



Appeal Decision

Site visit made on 15 February 2022

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2022

Appeal Ref: APP/T5150/C/21/3272659

Land at 20 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 Bilgrami against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice, numbered E/20/0005, was issued on 4 March 2021.
 - The breach of planning control as alleged in the notice is:
 - Without planning permission, the erection of a porch at the front of the premises;
AND
 - Without planning permission, the replacement of windows at the front of the premises;
AND
 - Without planning permission, the alterations to the front garden area, including the erection of a new boundary wall and the installation of hard surface at the front of the premises.
 - The requirements of the notice are:
 - STEP 1 EITHER
Demolish the unauthorised porch
OR
Alter the porch in accordance with the approved PLAN - 9. REV 4 - of planning application 19/3331, attached to this notice.
 - STEP 2 Replace all windows at the front of the premises with wooden windows, which exactly replicate the original windows, in terms of opening mechanism, materials, and design.
 - STEP 3 Alter the forecourt to exactly replicate the original forecourt as shown in 'PHOTOGRAPH A' attached to this notice.
 - STEP 4 Remove all items, debris and materials, arising from the alterations carried out to the forecourt, from the premises.
 - The period for compliance with the requirements is 6 months after the notice takes effect.
 - The appeal is proceeding on the ground 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.
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Summary Decision: The appeal is dismissed and the enforcement notice is upheld with corrections and variations

Procedural Matters

1. With regard to the second allegation of the notice, having noted the parties' respective cases on the ground (a) appeal, I sought further evidence from each in respect of the windows that were in place in the front elevation of the property prior to the alleged breach of planning control taking place. I have had regard to the evidence received on this matter in reaching my decision.

2. As for the third allegation, whilst the appeal was made under ground (a) alone, in his evidence the appellant suggests that a new boundary wall has not been erected at the appeal site; that the boundary wall on site was existing and has only been repaired. This is a matter that falls squarely to be considered under ground (b), which is that the breach of planning control which may be constituted by the matters stated in the notice has not occurred. I have, therefore, considered a ground (b) appeal in this case, after first seeking the parties views on this matter.

The Notice

3. Prior to considering the grounds of appeal in this case, I have a duty to identify any defects in the notice and put them right, if I am able. Powers transferred to me to correct any defect can only be exercised where the correction would not cause any injustice to either party.
4. The enforcement notice alleges: without planning permission, the replacement of windows at the front of the premises. From the evidence it would appear that the window on the top left hand side of the front elevation of the property is a new window opening, rather than being an existing window opening where the window has been replaced. The works undertaken to make this new window opening and fit the new window (hereinafter referred to as 'the new window') cannot reasonably be described as the replacement of a window. Whilst I note the Council had intended the notice to target the new window, the allegation as put plainly does not apply to it. Indeed, the parties agree that the notice must be corrected for it to target the new window.
5. I note the appellant's agreement to the correction suggested by the Council, but to add to the allegation the installation of a new window would widen the scope of the notice. Furthermore, I note that the requirements of the notice are intended to remedy the breach of planning control. However, step 2 would not achieve this aim in the case of an allegation of the installation of a new window. To remedy such a breach alternative works would be required, which have not been specified by any party. Notwithstanding this, I cannot be satisfied that correcting the notice to specify additional works would not make the notice more onerous.
6. In addition to the above, the appellant suggests in his response to my request for comments that the window in question has the benefit of the planning permission (reference 20/0760) granted for the installation of one window on the first floor front elevation of the dwellinghouse. Such a claim ought properly to be considered under a ground (c) appeal, which has not been made in this case. Accordingly, I cannot be satisfied that by making the necessary correction, I would not deprive the appellant of making full representations under a ground (c) appeal, or indeed under any other grounds of appeal that have not been made.
7. All things considered, there is agreement that the notice as drafted does not target the new window. However, I cannot be satisfied that injustice would not be caused were I to correct the notice to target this development. Accordingly, the second allegation in the notice should not be read as applying to the new window.
8. Notwithstanding the above, it is not clear from this allegation, as drafted, that the notice does not target the new window. On its face it targets all windows

in the front elevation of the building. Accordingly, it is necessary to correct both the allegation and the requirements so that they explicitly exclude the new window. This would be in the interests of clarity and precision. Such a correction would not cause injustice to the appellant as it would narrow the scope of the notice. Furthermore, injustice would not be caused to the Council, particularly in view of its powers under section 171B(4) of The Town and Country Planning Act 1990 as amended (the 1990 Act) to issue a further notice targeting the new window, should it be considered expedient to do so.

