



Appeal Decisions

Site visit made on 17 December 2020

by Simon Hand MA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 08 January 2021

Appeal A: APP/N5660/C/20/3244953

28 Streatham Common North, London, SW16 3HP

- 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 Anwar Ansari against an enforcement notice issued by the Council of the London Borough of Lambeth.
 - The enforcement notice, reference EN/18/00710/3CNS, was issued on 6 December 2019.
 - The breach of planning control as alleged in the notice is without planning permission, other than the windows located in both the ground floor (two storey) front and (single storey) rear bay located at the eastern end of the building and the windows located in the single storey additions on the east facing elevation of the building, the unauthorised removal of the traditionally proportioned original wooden casement windows comprising of both clear glass and leaded panes of glass, from the front, side and rear elevations of the premises, including the dormers located in the front and rear roof slopes, and the insertion of replacement windows comprising a mix of uPVC, aluminium and wooden frames with clear glazing ('the unauthorised replacement windows').
 - The requirements of the notice are (a) remove the unauthorised replacement windows from the premises and reinstate the wooden casement windows comprising of both clear glass and leaded panes of glass precisely as existed prior to the breach of planning control replicating the size, materials, design, opening style and profile in all respects; and (b) remove all associated waste and debris resulting from compliance with the above steps, from the premises.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/N5660/W/20/3255830

28 Streatham Common North, London, SW16 3HP

- 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 Mr Anwar Ansari against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 20/00335/FUL, dated 27 January 2020, was refused by notice dated 20 April 2020.
 - The development proposed is replacement of the windows.
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Decisions

Appeal A: APP/N5660/C/20/3244953

1. It is directed that the enforcement notice be varied by deleting from requirement (a) the words "precisely" and "in all respects" and by substituting "6 months" for "3 months" as the period for compliance. 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 as amended.

Appeal B: APP/N5660/W/20/3255830

2. The appeal is dismissed.

The Appeal on Ground (e)

3. This ground is that the notice was not properly served on everyone with an interest in the land. However, it is not sufficient to show it was not properly served, but also that as a result those people have been prejudiced by the failure of service.
4. In this case the Council records show the notice was delivered to the appeal site, copies going to every flat, and to the appellant's home address at Coombe Farm in Croydon. As is their policy they hand delivered the notices to the flats and posted them to Croydon. However, the appellant says the flats were empty at the time and he never received them at home so he only found out about the notice by accident when going through the post at the appeal site on 10 January, leaving him only a few days to appeal.
5. It seems the appeal property was in the hands of receivers at the time, hence it being empty, and the appellant only saw the post during an inspection visit. Quite why arrangements hadn't been made to forward any post on is not explained and in any event the Council's records show they did send the notice to the appellant's home in Croydon. It is unfortunate he did not receive any of the several copies sent there (to the appellant personally and his company registered at the same address). However, even if that was the case it is difficult to see how he has been prejudiced as he was able to make an appeal, and no suggestion as to how the loss of time has weakened his ability to make his case has been proffered. The appeal on ground (e) fails.

The Appeal on Ground (a) and the s78 Appeal

6. No28 stands on the north side of Streatham Common, on the corner of Deerhurst Rd and Streatham Common North. It has a sizable back garden, which although bounded by a tall fence to the road allows views across the back of the property. The conservation area boundary runs along the back of the rear gardens of the houses that front onto the common, so the whole of No28 including its garden is within the conservation area. From further down Deerhurst Road there are views into the conservation area which include the rear and side of No28.
7. In this part of the conservation area the houses that front onto the common are large detached or semi-detached villas, mostly built in a typical Edwardian style and No28 as noted by the Council has strong hints of Voysey and Baillie Scott. In other words it is a striking and attractive building. Some of the original wooden frames are still in place. That on the eastern, ground floor bay has an arched central panel with curved quarter lights above it and pronounced detailed moulding around the frames. The surviving rear bay window is plainer, with sturdy wooden frames and detailed moulding around the opening half lights. Two small side windows also remain, possibly because of their unusual arched shape. All the other windows would seem to have been replaced by wooden/metal composite double glazing.

8. As is typical of these sorts of villas there are a lot of windows, with different panel arrangements in different sized frames, housed in a variety of openings, dormers and at an angle round the front door. The whole treatment of the fenestration is an important part of the architectural quality of the building and helps to make the house distinctive. Although it is not listed the house still plays an important part in the conservation area, and is clearly visible from the rear and side, and as noted above, all the views of the house include the conservation area. The quality of the fenestration is thus important for the overall quality of this part of the conservation area.
9. The replacement windows are completely different to the originals. Although they may be made of wood internally, from the outside they look like aluminium frames. They are narrower and completely flat and featureless. They seriously detract from the quality of the house and do not preserve the character and appearance of the conservation area. The appeals on ground (a) and s78 fail.

The Appeal on Ground (f)

10. I do not think that in this case the side and rear of the house deserve less attention than the front because of its position on the corner of a road leading into the conservation area. Although the front façade creates the greatest impression, the side and rear are also important components of the house as a whole, and it is as a unified entity that it is appreciated within the conservation area.
11. However, it is an open question what should replace the unacceptable new windows. The requirements would suggest the new windows should be exactly the same as the old, but I have no issue, for example, with double glazing. The reason for refusal for the s78 appeal says the new windows fail to respond to the architecture, fenestration, materials and local context, which seems to be exactly right to me, but does not necessarily require the old windows to be exactly replicated. The loss of traditional windows in the conservation area has been highlighted as a serious issue so the replacements need to reflect the materials, opening style and profile of the originals, but not necessarily 'precisely'.
12. I note the appellant's argument concerning the windows in the neighbours' houses. There are 6 houses between Deerhurst and Minehead Road to the east, and all have replacement windows, of varying quality; while there are 5 between Deerhurst and Valley Road to the west, all of which also have replacement windows, although the furthest house has a mix of traditional and replacement and some I noticed were of a high quality that enhanced the look of the houses. Because of the detailing of the lost windows a more traditional approach will need to be taken at No28, and the fact that the neighbours have lost their original windows only made those that survived more precious.
13. I recognise that the limitations of an enforcement notice make it difficult to frame the requirements in any other way than to simply replace what has been lost, but there is greater latitude with a s78 application. However, in this case the planning appeal is only for the windows as replaced and they are unacceptable. I have no choice therefore other than to refuse both appeals and to uphold the notice with minor changes to the requirements to remove the words 'precisely' and 'in all respects'. However, there is no reason why a compromise solution could not be found that would at least allow for double

glazing and to this end I shall allow the appeal on ground (g) and extend the period for compliance to 6 months to allow that to be explored.

Simon Hand

Inspector