

Appeal Decision

Site visit made on 20 February 2023

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 March 2023

Appeal Ref: APP/M5450/C/22/3303307

8 Orchard Close, Edgware HA8 7RE

- 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 Mrs Preena Pabari against an enforcement notice issued by the Council of the London Borough of Harrow.
 - The enforcement notice was issued on 20 June 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised construction of a first-floor rear extension, rear dormer, and front porch.
 - The requirements of the notice are:
 - (1) Demolish the unauthorised development or;
 - (a) Alter to first floor rear extension and rear dormer to comply with the approved plans for the planning permission reference P/0876/18; and
 - (b) Alter the front porch to comply with the approved details shown in planning application reference P/2843/18.
 - (2) Make good any damage caused to the building as a result of the above step and ensure that all materials used shall match those used in the existing building.
 - (3) Remove from the land all materials and debris arising from compliance with the aforementioned requirements of the notice.
 - The period for compliance with the requirements is 9 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.
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Decision

1. The appeal is allowed insofar as it relates to the construction of a rear dormer and front porch 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 construction of a rear dormer and front porch at 8 Orchard Close, Edgware HA8 7RE.
2. The appeal is dismissed, and the enforcement notice is upheld insofar as it relates to the first-floor rear extension and planning permission is refused in respect of the first-floor rear extension at 8 Orchard Close, Edgware HA8 7RE, on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal on ground (a), the deemed planning application (DPA)

Main Issue

3. The main issue is whether the unauthorised development preserves or enhances the character or appearance of the Canons Park Estate Conservation Area (CA).

Reasons

4. The appeal site comprises a two-storey semi-detached house located on a cul-de-sac leading from Canons Drive. The property is located within the CA. With regards to the effect on designated heritage assets, Section 72(1) of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
5. The National Planning Policy Framework, 2021 (Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 199 of the Framework 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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 200 of the Framework states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
6. The significance of the CA derives from its architectural and historic interest. The CA comprises a large part of the original Canons Park estate including the C18 grade II listed mansion. The CA also includes the high quality planned Metroland estate in a largely 'Tudor revival' design and street layout within a green, sylvan setting. This landscaped and open setting provides a soft verdant character to the CA.
7. The Tudor Revival style of buildings is characterised by a number of common features which includes black timber and white render detail; Prominent roof forms (which include Mansard roofs, Catslide roofs; gable ends, and pitched roofs that are hipped or half hipped and tall brick chimneys); tiled porches; jettied upper floors; plain and decorative barge boards; heavy, wooden front doors and garage doors. It is the delicate balance of the above factors that achieves the area's special character. The appeal property shares many of these common features, and makes a positive contribution to the significance of the CA.

First floor rear extension

8. The Character Appraisal for the Canons Park Estate Conservation Area (CACPECA) states that the CA is an outstanding area for its landscaping, openness, and high quality architecture, and highlights that extensions should not compete with, nor overpower, the existing form and scale of the original dwellinghouse. The CACPECA also states where a two-storey extension compromises the original form of the house or openness of the area, they are not usually appropriate.

9. The Council has previously granted planning permission for a first floor rear extension¹. That development comprised a modest sized first floor rear extension over part of the ground floor rear extension, which ensured that the building's character and appearance, and the consequent effect upon the CA was preserved.
10. In contrast, the existing first floor extension, with its increased size and width, extends the building considerably with the mass and bulk of the extension projecting over a larger area of the ground floor rear extension. The size and scale of the unauthorised development is accentuated by its visibility from neighbouring properties. Therefore, despite the current development being located to the rear of the property and away from any public vantage points, the effect of the scheme is overly dominant and diminishes unacceptably the character, appearance, and integrity of this building with consequent harm to the character and appearance of the CA.
11. I have had regard to the appellant's statement which refers to a number of extensions nearby. However, based on the limited evidence submitted regarding these, none appear to be directly comparable in terms of size and scale as the current appeal development before me and therefore do not alter my decision. In any event, I have assessed this case on its own merits.
12. Furthermore, I do not consider that this harm could be overcome by an alternative elevational treatment since it is the overall bulk and scale of this extension which is particularly discordant. Whilst the harm to the significance of the CA would be less than substantial, there are no public benefits drawn to my attention that would outweigh that harm.
13. I therefore conclude that the first floor rear extension harms the character and appearance of the host dwelling and fails to preserve or enhance the character and appearance of the CA as a whole.

