



# Appeal Decision

Site visit made on 15 March 2022

**by M Savage BSc (Hons) MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 May 2022**

---

**Appeal Ref: APP/T5150/C/21/3287501**

**14 Old Church Lane, London NW9 8TD**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Ali Walji against an enforcement notice issued by the Council of the London Borough of Brent.
  - The notice was issued on 14 October 2021.
  - The breach of planning control as alleged in the notice is without planning permission, the formation of a hard surface, alterations to the front boundary wall, the removal of front gate and the erection of pillars to the front of the premises AND without planning permission, the erection of a single-storey side extension to the premises.
  - The requirements of the notice are to:
    - STEP 1 Remove the unauthorised hardstanding to the front of the premises, lay soil and turf over the front area, except for a two metre strip leading down from the dropped kerb on the front road to the garage and a 1m strip leading from the pedestrian gate to the front door, ensuring that over 50% of the front garden comprises lawn.
    - STEP 2 Demolish the unauthorised pillars to the front of premises.
    - STEP 3 Alter the front boundary wall to its original condition as shown in Photograph A attached to this notice.
    - STEP 4 Reinstate the original gate to the front of the premises.
    - STEP 5 Demolish the unauthorised single storey side extension/car port to the premises.
    - STEP 6 Remove all items, debris and materials, arising from that demolition, and remove all materials associated with the unauthorised development from the premises, and reinstate the land back to its original condition before the unauthorised works took place.
  - The period for compliance with the requirements is: 6 months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) 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:
  - From Schedule 4, STEP 1, the deletion of 'lay soil and turf over the front area, except for a two metre strip leading down from the dropped kerb on the front road to the garage and a 1m strip leading from the pedestrian gate to the front door, ensuring that over 50% of the front garden comprises lawn', so that it reads 'Remove the unauthorised hardstanding to the front of the premises'.
  - From Schedule 4, the deletion of STEP 4.
2. Subject to the variations 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.

## **Preliminary Matter**

3. The Council adopted the Brent Local Plan 2019-41 (BLP) on 24 February 2022. The Council has advised that the enforcement notice quotes the emerging policies relevant to the case, and these policies have now all been adopted. The appellant has been given the opportunity to comment on the implications of the adoption of the new local plan through the appeal.

## **Ground (a)**

### **Main Issue**

4. The main issue is the effect of the appeal scheme on the character or appearance of the St Andrews Conservation Area (SACA).

### **Reasons**

5. The appeal site is located within the St. Andrews Conservation Area (SACA) and is within an area subject to an Article 4 Direction, which restricts permitted development rights. The appeal building is located along Church Lane, which is within an area which is characterised by substantial dwellings set in generous plots generally bound with low level brick walls and vegetation to the frontage, which gives the area a verdant character.
6. Buildings along Church Lane, created by Ernest George Trobridge, are made up of semi-detached and detached two storey houses in a mock-Tudor design, with pegged timber beams and infill panels of render or patterned brick and tile, which typify the character of the SACA. In my view, the significance of the SACA is derived from the layout of buildings, architectural detailing, use of traditional materials and its green and leafy character. The use of low level boundary treatments and vegetation to frontages make a significant contribution towards its character and appearance.
7. 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 SACA. 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.
8. The appellant has altered the front boundary wall by the reconstruction of the low stone wall, the erection of gates and pillars and the erection of a wooden fence atop the low stone wall. The appellant suggests that there is a lack of clarity about the alterations to the front boundary wall the Council objects to. However, the notice requires the front boundary wall to be altered to its original condition and includes a requirement to show what that condition was. From the four corners of the notice, the appellant can be in no doubt what works the Council is objecting to, nor can they be in any doubt as to what they have to do. Moreover, the appellant has addressed the different elements as part of their case.
9. Although there were pillars in the site prior to the breach, they were of limited height and constructed in a muted buff/brown colour, which is characteristic of the area. The pillars which have been constructed are in a red/orange brick which contrasts in colour to the stone and brick used in construction of the

- original wall. The pillars are taller than the pillars erected at No 12 and have been constructed in a contrasting brick, which serves to accentuate their incongruity in the area.
10. While I saw black gates are a common feature of the area, the gates which have been installed have a modern slatted design, which is uncharacteristic of the Arts and Craft style and are an incongruous, dominant feature. Despite gaps between the slats of the gates, they limit views into the site, diminishing the sense of openness.
  11. The wall has been constructed with what appear to be a mix of different stones of type and size and varying amounts of mortar, which gives it a makeshift appearance. The fence which sits atop it, although a natural material, appears poorly constructed, with varying gaps between the wall and the bottom of the fencing. While the main building can still be viewed from the public domain, the limited planting to the frontage, and the bold colours used in the pillars and fencing, is uncharacteristic of the area.
  12. The appellant has drawn my attention to a number of properties along Old Church Lane, which have boundary treatments which are asserted to be of a similar height to the appeal scheme. The appellant has provided me with plans, which are asserted to show black metal gates which have been granted express planning permission at No 7. However, the gates shown have a delicate design, and are limited in height and so do not dominate the frontage.
  13. While the gates at No 10 are substantial, they replaced solid gates and are more delicate than the gates at the appeal site, allowing views into the frontage. Moreover, there is significant planting above the stone wall at No 10, which ensures that the gates and pillars, while taller than the pillars erected at the appeal site, do not dominate the frontage.
  14. The paving which has been laid, with its predominantly pink/orange hue with black and yellow edging, contrasts in colour with the more muted tones of the paving used elsewhere in the area and is uncharacteristic of the SACA. While I agree the works are unlikely to significantly increase off-street parking due to the single vehicular access and the need for vehicles to manoeuvre within the site, the extent of the paving significantly limits the planting and diminishes the verdant character of this part of Old Church Lane, contrary to policy BT2, which seeks to ensure that features of a forecourt or garden that make a significant contribution to the building's setting and character of the surrounding area and provide adequate soft landscaping.
  15. Residential Extensions & Alterations SPD 2 (SPD)(2018) advises that a 50/50 balance between soft and hard landscaping is maintained. While parts of the frontage appear to have been previously laid with concrete, and so it would be unreasonable to require a 50/50 balance between soft and hard landscaping, the retention of a grassed area helped to maintain a verdant character.
  16. The appellant states they will accept a condition that a scheme for reinstating a small area of soft landscaping (similar to the pre-existing situation) be submitted to the Council for approval within a fixed period of any grant of planning permission. However, such a condition would not address concerns regarding the incongruity of the paving. While the paving may fade over time, I consider it unlikely the paving will fade sufficiently to address concerns regarding this incongruity. Indeed, similar paving at No 23 and 25 has retained

