
Appeal Decision

Site visit made on 7 February 2022

by J Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 March 2022

Appeal Ref: APP/H5390/C/21/c

7a Hammersmith Terrace, London W6 9TS

- 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 Stephen Reid against an enforcement notice issued by the Council of the London Borough of Hammersmith & Fulham.
- The enforcement notice was issued on 6 April 2021.
- The breach of planning control as alleged in the notice is, without planning permission, the construction of a 2 metre high fence on the eastern side boundary.
- The requirements of the notice are: Either (a) remove from the land the fencing panels, located on the eastern boundary, which are situated forward of the front elevation of the house; or, (b) reduce the fencing panels, located on the eastern boundary, which are situated forward of the front elevation of the house, to 1m in height (measured from natural ground level).
- The period for compliance with the requirements is 6 weeks.
- 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.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections.

The Notice

1. The land to which the notice relates is 7a Hammersmith Terrace, London W6 9TS as shown edged red on the attached plan. However, the plan attached to the notice includes land within the red edge which falls outside of the boundary as shown on the Land Registry map.
2. The notice makes clear it attacks the building and the associated land at 7a Hammersmith Terrace. Thus, I am satisfied that the notice leaves no doubt as to the land subject of the alleged breach of planning control. I have the power to correct any defect or error in the notice providing it will not cause any injustice to the appellant or the Council. Case law has established that an inaccurate plan can be deleted altogether leaving the site to be described in words alone. To that end I am satisfied that I can correct the notice to deal with the error in the plan by deleting reference to it. No injustice would arise to either party in doing so.
3. The notice refers to the breach as consisting of "the construction of a 2 metre high fence on the eastern side boundary". The appellant disputes that the fence is 2m high. I can correct the notice to delete the reference to the height of the fence without causing injustice to the Council or the appellant. I am satisfied

that the notice as corrected would remain clear on its face regarding what has alleged to have taken place.

The appeal on ground (a)

Main Issues

4. The main issue is the effect of the development on the significance of heritage assets with particular regard to:
 - whether the development preserves the setting of the Grade II* Listed Building 7 Hammersmith Terrace and the Grade II Listed Buildings of 1a, 1-6 and 8-16 Hammersmith Terrace;
 - whether the development preserves or enhances the character or appearance of The Mall Conservation Area; and,
 - the effect of the development on the significance of the non-designated heritage assets of Montrose Villas.

Reasons

5. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
6. Section 72(1) of the same Act states that, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
7. Hammersmith Terrace is a narrow road adjacent to the River Thames. The southern side of the street comprises the terraced properties of 1a-16 Hammersmith Terrace. 7 Hammersmith Terrace is a Grade II* listed building, whilst the remainder of the terrace is Grade II listed.
8. The terrace of three and four storey properties date from the 1760s. The terrace forms one continuous block of buildings in stock brick, with stucco ground floors, doric porches and wrought-iron railings to the front. The significance of the listed buildings lies in their historical facades and position as finely retained examples of the 18th century Hammersmith streetscape. In respect of No 7, its significance is largely derived not only from its attractive façade as part of the terrace but also its authentic arts and crafts interior and its history as the home of the renowned arts and crafts typographer, Sir Emery Walker.
9. The appeal site also lies within the Mall Conservation Area (the CA). The CA is largely confined to a narrow area of land between the River Thames and the Great West Road. The significance of the CA is largely found in its role as an important residential area in the 18th century development of Hammersmith. Within the CA are many fine examples of such development. The buildings on Hammersmith Terrace are of particular importance.
10. Directly opposite the listed terrace on Hammersmith Terrace are the buildings of Montrose Villas which are an example of a typical two storey late Victorian terrace with ground floor bay windows and paired entrances set back behind low

brick walls. The appeal property sits between Montrose Villas and a pair of Edwardian villas known as Terrace Villas. The appeal property is a detached two storey building with a white painted front elevation and is set back behind a high brick wall. Whilst not entirely reflective of the terraces and villas which have a distinct vertical emphasis, No 7a nevertheless exhibits many details of a fine Victoria-era cottage which can be found elsewhere within the CA. As a result, I find the appeal site makes a positive contribution to the significance of the CA, as well as to the setting of the Grade II* and Grade II listed buildings opposite.