Rear dormer

14. The rear dormer, built in a position largely similar to the approved scheme, is modest in size and is well set in from the side boundaries, eaves and sits below the ridge line. The dormer is also constructed from materials which are sympathetic to the main roof and host building. During my site visit I observed that there are a variety of roof forms in the area, many of which contain front, side and/or rear dormer windows, which are visible from the public realm. Therefore, in this context, the rear dormer does not harm the character and appearance of the building and preserves the character and appearance of the CA as a whole.

Front porch

15. The CACPECA discourages porches that infill the original open, recessed entrances to the houses in the CA. However, a certificate of lawful development (LDC) was approved for a front porch, with a similar enclosed design, and the requirement of the notice allows for that front porch to be implemented. This therefore represents a legitimate fallback position against which to assess the current development.

¹ Council ref: P/0876/18

16. Whilst the porch is taller than that permitted under the LDC application, the porch with its front gable design, and use of matching materials is sympathetic with the overall form and scale of the host property and neighbouring properties and does not appear overly dominant. I note that it is physically attached to the first floor jetty which is a characteristic feature of the Tudor Revival style. Nevertheless, this jetty remains clearly visible and therefore, this aspect of the development does not harm the character and appearance of the building nor the CA as a whole.

Conclusion on the CA

17. Therefore, whilst I find no harm in relation to front porch and the rear dormer, the first floor rear extension harms the character and appearance of the host dwelling and fails to preserve or enhance the character and appearance of the CA as a whole. This aspect of the development conflicts with Policy CS1 of the Harrow Core Strategy (2012), Policies DM1 and DM7 of the Harrow Development Management Policies Local Plan (2013), the Harrow Supplementary Planning Document Residential Design Guide (2010) and Policies D3 and HC1.C of the London Plan (2021). Amongst other things this states that all development must achieve a high standard of design and layout, extensions should harmonise with the scale and architectural style of the original building, and the character of the area, and development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation with their surroundings,
18. The first floor rear extension also conflicts with the relevant requirement of the Framework which seeks to conserve and enhance the historic environment. Finally, the first floor rear extension would not preserve or enhance the character or appearance of the conservation area as required by Section 72(1) of the Act. This carries considerable weight and importance to my decision.

Other Matters

19. No conditions have been suggested by the Council and as the development appears to be completed, there is no need for any.

Conclusion on the ground (a) appeal and the Deemed Planning Application

20. Following on from these conclusions, I intend to allow the ground (a) appeal and the deemed planning application in so far as it relates to the rear dormer and front porch only.

Split decision - the effect of Section 180 of the 1990 Act

21. S180 provides that where after the service of a notice, planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as it is inconsistent with that permission. In this case, the appeal on ground (a) will be allowed in part. If the requirements of the notice were varied to exclude that part of the development for which planning permission is being granted, then this could give rise to two inconsistent permissions, one being granted under S173(11) of the 1990 Act as a variation of cutting down the requirements. To avoid this possibility the requirements of the notice will not be varied in this way and reliance will be placed on S180 to mitigate the effect of the notice in so far as it is inconsistent with the permission.

Overall conclusion

22. For the reasons given above, I will grant planning permission for the construction of the rear dormer and front porch, but otherwise I will uphold the notice and refuse to grant planning permission in respect of the first floor rear extension. 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.

R. Satheesan

INSPECTOR