongst other things, that:
- a) Gunnersbury Avenue is an extremely busy thoroughfare.
 - b) No. 160 forms part of the Gunnersbury Park Garden Estate ("the Estate") and was built in about the mid-1920s.
 - c) Some features of houses in the Estate, including windows have been altered, however the Estate's general character and appearance remains.
 - d) The Estate is covered by an Article 4 Direction to protect what remain of the original features.
 - e) There is continued pressure for UPVC double glazing within the houses on the Estate.

Main Issue

7. Are the Replacement Windows out of keeping with the Original Windows and do they fail to preserve the character and appearance of the Conservation Area?

Assessment

8. The Council do not raise any concerns about the use of UPVC windows at No. 160. Their concerns are that the Replacement Windows have not been designed to reflect the qualities of the Original Windows.
9. The appearance of the Original Windows included:
- a) That the first floor windows had three/four panes of glass set within relatively narrow frames and the position of the glazing within the frames created a flat appearance.
 - b) That the main ground floor window had eight panes of glass set within narrow frames and again creating a flat appearance. The ground floor windows were divided by way of a horizontal bar with a smaller area of glazing being near the top of the frame.
10. By contrast the Replacement Windows:

- a) Because of the depth of the frames and the position of the glazing within the frames has resulted in an uneven profile which clearly fails to reflect the "flat appearance" of the Original Windows.
 - b) Have introduced a different configuration of glazing within the first floor windows.
 - c) Have frames that are thicker and bulkier than the Original Windows.
- 11 I consider that the Replacement Windows fail to accurately reflect the appearance of the Original Windows and consequently fail to recognise the context and character of No. 160 and the dwellings closest to No. 160. As a result, I conclude that the Replacement Windows are out of keeping with the Original Windows and they fail to preserve the character and appearance of this part of the Conservation Area. Accordingly, the Replacement Windows are contrary to the relevant parts of the Local Plan and fail to comply with the Conservation Area Test.

Other Matters

- 12 I understand that the Appellant was unaware of the Article 4 Direction and the need for planning permission for the Replacement Windows. It is usual to carry out a Local Land Charges Search prior to purchasing a property when this type of information would usually be disclosed to potential purchasers. There is no suggestion that the Council failed to reveal the Article 4 Direction during the conveyancing procedure.
- 13 I have also had regard to all the replacement windows in the dwellings along this part of Gunnersbury Avenue. However, even if there are examples of windows which fail to reflect the character and appearance of the Conservation Area this is not a good reason to allow the Replacement Windows, which for the reasons explained above, fail to comply with the Development Plan and the Conservation Area Test.

Ground (f)

- 14 The Appellant has not explicitly relied on Ground (f) which states that the steps required to comply with the requirements of the Enforcement Notice are excessive and lesser steps would overcome the objections. In this case the Council seek the reinstatement of the original timber casement windows. It seems highly unlikely to me that the "original timber casement windows" now exist or would be capable of reinstatement. As the Council have indicated that there is no objection to UPVC windows I consider the Enforcement Notice's requirements stated in paragraph ii. and iii. of Part 5 are excessive and can be deleted. I am aware that this would leave No. 160 without some windows in its front elevation. However, the Appellant can apply for planning permission for replacement windows and agree a design with the Council that would be appropriate for No. 160 and this part of the Conservation Area. This would not be that onerous as the Council have recently approved replacement UPVC windows at No. 164. If it takes longer than the three month period for compliance to achieve a satisfactory scheme for replacement windows but progress is being made towards that end the Council have powers to extend the compliance period.

Overall Conclusions

- 15 For the reasons given above I conclude that the appeal should not succeed. I shall uphold the Enforcement Notice with the variations explained above and refuse to grant planning permission on the deemed application.

Formal Decision

- 16 It is directed that the Enforcement Notice be varied by the deletion of parts ii. and iii. of paragraph 5. Subject to these variations the appeal is dismissed, and 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.

Tim Belcher

Inspector