



Appeal Decision

Site visit made on 18 January 2022

by Elizabeth Pleasant BSc(Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2022

Appeal Ref: APP/G5750/C/21/3268795

56 Claremont Road, Forest Gate, London E7 0PZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mohamed Hanif Esmail Patel against an enforcement notice issued by London Borough of Newham.
- The notice was issued on 16 December 2020.
- The breach of planning control as alleged in the notice is: Without planning permission the undertaking of works to the front garden comprising the laying of a block paved driveway and areas of tiled hardstanding.
- The requirements of the notice are:
EITHER
 1. Remove the area of block paved driveway as shown in the approximate location edged in blue on the attached plan.
 2. Remove the areas of tiled hardstanding as shown in the approximate locations edged in green on the attached plan.
 3. On completion of step 1 above, remove all materials and debris from the site.OR:
 1. Undertake works to the front garden into full accordance with the arrangement as shown 'proposed' on drawing numbers CHK-03 (Dated 11.05.2019) and CHK-04 (Dated 11.05.2019) attached to planning permission reference: 19/01658/HH.
 2. On completion of step 1 above, remove all additional materials and debris from the site.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) 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.

Decision

1. It is directed that the enforcement notice be corrected by deleting the word "into" in the 'OR' section of paragraph 5.1 and substituting it with the word "in".
2. Subject to the correction above, 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.

Enforcement Notice

3. There is a typographical error in the 'OR' section of paragraph 5.1 of the notice. The word "into" has been included instead of "in". I have corrected the notice in the interests of precision, and in doing so there is no injustice to either party as the correction is for grammatical reasons.

Appeal on ground (a), deemed planning application

Main Issues

4. The main issues in this case are the effect on:
- The character and appearance of Woodgrange Estate Conservation Area; and
 - Sustainable drainage and biodiversity.

Reasons

Woodgrange Estate Conservation Area

5. The appeal property is a two-storey detached Victorian villa with an attached side annex linking it to the neighbouring property. It is situated within Woodgrange Estate Conservation Area (CA). From the evidence before me, including the Woodgrange Design Guide (DG), and observations on my site visit, the significance of the CA as a heritage asset is derived from the cohesive form and design of the distinctive house types, including the utilisation of a consistent palette of materials. The planned layout of the estate, with spacious plots and attractive and verdant enclosed front gardens, contribute significantly to the special character and appearance of the CA.
6. The DG recognises the special character of the CA and provides guidance on the design and standards expected within the CA. Front gardens on the estate were originally laid out as lawn, with privet hedges and trees all enclosed by a low front wall with simple railings. The layout and appearance of these green frontages are part of the CA's special character. In addition, many of the properties in the CA retain their original geometric and encaustic tile paths, which are special and attractive features in the gardens. On the other hand, forecourt parking within gardens undermines the quality of the street frontage. It reduces the enclosure to front gardens and the greenery of the estate. The DG makes it clear that where hard surfaces are laid in front gardens, in the interests of preserving the greenery of the estate, these should generally cover no more than one third of the garden.
7. In this case, new geometric tiles have been laid on the front garden path and on the apron beneath the property's front windows and entrance door. In addition, large plain tiles have been laid alongside the front garden wall and on either side of the remaining two small areas of lawn. A large area of hardstanding has been created which extends both in front of the side annex and encroaches across the property's main façade. Consequently, the garden now has a stark appearance with only a limited amount of greenery remaining in patches of lawn. The extent of the new tiling, with its smooth and sheen finish, appears incongruous and draws the eye. It detracts from the overall appearance of the street which is more generally characterised by verdant front gardens with only discrete areas of geometric and encaustic tiling found, and usually restricted to the main garden pathways.
8. Furthermore, the substantial area of forecourt parking extends in front of the property's main façade and has a harmful effect on the original design symmetry of the dwelling. Overall, the hard landscaping works detract from

the quality of the street scene and has a harmful effect on the character and appearance of the CA.

9. I have had regard to the landscaping works which have been previously approved by the Council at this property¹. However, the details approved in that planning permission did not include the extent of hardstanding and amount of new tiling that has been constructed. The overall effect of the permitted scheme would therefore be less harmful to the CA than the works that have been undertaken. I therefore give this consideration little weight.
10. I have also taken into consideration the other alterations that have taken place to garden frontages within the street. However, the Council advise that some of those other examples are also under investigation, whilst in other cases they were undertaken some years ago and therefore immune from enforcement. Nevertheless, those other examples do not justify the harm that I have identified to the CA by the unauthorised works in this case and they do not set a precedent that should be repeated.
11. I conclude that the unauthorised landscaping works fail to preserve or enhance the character and appearance of the CA. In the language of the National Planning Policy Framework (the Framework), it causes less than substantial harm to the significance of the heritage asset. This harm is not outweighed by any public benefits. The landscaping works are contrary to policies in the Framework which seek to conserve and enhance the historic environment. In addition, there is conflict with the design and heritage aims of Policies SP3, SP8 and SP5 of the London Borough of Newham Local Plan, adopted 2018 (NLP), the Council's DG, and Policies D4 and HC1 of the London Plan 2021.

Sustainable drainage and biodiversity

12. The London Plan seeks to protect and enhance green features in the built environment, the objectives of which include supporting landscape and heritage conservation, adapting to impacts of climate change and conserving and enhancing biodiversity and ecological resilience. Similarly, Policies SC1 and SC4 of the NLP promote environmental resilience by looking for opportunities in sustainable design to minimise conflict, including biodiversity enhancements, pollution control and flood reduction benefits of surface water attenuation. In addition, Policy SC3 of the NLP states that there is a presumption against impermeable hardstanding on domestic gardens and public open space.
13. The unauthorised landscaping works in this case have resulted in a large area of impermeable hardstanding constructed across a swathe of the forecourt garden. Whilst the appellant considers the materials utilised to be porous, there is clear evidence from the Council that the driveway pavers and tiling have been laid on a concrete base, thus preventing water permeating the ground beneath². Furthermore, the scale of the driveway is such that it has reduced the available space for greenery. Although a drainage channel has been provided which will ensure that surface water is not discharged onto the adjacent highway, discharging to the mains drains deprives the local ground water table and impoverishes local biodiversity.
14. In conclusion, the unauthorised landscaping works have had a harmful effect on biodiversity and do not incorporate sustainable drainage practices. There is

¹ LPA Ref:19/01658/HH.

² Council's Statement of case, Appendix 6.

conflict with the development plan and in particular with the aims of the policies set out in the paragraphs above.

Conclusion

15. For the reasons given above and taking into account all other matters raised, the appeal on ground(a) fails. 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.

Elizabeth Pleasant

INSPECTOR