11. The development subject of the notice comprises the erection of a fence constructed from timber panels between concrete posts. A close boarded gates sits between two of the posts. I understand it replaced a previous fence which the appellant says was 1.4m in height. Located on the eastern boundary of the property, the fence is clearly visible on views from the eastern end of the terrace. It is seen largely in the context of the listed buildings opposite, such is the tightly knit grain of development here. Moreover, it sits prominently within the context of front boundary treatments which are characterised by low, wrought iron railings and boundary walls. As a result, due its height, location and use of materials, the fence appears at odds to the prevailing character of the street scene.
12. I note that the fence is not a substantial increase in height above that of the previous fence. However, the previous fence consisted of trellis panels with timber posts. The top of the fence was also scalloped. It thus had a degree of transparency and did not appear stark nor exhibit a sense of rigidity. In contrast, the design and additional height of the fence has introduced an intrusive and discordant feature within the CA and the setting of the listed buildings opposite.
13. I conclude, therefore, that the development has a harmful effect on the significance of heritage assets. To that end, the development fails to preserve the setting of the Grade II* Listed Building 7 Hammersmith Terrace and the Grade II Listed Buildings of 1a, 1-6 and 8-16 Hammersmith Terrace. Moreover, the development does not preserve or enhance the character or appearance of The Mall Conservation Area. Finally, the development has a harmful effect on the significance of the non-designated heritage assets of Montrose Villas.
14. As a result, the development conflicts with policies DC1, DC4 and DC8 of the Hammersmith and Fulham Local Plan 2018 which state that all development should create a high quality urban environment, be compatible with the character of existing development and that there is a presumption in favour of the conservation of heritage assets.
15. In addition, there is conflict with the guidance contained in the Hammersmith and Fulham Planning Guidance Supplementary Planning Document 2018. In particular, there is conflict with CAG2, CAG3, CAG5 and AH2 all of which aim to ensure new development within conservation areas and new development which affects buildings of merit and listed buildings.
16. Since the geographical extent of the development and its overall expanse is limited, I consider the harm to the significance of the designated heritage assets to be less than substantial in accordance with the National Planning Policy Framework (the Framework). Paragraph 202 of the Framework is clear

that where the development leads to less than substantial harm to designated heritage assets, then the harm should be weight against the public benefits of the development. In this case, little in the way of public benefits has been put before me. As a result, I find that the development does not result in public benefits of sufficient substance to outweigh the harm to the significance of the heritage assets.

Other Matters

17. The appellant indicates that the fence is necessary due to the security risk from an increased footfall along Hammersmith Terrace from Covid-19 restrictions. However, no evidence to support the alleged increased security risk has been provided. As such I afford any security benefits the fence may provide very little weight.
18. I also note that the fence provides enhanced privacy for occupiers of the property. However, almost all of the properties on Hammersmith Terrace have front gardens which are open to views from the street. Indeed, it is a common characteristic of front gardens in most urban areas. Similarly, it seems to me that any views into the back garden from the road would be limited. In any event, the appellant has not provided any evidence that any loss of privacy to the back garden could not be protected by the introduction of an alternative means of enclosure in a different location. As such, I afford the matter limited weight.
19. The appellant points towards RSPCA guidelines for the protection of domestic pets from traffic. However, the appellant does not indicate whether any animals reside at the property or even whether they could be protected from traffic by alternative means. As such, I afford the issue very little weight.

Conclusion

20. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

21. It is directed that the enforcement notice is corrected by:
 - deleting the words, "shown edged red on the attached plan", from paragraph 2 of the notice;
 - deleting the plan attached to the notice in its entirety;
 - deleting the words "2 metre high" from paragraph 3.1 of the notice.
22. Subject to the corrections, the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

J Whitfield

INSPECTOR