



Appeal Decision

Site visit made on 31 January 2022

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2022

Appeal Ref: APP/N5090/C/20/3262657

1 Sunset View, Barnet EN5 4LB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Ahmet Eren against an enforcement notice issued by London Borough of Barnet.
- The enforcement notice, numbered ENF/0961/20, was issued on 25 September 2020.
- The breach of planning control as alleged in the notice is failure to comply with a condition imposed on a planning permission ref 18/3889/HSE granted on 14 September 2018 and without planning permission, the installation of a new front door on the property.
- The development to which the permission relates is: The erection of a single storey side and rear extension, without complying with condition 3 (materials) of planning permission ref 18/3889/HSE dated 14th September 2018 and, without planning permission, the installation of a new front door on the property.
- The condition in question is no 3 which states that: a) No development other than demolition works shall take place until details of the materials to be used for the external surfaces of the building(s), including windows and doors, hereby approved have been submitted to and approved in writing by the Local Planning Authority. b) The development shall thereafter be implemented in accordance with the materials as approved under this condition.
- The notice alleges that the condition has not been complied with in that: The new front door and the bricks used in the new rear extension are incongruous additions to the property that fail to preserve or enhance the character and appearance of the host property surrounding area and this part of the Monken Hadley Conservation Area.
- The requirements of the notice are to:
 - 1 Replace the front door with a timber door to the original design as shown in the attached photograph
 - And,
 - 2 Either
 - a) Replace the newly installed bricks with red brick that matches the colour and size of the bricks used in the original dwellinghouse and with bond and pointing also to match those used in the original house.
 - Or,
 - b) Restore the land back to the state it was prior to the breach, by demolishing the extension and restoring it back to its form as per existing plan numbers A101, A102 and A104 of planning permission reference 18/3889/HSE, dated 14.09.2018.
- The period for compliance with the requirements is: 2 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f), (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.

Decision

1. It is directed that the enforcement notice is varied by the deletion of '2' at section 6 of the notice and the insertion of 6, so that it says '6 Months after this notice takes effect.'

2. Subject to the variation above, the appeal is allowed insofar as it relates to the single storey side and rear extension and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the erection of a single storey side and rear extension, without complying with condition 3 (materials) of planning permission ref 18/3889/HSE dated 14th September 2018 at 1 Sunset View, Barnet EN5 4LB.
3. The appeal is dismissed and the enforcement notice is upheld as varied insofar as it relates to the front door and planning permission is refused in respect of the front door at 1 Sunset View, Barnet EN5 4LB on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Ground (b)

4. An appeal under ground (b) is made on the basis that the matters stated in the notice as constituting the breach of planning control have not occurred. The appellant states that they contacted the Council, stating that the description of the Enforcement notice is incorrect and the brick works used on site match the host building, but the Council has failed to see the property.
5. However, it is not disputed that a new door has been installed or that works to implement planning permission 18/3889/HSE have been carried out and so the matters stated in the notice have occurred as a matter of fact. Consequently, the appeal under ground (b) must fail.

Ground (c)

6. An appeal under ground (c) is made on the basis that those matters (if they occurred) do not constitute a breach of planning control. The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)(GPDO) grants planning permission for the enlargement, improvement or other alteration of a dwellinghouse, subject to conditions and limitations, unless a direction restricting permitted development has been issued under Article 4 of the GPDO.
7. The main thrust of the appellant's case under ground (c) is that the door benefits from permitted development rights as they cannot see any Article 4 Direction on the 'interactive map'. However, the Council has provided a map of the Monken Hadley Conservation Area, which shows that the appeal site is within an area which is subject to an Article 4 Direction. The officer report also confirms that the site is within an area where there is an Article 4 Direction.
8. A copy of the Article 4 Direction has been provided by an interested party and includes Class A of Part 1 of Schedule 2, namely the enlargement, improvement or other alteration of a dwellinghouse, where any part of the enlargement, improvement or alteration would front a relevant location. The insertion of the front door materially affects the external appearance of the building and is development for the purposes of section 55 of the Act.
9. Although the Council ticked 'no' on the questionnaire in response to the question 'Is the appeal site subject to an Article 4 Direction' this appears to be an error. It has therefore not been demonstrated that the works benefit from permitted development rights and the appeal under ground (c) must fail.

Ground (a)

Main Issue

10. The main issue is the effect of the appeal scheme on the character or appearance of the Monken Hadley Conservation Area (MHCA).

