
Appeal Decision

Site visit made on 9 September 2021

by Richard S Jones BA (Hons), BTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2021

Appeal Ref: APP/A5270/C/21/3271154

Premises known as 11 The Ridings, Ealing, London, W5 3BT

- 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 Salim Hadi Ghuwel against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The enforcement notice, numbered 20EN0625, was issued on 29 January 2021.
 - The breach of planning control as alleged in the notice is, without planning permission, the installation of windows on the front elevation of the premises, the erection of a mono-pitched front canopy extension, the erection of a side extension (hatched on the attached plan) and the removal of a garage door and insertion of a window on the front elevation of the premises.
 - The requirements of the notice are:
 1. Remove all the windows on the front elevation of the premises;
 2. Reinstate the windows in the front elevation with windows of the same proportion, size, design and materials that were in existence prior to the breach of planning control occurring;
 3. Replace the window in the old garage (now study) with a window matching the remainder of the front elevation;
 4. Remove the mono-pitched front canopy extension;
 5. Remove the side extension; and
 6. Remove all resultant debris associated with the compliance of the above steps.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of 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.
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Decision

1. It is directed that the enforcement notice is varied by:
 - The deletion of 6 months and the substitution with nine months for the time for compliance.
 - Deleting the words 'the remainder of the front elevation' from paragraph 5.2 and the substitution with 'those to be reinstated as per paragraph 5.2'.
2. Subject to the variations, 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 Town and Country Planning Act 1990 as amended (the 1990 Act).

Main Issue

3. The main issue is the effect of the alleged development on the character and appearance of the area and the Hanger Hill (Haymill) Estate Conservation Area (the Conservation Area), in which the appeal dwelling is located.

Reasons

4. The hilly aspect, crescent shaped roads and leafy suburban setting of the planned inter-war residential estate of Hanger Hill create a townscape of significant visual interest. The Character Appraisal¹ highlights that the estate is notable for its mix of architectural styles, each of which has a number of variants, contributing to the overall character of the area. Brick and tiles are the common building materials with both metal crittall and timber casement windows.
5. The appeal dwelling falls within an area where the Moderne houses largely prevail, reflecting the Type 2 variation of the same. Such dwellings are double fronted with a projecting, two storey, curved brick bay under a hipped roof positioned to one side of a central front door. On the other side are either two ground floor windows, or one window and an integral garage. The windows would originally have been metal crittall.
6. The Conservation Area Management Plan² identifies the aspects of the area that are under the most threat, including unsuitable and out-of-scale extensions, garish front porches and unsuitable window and door replacements. It also notes that bulky extensions erode the traditional spatial relationship between buildings.
7. The Management Plan advises that windows are a fundamental element of the character of a house, and that the wrong type of replacement window can harm the character drastically. It further states that metal windows are a key, recognisable architectural feature of the pre-war modern style of house and that the replacement of these windows, especially the curved metal windows of the Moderne style houses, represents a serious loss to the character of the individual houses and to the overall interest of the Conservation Area.
8. I agree as that is borne out at the appeal dwelling where UPVC framed double glazed windows have replaced the original metal crittall windows on the front elevation. Although the replacement windows include transom and mullion details, they are much wider than the very slim and elegant profiles of the original fenestration. That is particularly so of the casements, which sit proud of the main window frame.
9. I appreciate that efforts have been made to incorporate similar glazing bar patterns to that of the original windows. However, most of the transoms are a purely decorative features, being integrated within the double glazing. This is markedly different to the transoms of the original fenestration, which projected forward of, and separated the glazed panes.
10. The window frames and glazing to the bay were previously curved as per the bay itself. Consequently, the whole window frame sat within the curve of the cill and the horizontal banding above the ground floor window. In contrast, the

¹ Hanger Hill (Haymills) Estate Conservation Area Character Appraisal March 2008

² Hanger Hill (Haymill) Estate Conservation Area Management Plan March 2008

replacement UPVC windows are faceted and introduce a chunky mullion where previously there was curved glazing without a mullion detail. The corners of the window frame also protrude beyond the curve of the horizontal banding above. The curved cills have also been lost to faceted UPVC replacements, at ground and first floor levels.