9. On a separate matter, the third allegation of the notice alleges 'alterations to the front garden area, **including** the erection of a new boundary wall and the installation of hard surface at the front of the premises' (my emphasis). This suggests that there is an allegation of alterations to the front garden other than those specified. Having considered the Council's evidence, it appears that its concerns relate only to the boundary wall and hard surfacing. For this reason I am satisfied that correcting the notice to allege only those works would not cause injustice to any party. Such a correction is necessary in the interests of clarity and precision.
10. Finally, I find step 3 of the requirements to be vague. This refers to a 'forecourt' not previously referred to in the allegations, and requires it to be altered to replicate the forecourt as shown in the photograph attached to the notice. Whilst this requirement can be linked to the allegation of alterations to the front garden area, it is not clear if the forecourt is a different area to the front garden. Having considered the photograph attached to the notice, as well as the evidence of both parties, it is clear the intention is for the previous boundary wall and hard surfacing in the front garden to be reinstated to its condition prior to the breach taking place. I can see that the appellant has understood this. In particular, he refers to the type and extent of the previous hard surfacing in justification for the new hard surfacing that has been installed. However, not all areas of the front garden are visible in the photograph, including the full extent of the previous front boundary wall and previous hard surfacing.
11. In view of the above, I am satisfied that no injustice would be caused were I to make step 3 of the notice more precise by requiring alterations to the front garden area, including the boundary wall and hard surfacing, so that it is returned to its condition prior to the development taking place.

Ground (b)

12. The appeal on ground (b) is that the matters alleged in the enforcement notice, which appears to the Council to constitute the breach of planning control, have not occurred. In order to succeed on this ground, the appellant must demonstrate that on the balance of probability the matters stated in the enforcement notice have not occurred.
13. The ground (b) appeal is confined to the allegation of the erection of a new boundary wall. Although the location of this is not specified on the enforcement notice, the evidence of both parties relate to the means of enclosure along the front boundary of the appeal site shared with the adjoining footpath. This comprises two sections of wall either side of the pedestrian access to the site.

14. The appellant suggests that when he purchased the property the two sections of front boundary wall were covered with vegetation and in need of repair. He says the works involved 'mainly re-pointing and like for like repair in order to make the wall good'. The Council suggest that there have been significant alterations and that the two sections of wall along the front boundary appear materially different when compared to the previous enclosure.
15. The allegation is of the 'erection of a new boundary wall', yet the Council's evidence is of works undertaken to the existing front boundary walls. Whilst the Council suggest that these works (described as significant alterations) have resulted in an enclosure that is materially different to the previous, there is little description of the alterations suggested as having been undertaken.
16. Notwithstanding this, having the benefit of the photographs of the site prior to the recent works, I can see that the enclosure to the right of the pedestrian access was a low wall comprising an ad-hoc arrangement of bricks and stone. This is entirely consistent with the wall I observed on site, on which I could see evidence of some repair work with what appeared to be some recent cement repointing. The height of this section of wall appears similar to the previous and its position, curving into the site at one end and ending at the edge of the vehicular drive at the other, is also comparable to the wall shown in the earlier photographs of the site. The photographs provided by the parties do not, therefore, support the Council's claim that this section of wall has been significantly altered and is materially different to the wall that had previously existed.
17. As for the wall to the left of the pedestrian access, in the earlier photographs of the site I can see the vegetation referred to by the appellant with only a small section of wall visible at its base. Notwithstanding this, I have no reason to find the appellant's evidence less than probable, that there was a wall in this location, but that it was covered in the vegetation that can be seen in the earlier photographs. The wall I observed on site has a similar appearance to the section of wall to the right of the pedestrian access, in terms of its means of construction and age, and its height was also comparable. Again, I saw evidence of works to this section of wall consistent with the recent repairs described by the appellant.
18. I agree that the point of pedestrian access is now wider than that shown in the earlier photographs. The removal of the vegetation to the left of the pedestrian access might have revealed a wider gap between the two sections of wall than can be appreciated in the earlier photographs. Even if the gap between the walls has been widened by the removal of some part of the wall to the left of the pedestrian access, this does not lead me to conclude that the remaining section of wall is a new boundary wall, as alleged in the notice. That previous vegetation has been removed and replaced with new trees does not alter my findings in this regard.
19. I have been given no other reason to conclude that the sections of wall I observed along the front boundary of the site are a new boundary wall. Accordingly, and having regard to all evidence submitted, I conclude that the matters alleged in the enforcement notice, consisting of the erection of a new boundary wall, have not on the balance of probability occurred. For this reason the ground (b) appeal should succeed and I will remove from the notice the allegation of the erection of a new boundary wall. I will also alter the

