



Appeal Decision

Site visit made on 26 January 2021

by Jonathon Parsons MSc BSc(Hons) DipTP Cert (Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd February 2021

Appeal Ref: APP/A5270/W/20/3260856

58 Holyoake Walk, Ealing W5 1QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Snowik Ltd against the Council of the London Borough of Ealing.
 - The application Ref 201677HH, dated 28 April 2020.
 - The development is rear windows and front circular window and external doors.
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Decision

1. The appeal is dismissed and planning permission refused, insofar as it relates to the rear windows at 58 Holyoake Walk, Ealing W5 1QJ. The appeal is allowed and planning permission granted, insofar as it relates to the front circular window and external doors at 58 Holyoake Walk, Ealing W5 1QJ in accordance with the terms of the application, Ref 201677HH, dated 28 April 2020, and the plans submitted with it, so far as relevant to that part of the development hereby permitted.

Procedural Matters

2. The external alterations were in place at the time of my site visit and have been considered on the basis of being built.
3. The appeal is against the non-determination of a planning application by the Council. Had it been in a position to do so, the Council would have refused the planning application on the following grounds:

“The proposed replacement windows, in particular to the front elevation fail to contain essential features present in the adjoining terrace row and locality, including external hinges, split transom, slim glazing panes, deep cills, rounded moulding to the frame head, which. As such, the retention of the existing windows would be at odds with the preservation and enhancement of Brentham Garden Estate Conservation Area contrary to policies 7.4, 7B and 7C of the Ealing Development Management Development Plan, Draft New London Plan (2019) Policy HC1; section 16 of NPPF 2019; and guidance set out in the Brentham Garden Estate Conservation Management Plan and Area Appraisal.”
4. The Council’s description of the scheme refers to all windows. In contrast, the application description refers to the retention of rear and front circular windows, and doors only. This has further been confirmed by the appellant in their appeal documentation, including their appeal form. As the application is made by the appellant, their description has been used in this decision.

Main Issue

5. The main issue is whether the scheme preserves or enhances the character or the appearance of the Brentham Garden Estate Conservation Area.

Reasons

Character and appearance

6. The appeal site comprises a two storey end of terrace dwelling within the Brentham Garden Estate Conservation Area. It backs onto an accessway serving the rear of properties on Holyoake Walk and a further road behind. The predominantly residential area comprises similar sized dwellings set back from the road behind frontage gardens, with hedges and verge tree planting.
7. The Brentham Garden Estate Conservation Area Management Plan (CAMP) 2008 indicates that the estate was built from 1901. Early exponents of the concept of the 'Garden City', Parker and Unwin, provided a layout for the new estate. It has gently curved roads, carefully planned but informal 'vistas', and landscaped gardens, allotments and open green spaces.
8. The CAMP identifies the cottage-style buildings in the Arts and Crafts tradition, with a wealth of attractive details, as being of special note. Along Holyoake Walk, there is an informal cottage style of the Victorian and Edwardian aesthetic. Holyoake Walk formed part of the final phase of the creation of the garden estate and it was designed by the architect, George Lister Sutcliffe. Multi-paned windows in detailed mullioned and transomed frames stand out. These architectural and historic qualities are of significance and value, and of special interest to the Conservation Area. The dwelling, with its original fenestration would have contributed positively to the Conservation Area's character and appearance.
9. As constructed, the rear ground windows and first floor windows have a flat and plain appearance compared to the more detailed original windows prevalent within the area. In particular, the casement windows are not set back from the surrounding frame and lack visible external hinges. In the case of the larger casement window with 10 panes, the protruding horizontal transom bar is square shaped in cross section and lacks a rounded base compared to those that are original in the area. It also lacks rounded edges at either end and extends a greater span across the window compared to original transom bars in the area. The windows also lack the use of traditional smooth putty between the glass and casement edges. Some of these differences appear minor and only evident on closer inspection. However, they give an overall impression of windows being distinctly different to the original windows within the Conservation Area; window design is of major importance to its quality and significance.
10. These rear windows are not be visible from the road but they are visible from an access alongside the appeal property which serves a number of properties. Therefore, the effect of these poorly designed windows is evident from the surrounding area. Furthermore, any lack of wider public visibility is not an overriding consideration as the Conservation Areas are an irreplaceable resource, and should be enjoyed in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

11. There is a dispute as to whether an Article 4 Direction applies to these windows. It is not the purpose of this type of appeal to make a determination as to whether an existing development requires planning permission. This is dealt with under section 191 of the Town and Country Planning Act 1990.
12. Nevertheless, it is indicated that permitted development right withdrawal only applies to alterations facing the highway or fronting a relevant location. There is the accessway behind this property which connects up with another section of Holyoake Walk and North View in this regard. There is no detailed assessment of whether it is a highway and why fronting an elevation means any part of the property facing a public thoroughfare. The application is also the result of a failure to implement the approved details of a previous planning permission for window alterations to both the front and rear.
13. Without prejudice to any decision on these matters, the arguments and evidence do raise legitimate uncertainties as to whether the scheme benefits from permitted development. Accordingly, the scheme has been considered on its planning merits. For all the reasons indicated, the rear windows fail to preserve the character and appearance of the Conservation Area by virtue of their design and construction.
14. The Council has raised no objection to the front door and to the rear door, the latter subject to confirmation that there is established variety within the vicinity. The front door takes a traditional form similar to others in the area. Whilst the rear door has a more modern feel, it replaced a non-original door. The front circular window is a bespoke feature set back from the façade of the dwelling. It does lack some of the more detailed features of the standard type of casement windows found within the area but based on appellant's Design and Access statement, it is very similar to the original. Moreover, these features lack the importance and significance that the casement windows, found throughout this part of the Conservation Area, do. Accordingly, these elements of the scheme preserve the character and appearance of the Conservation Area.
15. In accordance with the Framework, the type of harm identified above with the rear windows would be less than substantial. It is necessary that this identified harm is weighed against the public benefits of the proposal. The rear windows are part of a wider proposal to upgrade existing windows and doors to provide greater thermal efficiency and reduce heat loss. It has been indicated that the frontage windows will be replaced in accordance with an earlier planning permission. As part of the scheme before me, the circular window and doors are acceptable. However, it has not been demonstrated that the rejection of the rear window elements would jeopardise the replacement of frontage windows or the retention of the doors and front window, the latter being already in place.
16. The benefits also have to be weighed against the adverse impact on the significance of the Conservation Area for which considerable importance and weight is required to be attached. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Thus, the harm to the significance of the Conservation Area would outweigh the scheme's benefits.

17. For all these reasons, the rear windows would fail to preserve the character and appearance of the Conservation Area. Accordingly, the development would conflict with policies 7.4, 7B and 7C of the Ealing Development Management Development Plan and Policy HC1 of the Draft New London Plan (2019). It would also be contrary to the guidance of the CAMP which encourages the retention of existing historic windows. The scheme would not accord with the development plan and for the reasons indicated, there are no other considerations to outweigh that finding.

Conclusion

18. The doors and circular window on the building are acceptable and are severable from the scheme taken as a whole. The rear windows are unacceptable. Therefore, a split decision in this case is warranted. In respect of conditions for the doors and circular window, none are necessary given the retrospective nature of the development.
19. In conclusion, the appeal should be allowed insofar as it relates to the front circular window and doors but dismissed in so far as the rear windows.

Jonathon Parsons

INSPECTOR