11. Such alterations run contrary to the advice set out in the Management Plan which is that replacement frames should be well designed and keep to the same proportions as the originals, replicating precisely the original windows in terms of the size and pattern of glazing bars.
12. Therefore, although the dimensions of the window openings may not have changed, their character and appearance have. For the reasons explained, the replacement windows appear as unduly obvious and unsympathetic alterations that significantly detract from the architectural integrity and historic character of the dwelling. In turn, that has eroded the contribution made by the dwelling to the character and appearance of the Conservation Area.
13. The Council acknowledge that there are a number of properties in the street which have replacement UPVC windows, but explain that they do not have planning permission. The presence of such unauthorised development in the Conservation Area is not a good reason to permit further unacceptable alterations and compounding the harm caused.
14. Although I agree that the alleged side extension is not visually dominant, it is, nevertheless highly visible, sitting forward of the adjacent front elevation of the dwelling, contrary to the advice contained within the Management Plan. I appreciate that it utilises matching materials but from the street it has the appearance of a very tall side wall, which has an awkward relationship with the dwelling and further undermines the spatial relationship with the neighbouring property, compared to the pre-existing arrangement.
15. The original canopy to the front elevation would have had a slim, flat profile in keeping with the Moderne style. The alleged canopy, however, introduces a wide expanse of mono-pitched roof, the red tiles of which starkly contrast with the dark colour of the main roof. The canopy also projects as far from the front elevation as the feature double bay and appears as a bulky, overly dominant and visually discordant addition to the dwelling.
16. I acknowledge that the overall height of the dwelling remains unchanged, and that the highway alignment is unaffected. I have also noted the letter submitted in support of the appeal. However, the alleged development has resulted in the loss of details and features which contribute significantly to the character and appearance of the dwelling and Conservation Area.
17. It follows that I find the above discussed aspects of the alleged development to be harmful to the character and appearance of the dwelling and street scene, thereby failing to preserve or enhance the Conservation Area, as anticipated by London Plan Policy HC1, Development Management Development Plan Document (DMDPD) Policy 7C and the Management Plan. I also find the development to conflict with London Plan Policies D3 and GG1 and DMDPD Policy 7.4. These policies state, amongst other things, that development in Ealing's existing built areas should complement their materials and detailing.

18. In this case I conclude that the alleged development leads to less than substantial harm to the Conservation Area taken as a whole. In such circumstances the National Planning Policy Framework requires that any identified harm is weighed against any public benefits the development might secure. No such public benefits are advanced and I find none that justify the harm caused by the alleged development or prevail over the great weight that should be given to the conservation of the heritage asset.
19. As noted, the alleged development relates to the windows on the front elevation, the mono-pitched canopy extension, the side extension and the removal of a garage door and insertion of a window. Whilst highlighting the loss of the garage as regrettable, the Council has opted not to require this to be reversed. The requirement instead is to 'Replace the window in the old garage with a window matching the remainder of the front elevation'. For the avoidance of doubt, that requirement should be varied to ensure that the replacement window matches the reinstated window style rather than the windows that are currently in place. I shall therefore exercise my powers under s176(1)(a) of the 1990 Act to vary the requirement, as doing so would cause no injustice to either party.
20. S173(11) of the 1990 Act provides that where an enforcement notice could have required buildings or works to be removed, but does not do so, and, all the requirements of the notice have been complied with, then, so far as the notice did not so require, planning permission shall be treated as having been granted.

Other matters

21. I appreciate that the UPVC windows may be more thermally efficient but it has not been shown that there are no other alternatives that would not result in the harm I have found.
22. Whether estate agents should provide more information on any planning restrictions in place in the Conservation Area is not a matter for this appeal.

Conclusion on Ground (a)

23. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should fail on ground (a) and the deemed planning application should be dismissed.

The Appeal on Ground (g)

24. The ground (g) appeal is that the six months given to comply with the notice is too short to allow the appellant sufficient time to prepare and make submissions to obtain planning permission for the works, to secure finance and to source contractors to carry out the works.
25. However, a period of 12 months, as suggested by the appellant, is disproportionate and unjustified. No evidence is provided to demonstrate that six months would not be sufficient to secure finance and it is unclear what planning permission is being sought as none is required for compliance with the enforcement notice. Nevertheless, I appreciate that in the current circumstances it may take longer than usual to procure the services of a contractor and extending the period for compliance to nine months would strike

a reasonable and proportionate balance between any difficulties the appellant may encounter and the public interest in this case.

26. I shall therefore vary the enforcement notice accordingly prior to upholding it. The appeal on ground (g) succeeds to that extent.

Richard S Jones

INSPECTOR