requirements of the notice so that it is clear that these do not apply to the boundary wall. The ground (a) appeal and the deemed planning application do not fall to be considered insofar as they relate to this element of the allegations.

Ground (a) and the deemed application for planning permission

Main Issues

20. The appeal on ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. I note the substantive reasons for issuing the enforcement notice and from these I have identified the main issues as:

- whether or not the development would preserve or enhance the character or appearance of the site, the surrounding area and the St Andrews Conservation Area; and
- the effect of the development on flooding.

Reasons

Character and Appearance

- The appeal site and the surrounding area

21. The appeal site is within the St. Andrew's conservation area (SACA), which is a designated heritage asset. The St. Andrew's Conservation Area Character Appraisal (CACA) informs that the special character of the SACA was and is derived from its historic setting and the inter-relationships of more modern 20th Century suburban estates of rich quality and varied design. It describes the chief components of this as the mock-Tudor houses and informs that the conservation area owes as much to the quality of building detail as to the broader townscape setting for the definition of its character. It says that the estate as a whole constitutes an attractive suburban area characterised by open spaces between various compositions of mock Tudor arts and crafts buildings with two historic churches as the centrepiece.

22. Photographs of the appeal site taken prior to the development described in the enforcement notice have been provided and show a typical detached suburban house in the mock-Tudor style described in the CACA.

- Relevant policy and legislation

23. The relevant statutory duty in this case is imposed by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended. This requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a conservation area, when exercising planning functions.

24. Policy DMP7 (Brent's Heritage Assets) of the London Borough of Brent Local Plan Development Management Policies document, dated November 2016, (LBBLP) and policy HC1 (Heritage conservation and growth) of the London Plan, dated March 2021, (LP) both relate to development that effect heritage assets and reinforce the duty imposed under the above-mentioned Act. They inform, amongst other matters, that development should sustain

and enhance the significance of heritage assets; contribute to local distinctiveness and character whilst using appropriate materials; and conserve the significance of heritage assets by being sympathetic to the assets' significance.

25. The above policies are supported by the more general development management policies of the development plan, including Policy D3 (Optimising site capacity through the design-led approach) of the LP; policy DMP1 (Development Management General Policies) of the LBBLP; and Policy CP17 (protecting and Enhancing the Suburban Character of Brent) of The London Borough of Brent Local Development Framework – Core Strategy dated July 2010 (LBBCS). These policies require, amongst other matters, that development respects, enhances and utilises the heritage assets and architectural features that contribute towards the local character; that it conserves and where possible enhances the significance of heritage assets; and that the distinctive suburban character of Brent will be protected from inappropriate development.
26. Further guidance is also provided in the CACA, referred to above, as well as the Supplementary Planning Document No. 2 on Residential Extensions and Alterations, dated January 2018 (SPD).
27. The National Planning Policy Framework (the Framework) advises at paragraph 199 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. The Framework directs how development that would lead to substantial harm or less than substantial harm to a designated heritage asset should be considered. It requires clear and convincing justification for any harm to the significance of a designated heritage asset.
28. Finally, I note that the notice refers to policies within the Brent Local Plan Regulations 19 Consultation document (BLP). Whilst I note that these policies contain similar requirements to those referred to in the LBBLP, the weight attributed to any conflict with these policies would be limited as the BLP does not form part of the development plan.