Reasons

11. The appeal building is located in a prominent location on the corner of Sunset View and St Albans Road, within the Monken Hadley Conservation Area (MHCA). In my view, the significance of the MHCA is derived from the layout of buildings, fine architectural detailing, use of traditional materials and its green and leafy character. The Monken Hadley Conservation Area Character Appraisal Statement (2007) advises that materials should match the existing building except in cases where a contrast is being promoted.
12. Sunset View is characterised by substantial dwellings set in generous plots constructed using traditional materials in an Art and Crafts style. Although dwelling design varies, the architectural detailing and use of traditional materials contributes to the MHCA. The door which has been replaced appears typical of the Arts and Craft style and would have made a positive contribution towards the MHCA.
13. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the MHCA. Furthermore, paragraph 199 of the National Planning Policy Framework ('the Framework')(2021) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
14. The front door which has been inserted comprises a grey metal door, which contrasts with the Art and Crafts style of the main building and appears an incongruous feature which, given its prominent position, diminishes the character and appearance of the MHCA, contrary to policy CS5 of the London Borough of Barnet Core Strategy DPD (Core Strategy)(2012) which seeks to protect and enhance conservation areas and policies DM01 and DM06 of the London Borough of Barnet Local Plan (Development Management Policies) DPD (DMP)(2012), which seek to preserve or enhance local character. It would also be contrary to the Residential Design Guidance (RDG)(2016), which advises that materials should contribute to the quality of the appearance of development and the character of its wider setting.
15. Views of the extension are limited from the public domain given its position predominantly to the rear of the building, the presence of intervening vegetation and the limited height of the extension. Although the brick used in construction of the extension is not identical to the brick used in the main building, it is sufficiently similar that it does not appear an incongruous feature or diminish the character or appearance of the MHCA. As such, I consider there is no conflict with policy CS5 of the Core Strategy or policies DM01 and DM06 of the DMP or the RDG, the requirements of which are set out above.
16. Paragraph 189 of the Framework states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance. Paragraph 202 goes on to advise that where a development

proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use. I consider that the harm arising to the significance of the designated heritage asset would be less than substantial in the context of paragraph 202 of the Framework.

17. While the previous door may have been prone to twisting and warping and was rotten due to its age, I consider it would have been possible to replace it with a door more in keeping with the Arts and Craft style. The benefits of the new door are outweighed by the harm I have identified to the MHCA, the conservation of which I attribute great weight to.

Other Matters

18. An interested party has drawn my attention to 'new red tiles' and 'new windows' on the main roof of the property. However, such matters do not form part of the alleged breach and I am therefore unable to consider them.

Ground (a) conclusion

19. Thus, for the reasons given above, I conclude that the appeal should succeed in part only, and I will grant planning permission for the erection of a single storey side and rear extension, without complying with condition 3 (materials) of planning permission ref 18/3889/HSE dated 14 September 2018, but otherwise I will uphold the notice and refuse to grant planning permission for the installation of a new front door on the property.

Ground (f)

20. An appeal under ground (f) is made on the basis that the steps required by the notice to be taken... exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. Given the requirements of the notice, it is clear that the purpose of the notice is to remedy the breach of planning control.
21. Since I have found that the brick used in the extension to be acceptable, the requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of s180 of the Act and so it is unnecessary for me to delete requirement 2 of the notice.
22. The appellant has raised concern about the financial difficulties the appellant would face in complying with the requirements. The enforcement procedure is intended to be remedial rather than punitive. Whilst I recognise the financial difficulties many have faced as a consequence of the Covid-19 pandemic, I can see no obvious alternative to replacing the door, which would overcome the planning difficulties at less cost and disruption than total removal.
23. Consequently, requirement 1 is not excessive and the appeal under ground (f) fails.

Ground (g)

24. An appeal under ground (g) is made on the basis that any period specified in the notice in accordance with section 173(9) falls short of what should

reasonably be allowed. The appellant states that the compliance period is too short in light of the Covid-19 pandemic and suggests a period of 12 months.

25. Since the appeal was lodged, the situation around the pandemic has fluctuated and restrictions have been changed. I see no reason why the pandemic would impact on the appellant's ability to comply with the requirements of the notice. Nevertheless, the works will require the appellant to secure the appropriate materials and a suitably qualified company to carry out the works. This is likely to take time. I consider a more reasonable compliance period would be 6 months and shall vary the notice accordingly.

Conclusion

26. For the reasons given above I conclude that the appeal should succeed in part only, and I will grant planning permission for the erection of a single storey side and rear extension, without complying with condition 3 (materials) of planning permission ref 18/3889/HSE dated 14th September 2018, but otherwise I will uphold the notice with a variation and refuse to grant planning permission in respect of the other part of the matters. The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of s180 of the Act.

M Savage

INSPECTOR