



Appeal Decision

Site visit made on 29 August 2023

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

an Inspector appointed by the Secretary of State

Decision date: 10 November 2023

Appeal Ref: APP/T5150/C/23/3314200

42 Briar Road, HARROW, HA3 0DR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Salmaan Haji-Essa against an enforcement notice issued by London Borough of Brent.
 - The notice was issued on 9 December 2022.
 - The breach of planning control as alleged in the notice is Without planning permission, the formation of a new hardstanding to the front garden of the premises, and the alterations to the dwarf brick wall to the front of the premises (Northwick Circle Conservation Area).
 - The requirements of the notice are 1. To remove the hardstanding to the front of the premises, 2. Re-instate the front boundary wall, to be as shown in photograph A attached to the enforcement notice and 3. Remove all items and debris, arising from the removal of this hardstanding, and remove all materials associated with the unauthorised development from the premises.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (c), (d) of the Town and Country Planning Act 1990 as amended. There is no ground (a) appeal or consequently deemed planning application.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Reasons

2. The building is within the Northwick Circle Conservation area and is not a listed building.

3. Ground (b)

4. An appeal under ground (b) is made on the basis that the breach alleged in the notice has not occurred as a matter of fact. This ground of appeal is whether that which is alleged has occurred or not and is not related to planning impact.
5. The unauthorised development alleged by the Council relates to the hard standing and dwarf wall. It is evident that as a matter of fact there is new concrete slab in the front garden, and that part of the boundary wall has been demolished and the remaining length has been altered. Therefore, as a matter of fact the works alleged have occurred and the appeal on ground (b) fails.

Ground (c)

6. The appellant's case is based on the fact that prior to the works he has undertaken, there was a hardstanding in the front garden, so this is effectively works of maintenance/repair.
7. Section 55(1) of the Act states that development means the carrying out of

building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. As a matter of fact and degree, the evidence indicates that the scale of the new hardsurfacing on the land involved a substantial engineering/building operation, with a new concrete slab over a large part of the front area. In addition, while the form of the front wall is similar to the original wall and that of the neighbour, it is evident that part of the old wall has been demolished and the remaining wall altered. Building skills would have been necessary to carry out the engineering/building operations.

8. The works go well beyond the act of repair or maintenance of the previous surface and wall and I conclude on the balance of probability amount to a new engineering/building operation involving the formation of a concrete hard surface and new dwarf wall.
9. There are permitted development rights for boundary walls and hard standings. However, the Council notes that there is an Article 4 Direction withdrawing permitted development rights for the provision or alteration of hard surfacing and boundaries fronting a highway in this location. I find on the evidence and balance of probability that the hard surfacing works alleged by the Council have occurred, are not repair and maintenance, nor permitted development and require planning permission. The appeal fails on ground (c).

10. Ground (d)

11. I have found above that works amounting to development have occurred as alleged by the Council. The appellant's case on ground (d) is predicated on the existence of the previous hard standing as part of the 4 year period. It is evident the new hard standing and alterations to the wall have not been in existence for 4 years, so the appeal under ground (d) fails.

Conclusion

12. For the reasons given above, I conclude that the appeal should fail and the enforcement notice is upheld.

Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

INSPECTOR