- *Windows*

29. I have been provided with some details from both parties of the type, design and materials of the windows that were in place prior to the work alleged in the notice taking place. The previous windows were in the Tudor style and there is no dispute that these had black painted timber frames and lead details on the glazing. From the photograph provided by the Council I can see that two of the ground floor windows included a particular lead pattern in the top light sections, along with a protruding horizontal mullion below these top lights. These features added interest to the fenestration in the front elevation of the appeal property. There was variety in the proportions of the windows, with some featuring a central vertical mullion only, others including a horizontal mullion, as noted above, and some featuring a single casement window.
30. The replacement windows have followed the same pattern in terms of the proportions of the windows they have replaced. The glazing in the replacement windows also feature the lead detail of the previous windows. However, this does not include the particular pattern seen in the top light sections on some of the previous ground floor windows. The frames and sills are black, but the

evidence provided suggests that all are UPVC. The frame of each glazed section is fairly thick in comparison to the previous window frames and sits proud of the main window frame, rather than being set mostly within it, as shown in the example of one of the previous windows provided by the appellant.

31. Section 4.5 of the CACA identifies window frames as being an element at risk in the SACA and states that the loss of such historic detail can cause significant damage to the quality of the conservation area. An objective of the CACA is to maintain the quality of design composition and construction detailing (section 4.2). It identifies quality materials and detail as being an element of this. It also states that UPVC window frames will not allow manufacturers to replicate the quality of original timber windows in conservation areas.
32. Whilst the evidence does not clarify whether or not the previous windows were the original windows installed in the appeal property when it was first constructed, their timber materials and lead detail is in line with the description in the CACA of the original windows in properties along Old Church Lane. In this regard the previous windows were a feature of the appeal property that added to the building's quality and its contribution to the significance of the heritage asset in this case. I acknowledge that the colour, lead detail and variety in the proportions of the previous windows is present in the replacements. However, the bulky appearance of the UPVC window frames is poor in terms of design and choice of replacement materials. This has altered the character of the windows and the front elevation of the property. Furthermore, the loss of the lead pattern in the top light sections of the ground floor windows has caused further detriment to the historic value of this property and its contribution to the significance of the heritage asset.
33. Having regard to the above, I can only conclude that the replacement windows in the front elevation of the appeal property cause harm to the significance of the SACA heritage asset. This amounts to less than substantial harm, as identified in paragraph 202 of the Framework. The Framework requires me to balance against the harm the public benefit of the development. However, none has been drawn to my attention. Accordingly, I have been unable to identify any matters that would tip the balance in favour of the development.
34. In view of the above, I can only conclude that the replacement windows neither preserve nor enhance the character or appearance of the site, the surrounding area and the SACA. For this reason the development fails to comply with policies DMP7 and DMP1 of the LBBLP, policies HC1 and D3 of the LP, and CP17 of the LBBCS, as well as the guidance provided in the CACA. The development also fails to accord with paragraph 199 of the Framework, as well as the sections of the Framework that advise on good design, as have been drawn to my attention. It is also in conflict with the emerging policies of the BLP.
 - *Porch*
35. The porch is in front of the former main entrance to the property. It has a white rendered finish, which is in keeping with the host property. It also has a hipped, red tiled roof that mirrors the roof form on the appeal property. The very top of the porch roof has, however, covered some of the original black painted timber detail on the front elevation of the appeal property, which is integral to its mock-Tudor appearance. This has caused some detriment to the character and appearance of the site.

