



Appeal Decisions

Site visit made on 8 June 2020

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2020

Appeal A Ref: APP/L5810/C/19/3243290

68 Kew Road, Richmond TW9 2PQ

- 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 Tanya Lawler against an enforcement notice issued by the Council of the London Borough of Richmond-upon-Thames.
- The enforcement notice, numbered 19/0018/EN/UBW, was issued on 28 November 2019.
- The breach of planning control as alleged in the notice is the application of render to the front façade and alterations to window sills, to the decorative brickwork below the sills and to the arched lintels above the windows and front door.
- The requirements of the notice are;
 - (i) Carefully remove the unauthorised render, using hand tools only in order to minimise damage to the original brickwork of the Property.
 - (ii) Following compliance with step 5(i) above return the front façade to its condition prior to the breach of planning control, so that it displays the brickwork finish
 - (iii) Reinstate the window sills and the decorative brickwork below the sills and to the arched lintels above the windows and front door
 - (iv) Ensure that any damage to the brickwork caused as a result of compliance with step 5(iii) above is repaired on a like for like basis using matching materials.
- The period for compliance with the requirements is 3 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.
- 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.

Summary decision: The appeal is dismissed and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Appeal B Ref: APP/L5810/C/19/3242992

68 Kew Road, Richmond TW9 2PQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Ms Tanya Lawler against the decision of the Council of the London Borough of Richmond-upon-Thames.
- The application Ref 19/2885/HOT, dated 20/09/2019, was refused by notice dated 15 November 2019.
- The development proposed is part retrospective application for remedial work for the front elevation subsequent to appeal.

Summary decision: The appeal is dismissed.

Decision

Appeal A

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.

Appeal B

2. The appeal is dismissed.

Application for costs

3. An application for costs was made by Ms Tanya Lawler against the Council of the London Borough of Richmond-upon-Thames. This application is the subject of a separate Decision.

Background and procedural matters

4. There are several planning applications and an appeal that directly relate to this development. A planning application for the alterations to the front façade was refused on 21 May 2019. The subsequent appeal (APP/L5810/D/19/3232122) was dismissed on 27 August 2019. Following this, the application subject to this appeal was submitted and refused, with the enforcement notice then issued.
5. I note that the original description of the development as described on the application form, was amended slightly by the Council to 'Part retrospective application for application of render and reinstatement of architectural detailing', during the course of the application. As this provides more detail and better describes the development applied for, I shall use this description for the purposes of determining these appeals.

Main Issue

6. I have had regard to the reasons why the Council refused the planning application and issued the enforcement notice. The main issue is the effect of the development to the character and appearance of the host building and the Kew Foot Road Conservation Area (KFRCA).

Reasons

7. I note that in the appellants Grounds of Appeal Statement (para 5.2), it is contended that the appeal under ground (a) should be granted, not for what is alleged in the notice, but on the basis of the proposed remedial works submitted as application 19/2885/HOT. However, an appeal under ground (a) can only consider the planning merits of the alleged development that has already taken place and is targeted by the notice.
8. In this case the allegation set out in the notice relates to the application of render to the front façade and alterations to window-sills, the decorative brickwork below the sills and to the arched lintels above the windows and front door. The s78 appeal however, is partly retrospective with regard to the application of render, but also proposes the reinstatement of architectural detailing. Because of these differences I shall consider the works that have

been carried out for both appeals, before going on to consider the remedial works that are proposed by the application.

9. The appeal site is located within a terrace of three storey dwellings to the south east of Kew Road. The terrace including No 68, are identified as buildings of Townscape Merit and lie within the KFRCA. The consistency of scale, design and detailing of the dwellings that make up the terrace, make an important contribution to the character and appearance of the KFRCA and the wider area.
10. At my site visit I was able to view the other buildings referred to by the appellant, including No 76. I have also had regard to the previous appeal decision and can see no reason to disagree with the previous Inspectors assessment of these other sites. From my site visit it was apparent that the commercial buildings are more varied in detail and several of the dwellings in the terrace have also undergone alterations, including external painting. Nonetheless, the important architectural detailing is generally still apparent, with the integrity of the terrace retained. I accept that some of these changes appear to be more successful than others, but it is for the Council to decide what action to take. I do not consider that their existence would justify allowing further unacceptable erosion of these buildings.
11. It was clear from my site visit that prior to these works there remained a strong degree of uniformity within the terrace, generally with each dwelling complementing the others. In contrast, the removal of window and façade details and the extensive use of dark painted render, makes the appeal building appear overly prominent and incongruous, when compared with others in the street scene. This prominent appearance has the effect of eroding the positive contribution the building makes to the rest of the terrace and the KFRCA. Overall, I find that these alteration have resulted in significant harm to the character and appearance of the host building, the terrace and the KFRCA.
12. I turn now to the remedial works that are proposed by the planning application and the subsequent Appeal B. The application sought to retain the render but partly replace the projecting window-sills, aprons, voussiors and lower string courses, using reconstituted stone. It is acknowledged that this would go some way towards restoring some of the missing features. However, this proposal would result in the various mouldings projecting further out than those on the adjacent properties. This would unacceptably detract from the uniform appearance and architecture of the terrace.
13. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires Local Planning Authorities to pay special attention to the desirability of preserving and enhancing the character or appearance of conservation areas.
14. The National Planning Policy Framework (the Framework) states that harm to a heritage asset might be defined as 'substantial' or 'less than substantial.' However, Planning Practice Guidance advises that in general terms, substantial harm is a high test and that works that are moderate or minor in scale, are likely to cause less than substantial harm, or no harm at all. In finding harm to the Conservation Area, due to the small-scale nature of the development, I would quantify its extent to be less than substantial.
15. Nonetheless, I attach considerable importance and weight to that harm, and in applying the test set out in the Framework, I acknowledge that the continued

use of the building for residential purposes is of some public benefit and this weighs in favour of the development. Nonetheless, I do not consider that this is sufficient to offset the harm I have identified.

16. Drawing all of the above points together, I find that the development results in an untraditional and inappropriate treatment of the host building, which is unsympathetic and incongruous in the context of the street scene. It fails to preserve or enhance this building of Townscape Merit and the wider KRFA. The development as carried out and that proposed, is significantly harmful and in conflict with policies LP1, LP3 and LP4 of the London Borough of Richmond upon Thames Local Plan (2018). These policies when taken together, seek to ensure that development is of high architectural and urban design quality, that respects and makes a positive contribution to the character of designated and non-designated historic, and local environments.

Ground (f)

17. In appealing ground (f) the appellants need to demonstrate that the requirements of the notice exceed what is required to remedy the breach of planning control, or injury to amenity, depending on the purpose of the notice. The purpose of the notice in this instance is to remedy the breach of planning control.
18. It is the appellants case that the enforcement notice should be varied to allow the render to remain, but requiring the remedial work applied for in the s78 planning application and appeal. Alternatively, particular elements of that proposal to be carried out, as the Inspector sees fit.
19. I have already considered the retention of the render and the proposed remedial works above and found that they do not provide an appropriate solution. Consequently, I find that the requirements of the notice are not excessive and the appeal on ground (f) fails.

Other matters

20. I recognise that the render was applied to alleviate a damp problem at the property. I also understand the appellant's view that its removal may not be straightforward. However, I have not been provided with any evidence to demonstrate that the careful removal of the render cannot be achieved, or that there no alternatives that would provide adequate weatherproofing for the building.

Conclusion

Appeal A

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

Appeal B

22. for the above reasons I conclude that the appeal should be dismissed.

Hilary Orr

INSPECTOR