its bold colour, despite having been *in situ* for some time, as indicated by its inclusion within the SACA Appraisal.

17. Although I saw examples of frontages having been fully paved<sup>1</sup>, including No 23 and 25 Old Church Lane, the SACA Appraisal acknowledges that many front gardens in the area have been hard surfaced to provide car parking to the frontage, including the removal of front boundary walls and their replacement with inappropriate design and materials. The Article 4 Direction is intended to stop the decline in character through permitted development. Such examples do not, therefore, weigh in support of the appeal scheme.
18. The extension to the side of the dwelling has been constructed in timber. At the time of my visit, the timber panels had been painted a dark colour, which contrasts in colour and design with the main building. Although it would be possible to require the extension is painted a similar colour to the beams of the main building, this would require maintenance and is likely to deteriorate over time, revealing the uncharacteristic materials beneath.
19. While there were previously gates to the side of the property, these appeared to be simple, lightweight, more akin to fencing rather than the structure which has been erected, with its felt roofing and flashing extending alongside the adjacent garage, which is readily visible from the public domain and contrasts with the traditional finish of the adjacent garage. The extension as a whole appears an incongruous addition which diminishes the character and appearance of the SACA.
20. Thus, for the reasons given above, I find the appeal scheme is harmful to the character and appearance of the area and fails to conserve or enhance the character or appearance of the SACA. This is contrary to policy DMP1 of the BLP, which seeks to ensure that development conserves and where possible enhances the significance of heritage assets and their settings, policy BHC1 of the BLP which seeks to ensure that development sustain and enhances the significance of the heritage asset and setting, reinforcing the street scene and frontages, amongst other things, policy BT2, the requirements of which are set out above and the SPD, which seeks to ensure building materials match the main house and boundary treatments are constructed to complement the character of the rest of the street.
21. 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.
22. The appellant suggests that the pavers are permeable, and is an improvement on the large area of concrete formerly in place to the front of the house. I accept that the introduction of permeable paving is a potential benefit as it will reduce surface run-off from the site. However, the paving installed is not the

---

<sup>1</sup> Including Nos 1, 6, 8, 10, 12, 15, 23 and 25.

only means of securing such benefit and in my view, the harm to the SACA significantly outweighs any benefit in this case.

23. While the previous wall may have been in poor condition, the appeal scheme is not the only means of defining the frontage. I see no reason why it would not be possible to design a scheme which is in keeping with the Arts and Craft style of the SACA. The benefits of the appeal scheme are outweighed by the harm I have identified to the SACA, the conservation of which I attribute great weight to.

### **Ground (f)**

24. An appeal under ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, 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. The notice confirms that the purpose is to remedy the breach of planning control.
25. Section 173(4) of the Act sets out the purposes of an enforcement notice are (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place.
26. Step 1 requires the recipient to remove the unauthorised hardstanding to the front of the premises, lay soil and turf over the front area, except for a two metre strip leading down from the dropped kerb on the front road to the garage and a 1m strip leading from the pedestrian gate to the front door, ensuring that over 50% of the front garden comprises lawn.
27. The requirement to ensure that over 50% of the front garden comprises lawn and retain strips is ambiguous. Given the penalties for failure to comply with an enforcement notice, it needs to be clear what the recipient is required to do. Furthermore, the recipient cannot be required to undertake works that would go beyond remedying the breach. From the evidence provided by the appellant, it seems unlikely that 50% or more of the front garden comprised lawn prior to the breach. Consequently, the requirement to ensure that over 50% of the front garden comprises lawn is excessive.
28. I shall therefore delete the second part of the requirement, to 'lay soil and turf over the front area, except for a two metre strip leading down from the dropped kerb on the front road to the garage and a 1m strip leading from the pedestrian gate to the front door, ensuring that over 50% of the front garden comprises lawn'. Given the requirement in Step 6, to reinstate the land back to its original condition before the unauthorised works took place, I consider the variation would not cause injustice to either party.
29. The appellant suggests that step 3 is unreasonable since the wall is not significantly changed. As set out above, I do not agree and have found the changes to the wall to be harmful. Furthermore, a fence has been placed atop the wall. While step 3 does not specifically refer to the fencing, the requirement to alter the front boundary wall to its original condition is clear.
30. The appellant states that step 4, which requires the original gate to be reinstated, is not possible since the original gate has been disposed of.

Furthermore, the notice does not require the pillars to be reinstated and so there would be nothing to attach the gate to. Step 6 requires, amongst other things, that the land is reinstated back to its original condition before the unauthorised works took place. This would enable the appellant to reinstate the gate and pillars which have been removed. Step 4 duplicates this requirement, in part. I shall therefore delete step 4.

31. Thus, the appeal under ground (f) succeeds to that extent.

### **Conclusion**

32. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*M Savage*

INSPECTOR