36. Notwithstanding this, the details of the porch approved by reason of the 19/3331 planning permission have been drawn to my attention, which I note is still extant. The Council suggest that the porch subject of this appeal is 'considerably larger, bulkier, and disproportionate in regards to the property' when compared to the approved scheme. However, the footprint, position, roof form and the majority of the external materials are broadly similar to that of the approved scheme. Indeed, the approved scheme, if implemented, would also have resulted in the covering over of some of the black painted timber on the front elevation of the property.
37. Whilst the design of the front elevation of the porch does not accord with the approved scheme, I note that the off centre position of the porch doors reflects the position of the original main entrance door. Indeed, I do not find the lack of symmetry in the proportions of the porch's front elevation to be out of keeping with prominent features of the building's front elevation, including the irregular window positions and sizes.
38. I note that the Council does not specifically object to the materials used in the porch doors. Whilst the doors are solid and their materials appear to be modern, I have no reason to conclude that they are out of keeping with the character of the property. In particular, the finished colour adds to the contrast created by the white render and black painted elements on the front elevation of the appeal property.
39. I have found the porch to be acceptable in all regards, save for the loss of some of the black painted timber detail at first floor. Notwithstanding this, I note that the approved scheme, if implemented, would also result in similar harm. I have no reason to conclude that there is no real prospect of the approved porch being constructed, in the event that the ground (a) appeal is dismissed. Accordingly, the balance is tipped in favour of the grant of planning permission for the porch that is the subject of this appeal.
40. All things considered, I conclude that the porch preserves the character and the appearance of the site, the surrounding area and the SACA. I have no reason to find the development in conflict with policies DMP7 and DMP1 of the LBBLP, policies HC1 and D3 of the LP, or CP17 of the LBBCS. Neither can I identify conflict with the CACA, the Framework or emerging policies of the BLP.
- *Hard surfacing*
41. The hard surfacing comprises compacted yellow aggregate to form a drive and parking area towards the right hand boundary of the site; timber effect tiles laid to form a pedestrian path from the pedestrian access off Old Church Lane to the porch; and a small section of hard surfaced path from the tiled path to the left hand side entrance.
42. I understand from the CACA that gardens are an important element of the significance of the SACA. At section 4.5 vi) it emphasises that the preservation of front gardens and their boundary walls, fences and hedges is critical in preserving the character of the streetscape. The green character of the SACA is seen as a contribution to the natural environment in section 6.5 of the CACA. I also note that hard surfacing and the parking of cars on front hard surfaced areas is mentioned in the CACA under section 6.6 on 'extent of loss, intrusion or damage'.

43. Whilst the CACA highlights the damage that can be caused to the heritage asset by hard surfacing and the use of poor quality materials for off-street parking areas, I note that hard surfaced areas to the front of properties are a prevalent feature within the SACA. Indeed, many of the properties in the SACA, including the appeal site, have the benefit of a garage, access from the highway to which would require a hard surface across the front garden. A hard surfaced path would also be necessary for most properties to provide pedestrian access, particularly in view of the depth of most front gardens within the SACA. Accordingly, it would be unreasonable to interpret the guidance in the CACA as imposing an embargo on all hard surfaced areas within the SACA.
44. With this in mind, I do not consider the extent of hard surfacing at the appeal site to be excessive for the provision of access to the garage, off street parking and to provide pedestrian access to the property from Old Church Lane. I understand that the hard surfaced area has been reduced in size since the notice was issued, and the appellant points to the extent of lawn that has been laid on the remainder of the front garden. The Council does not dispute that the ratio of lawn to hard surface complies with the 50/50 requirement in paragraph 2.9 of the SPD. The extent and arrangement of hard surfacing with soft landscaping is consistent with other properties in the area and does not harm the quality of the street scene or the suburban setting of the SACA.
45. There is no suggestion that the new hard surfacing has necessitated the substantial removal of the front boundary wall, and it has not prevented the planting of evergreen trees in the front garden. Sufficient soft landscaping has been retained such that the development does not conflict with the CACA, in particular sections 4.5 vi) and 2.2, which recognise the contribution that tree planting and soft landscaping can make to the significance of the heritage asset.
46. The compacted material used on the drive and parking area is sympathetic to the 'rural idyll' and green character of the SACA, as described in the CACA. The paving used on the path might be unusual within the SACA. However, I do not consider it, or the small section of path to the left, to be so inconsistent with the architectural style of the host building as to render this hard surfacing unacceptable.
47. Having regard to my findings above, I conclude that, on balance, the hard surfacing preserves the character and the appearance of the site, the surrounding area and the SACA. For these reasons the hard surfacing subject of the enforcement notice does not conflict with policies DMP7 and DMP1 of the LBBLP, policies HC1 and D3 of the LP, or CP17 of the LBBCS. The development is also in compliance with the CACA, the Framework and emerging policies of the BLP.

