



Appeal Decision

Site visit made on 6 October 2020

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 04 November 2020

Appeal Ref: APP/Y5420/C/20/3249027

14 Vallance Road, London N22 7UB

- 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 Samiul Ahsan against an enforcement notice issued by the Council of the London Borough of Haringey.
- The enforcement notice was issued on 10 February 2020.
- The breach of planning control as alleged in the notice is:
 1. Unauthorised installation of UPVC Windows to the front and rear elevation of the property at first and ground floor level.
 2. Unauthorised UPVC front entrance door.
- The requirements of the notice are to:
 1. Remove the UPVC windows installed to the front and rear elevation of the property at first and ground floor level.
 2. Remove the UPVC front entrance door.
 3. Remove all resultant debris from carrying out step 1 and 2 above.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) (b) and (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act fall to be considered.

Decision

1. 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.

Procedural Matter

2. While an appeal has not been made under ground (c), that the matters stated in the notice if they occurred did not constitute a breach of planning control, the appellant has made reference to carrying out the works under permitted development. However, rights permitting development within the curtilage of a dwellinghouse¹ do not apply in this case since the appeal property is used for separate self-contained flats.

Ground (b)

3. For an appeal to be successful under this ground, the appellant must satisfy on the balance of probabilities that the matters stated in the notice have not occurred.

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015, Article 3, Schedule 2, Part 1

4. The appellant accepts that windows and a door comprised of UPVC have been installed at the property as described in the notice allegation. Therefore, the appeal under this ground fails. The claim made by the appellant, of which it is not necessary for me to take a view, that there was no clear communication from the Council that UPVC was not an acceptable material to be used in these circumstances is not a basis for success under this ground.

Ground (a) and the deemed planning application

Main issue

5. The main issue in this appeal is the effect of the development on the character and appearance of the Vallance Road Conservation Area (CA).

Reasons

6. The appeal site is a 2 storey residential property consisting of two flats and is located within the CA. I have applied the statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paid special attention to the desirability of preserving or enhancing the character or appearance of the CA by attaching considerable importance and weight to that desirability.
7. The installed UPVC door and windows are not in keeping with the property's Arts and Crafts character or with the majority of properties in this part of the CA which have timber-framed windows consistent with the period in which they were constructed. UPVC is not a traditional material and is generally heavier, more even, smoother and glossier in finish than traditional doors and windows, creating a modern and less refined appearance. The installations to the front of the appeal property, particularly but not exclusively the door, are prominent on the streetscene due to these features and are readily appreciated as incongruous with the historic and architectural setting of the CA. I come to this view notwithstanding the appellant's submission that the installations are of a similar size and colour to pre-existing with some attempt to replicate design such as patterned glass.
8. While I accept the appellant's submissions that there are other examples of properties nearby with UPVC installations, these in the main appear to be immune from enforcement due to the passage of time or were installed before the designation of the CA. In any respect, the appeal property's use of UPVC is not justified by the presence of other examples in the streetscene and adds to the cumulative harm caused to the CA.
9. Having regard to paragraph 196 of the National Planning Policy Framework, whilst the harm caused to the significance of the CA would be less than substantial, it is a matter of considerable weight and importance. The development arguably increases energy efficiency through the replacement of pre-existing ageing and decaying features, but this public benefit does not outweigh the harm. Although the development may be more economical and less expensive for the appellant and occupiers of the appeal property, and possibly has security benefits, these do not constitute public benefits.
10. I conclude the development fails to preserve the character or appearance of the CA, and would cause less than substantial harm to its significance as a designated asset. The public benefits do not outweigh this harm and the proposal is therefore contrary to Policies 7.4, 7.6 and 7.8 of the London Plan

(2016), Policies SP11 and SP12 of the Haringey Local Plan Strategic Policies 2013-2026 (2013) and Policies DM1 and DM9 of the Development Management Development Plan Document (2017) which together seek to ensure that proposals are of good design and protect the character and appearance of places, including conservation areas. The proposal is also contrary to the heritage protection and design principles of the Framework.

11. The proposed development would not accord with the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal under ground (a) fails.

Ground (f)

12. It is clear from the way the requirements of the notice have been drafted that the Council is pursuing the purpose of remedying the breach of planning control rather than remedying injury to amenity. The notice requirements do this by restoring the land to its condition before the breach took place, and accordingly are not excessive.
13. The appellant has not suggested other steps and there is no alternative scheme that is obvious to me that would achieve the purpose of the notice.
14. Therefore, while declining to use my powers under ground (a) to grant planning permission for the development in whole or in part, I will also not vary the notice under ground (f) as no lesser steps are possible to remedy the breach of planning control than as required in the notice. Therefore, the appeal under ground (f) fails.

Conclusion

15. 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.

Andrew Walker

INSPECTOR