Flooding

48. The Council's concerns with regard to flooding relate only to the hard surfacing. It points in particular to Policy DMP 9 B (On Site Water Management and Surface Water Attenuation) of the LBBLP, as well as Policy SI 13 (Sustainable drainage) of the LP. These require, amongst other matters, the control and reduction of surface water run off and the management of surface water run off as close to its source as possible.

49. The Council suggest that the development does not comply with these policies as the materials used in the hard surfacing are non-permeable and that there is not adequate provision for the control and reduction of surface water run-off in the site. There is no dispute that the area of hard surfacing at present is greater than previous. With the benefit of the earlier photographs I can see that both the pedestrian path and the drive and parking area are wider. However, the appellant suggests that the driveway and parking area has been surfaced in loose gravel which is permeable. My observations of the material used for this area are consistent with the appellant's description of it. I am, therefore, persuaded by the evidence of the appellant, which is also supported by an interested party, that the hard surfacing of the drive and parking area is permeable. Indeed, it would be unusual for a loose gravel surface not to allow water to penetrate it, unless the gravel had been bound in some way or had a bound sub-base. I do not have any evidence to suggest that this is the case.
50. The appellant acknowledges that the remaining hard surfacing is not permeable, but has drawn my attention to the previous pedestrian path and drive, and suggests that this was all non-permeable surfacing. This is not disputed by the Council. He suggests that overall the new hard surfacing has resulted in an improvement in terms of surface water run-off when compared to the previous situation. The requirements of the notice would result in the reinstatement of the previous non-permeable hard surfacing. As such, the overall reduction in the area of non-permeable hard surfacing resulting from the development subject of the enforcement notice is material to the determination of this appeal.
51. I note the suggestion from an interested party, that the garden slopes towards the house and so any surface water run off would flow in the same direction. Whilst I have not been provided with any levels details for the site, I did not observe any discernible slope on the site towards the public highway, such that there is likely to be an unacceptable degree of surface water run-off from the path to land outside the site. I also noted the grassed area either side of the path, as well as the grass highway verge close to the pedestrian access to the site.
52. I am mindful of the requirements of the development plan policies mentioned above, which are to reduce surface water run off and manage it as close to its source as possible. Having regard to all of the above, I have insufficient evidence to conclude that the hard surfacing conflicts with Policy DMP 9 B of the LBBLP or Policy SI 13 of the LP. I can also find no conflict with the advice in the Framework on flooding, chapter 14 in particular. The notice refers to the emerging policies BSUI3 and BSUI4 of the BLP. Although not part of the development plan, their requirements align with the policies referred to above and for this reason I find no conflict with these policies. All of this leads me to conclude that the development is acceptable with regard to its effect on flooding.
53. Notwithstanding the above, whilst there is also reference to policy DMP 9 A (Managing Flood Risk) of the LBBLP, this is not relied upon in the Council's appeal statement. It would appear that this Policy has little relevance to the development subject of this appeal as it relates to development that requires a flood risk assessment.

Other Matters

54. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise.
55. With regard to the matter of the replacement windows, I note the letters of support for the appeal. In particular, my attention has been drawn to the energy efficiency of the windows that are the subject of the notice. Whilst I acknowledge this as a benefit of the scheme, I have no reason to conclude that more appropriate replacement windows might achieve a similar level of energy efficiency.
56. Even if an appropriate replacement might include oak hardwood frames, I have insufficient evidence to conclude that the use of such a material would cause harm to the preservation of woodlands and forest, such that it would justify the grant of permission for the UPVC windows subject of the enforcement notice.
57. I have had regard to the other properties within the vicinity of the appeal site that have been fitted with UPVC windows. I have not, however, been provided with the particular details of when these windows were installed (i.e. before or after the Article 4 direction was made); whether these windows have the benefit of express planning permission; or the circumstances in which permission was granted. Nevertheless, the prevalence of UPVC windows in other properties within the SACA does not in itself justify the installation of further UPVC windows at the appeal property, particularly as such inappropriate alterations are identified in section 9.0 of the CACA as a primary cause of character decline within the SACA.
58. As for the porch and hard surfacing, I have been unable to identify any material considerations that indicate that planning permission ought not to be granted for these developments.

Conditions

59. I have considered whether conditions would overcome the harm caused in this case by the replacement windows, but conclude that they would not. As for the porch and hard surfacing, I have found these developments to be acceptable and cannot identify any conditions that might be necessary in concluding that permission ought to be granted for them.

Planning Balance and Conclusion

60. I have identified harm with regard to the replacement windows and find that this development conflicts with the development plan when read as a whole. I have no reason to conclude that my determination of the deemed planning application as it relates to the replacement of windows should be made otherwise than in accordance with the development plan. For this reason, the ground (a) appeal should fail insofar as it relates to the second allegation in the notice, as corrected and varied.
61. As for the porch and hard surfacing, I have not found any conflict with the development plan and no other reason to conclude that planning permission ought not to be granted. The ground (a) appeal should, therefore, succeed insofar as it relates to these matters.

62. Notwithstanding my conclusions with regard to the porch and hard surfacing, the notice must be upheld so that it continues to target the matter of the replacement windows. For this reason the notice will not be quashed. Despite my ground (a) conclusions with regard to the porch and hard surfacing, I will still include reference to these matters in the notice. However, in accordance with section 180(1) of the 1990 Act, the appellant can rely on the notice ceasing to have effect insofar as it will be inconsistent with the planning permission I will grant.

Conclusion

63. 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 porch and the installation of hard surface at the front of the premises, but otherwise I will uphold the notice with corrections and variations and refuse to grant planning permission in respect of the other matters stated in the notice. 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 section 180 of the 1990 Act.

Formal Decision

64. It is directed that the enforcement notice is corrected and varied by:

- From schedule 2, after the words 'Without planning permission, the replacement of windows' the deletion of the words 'at the front of the premises' and their replacement with the words 'on the front elevation of the premises, excluding the first floor window on the left hand side of the front elevation';
- From schedule 2, the deletion of the words 'alterations to the front garden area, including the erection of a new boundary wall and' and their replacement with the words 'alteration of the front garden area by';
- In schedule 4, step 2, before the words 'Replace all windows' the addition of the words 'Except for the first floor window on the left hand side of the front elevation';
- In schedule 4, step 2, the deletion of the words 'at the front' and their replacement with the words 'on the front elevation'; and
- In schedule 4, step 3, the deletion of the words 'forecourt to exactly replicate the original forecourt as shown' and their replacement with the words 'hard surface in at the front of the premises so that the front garden area is restored to its condition before the development took place, as shown in part'.

65. Subject to the corrections and variations, some pursuant to the ground (b) appeal, the appeal is allowed in part and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act for:

- the erection of a porch at the front of the premises; and
- the alteration of the front garden area by the installation of hard surface at the front of the premises,

on land at 20 Old Church Lane, London NW9 8TD.

66. The appeal is otherwise dismissed, the enforcement notice is upheld as corrected and varied and planning permission is refused in respect of the replacement of windows on the front elevation of the premises, excluding the first floor window on the left hand side of the front elevation, on the application deemed to have been made under section 177(5) of the 1990 Act.

J Moss

INSPECTOR