
Appeal Decision

Site visit made on 5 December 2023

by Roy Curnow MA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th December 2023

Appeal Ref: APP/H5390/C/22/3309637

22 Burlington Road, London SW6 4NR

- 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 Pascal Pierre Andre Huser against an enforcement notice issued by the Council of the London Borough of Hammersmith & Fulham ('the Notice').
 - The enforcement notice, numbered 2022/00211/COMPWK, was issued on 28 September 2022.
 - The breach of planning control as alleged in the notice is Without planning permission, the replacement of red patio tiles with light coloured orange patio tiles outside the front entrance to flat no.22.
 - The requirements of the notice are a) Remove from the land the new orange-coloured patio tiles from the front entrance of flat no. 22; and b) Install red patio tiles, matching in terms of size, colour and texture of that of the adjacent red tiles located outside of the entrance to flat 24.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed, the enforcement notice is quashed 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 development already carried out, namely the replacement of red patio tiles with light coloured orange patio tiles outside the front entrance to flat no.22 at 22 Burlington Road, London SW6 4NR as shown on the plan attached to the notice

Procedural Matters

2. The parties agreed that I could see the relevant part of the appeal site from the public domain and that it was not necessary to undertake an accompanied site visit. Given this and the nature of the case, I visited the site alone and viewed the development from the public domain.
3. Although section 2 of the Notice, 'Land to which this Notice relates' only refers to "Land at: 22 Burlington, shown edged red on the attached plan", the full address is set out elsewhere in the Notice. As the Appellant was clearly aware of the land that it related to and has addressed the Council's case, there is no injustice caused by my determining the appeal.

Reasons

Ground (a)

4. An appeal made under Ground (a) is that planning permission should be granted for the development that is the subject of the Notice.
5. The main issue is the effect of the development on the character and appearance of the host building and the Fulham Park Gardens Conservation Area ('FPGCA'), a designated heritage asset, in which it lies.
6. The FPGCA covers a fairly large area that is roughly bounded by Fulham Palace Road, Fulham Road and the District Underground line just to the northeast of Putney Bridge station. The ground floor of properties along Fulham Road, Fulham Palace Road and New Kings Road are largely commercial with what appeared to be residential uses above. The remainder of the streets are overwhelmingly residential, often with imposing terraces of 3 or 4-storey properties. They are mostly finished in brickwork, some of which are painted.
7. Burlington Gardens lies towards the south-western end of the FPGCA, running southeast to northwest roughly parallel to neighbouring Fulham Palace Road. It is divided in two by Rigault Road, with the appeal site lying on the part of Burlington Road to its northwest. The character of this part of the road is residential as with much of the FPGCA. However, its appearance is somewhat different. The grand terraces are not present. On its northeast side, is a terrace of more modest, mostly two-storey dwellings. The appeal property lies on the southwest side of this part of Burlington Road which is, in the main, made up of 'blocks' of more modern terraces of houses and flats and, at the Fulham Road end, the rear of a commercial property that fronts Fulham Palace Road. The three blocks here are all of strikingly different form, both from one another and from the overwhelming majority of development in the FPGCA.
8. The appeal property is a ground floor flat in a three-storey block that is in the art deco style. As I have not been given a date for its construction, I cannot be sure if it is art deco in age. The building, which is finished in a light cream painted render is flat roofed and has a very strong horizontal emphasis. I did not see another building like it in the FPGCA. I am told that it is neither statutorily nor locally listed.
9. Number 22 ('No 22') is one of four flats at ground level, with doors onto the street accessed via very short paths. They looked to be about 2 metres in depth from the rear of the footway. There are also token front gardens of a similar depth, set behind a very low brick wall with railings on top. The doors to the ground floor flats are flanked by small brick structures that housed utility meters. A fifth door on the road frontage provides communal access to the flats on its upper floors.
10. Three of the paths from the footway to the front doors of the ground floor flats are of worn red tiles. This includes that leading to number 24, which abuts that to No 22. That at No 22 was, I am told, finished in those red tiles but they were damaged and subsequently replaced as part of a renovation of the flat. The replacement tiles are light orange in colour within which are darker orange circles.
11. Given that No 22 lies in the FPGCA, I must pay due regard to the terms of the statutory test in section 72(1) of the Planning (Listed Buildings and

Conservation Areas) Act 1990. This requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. This is reflected amongst the terms of Policy DC8 of the Hammersmith and Fulham Local Plan, February 2018 ('LP'). This policy states that, amongst other things, particular regard will be paid to materials used in development proposals.

12. The new tiles cover a very small area. When one is on the same side of the road, they are clearly seen when close-by the front doors of Nos 22 and 24, but, as a result of the dwarf wall and fence they are soon lost to view as one moves away. They are seen from the other side of the narrow road, but vehicles park on this side of the road and they interrupt views to the doorways and the tiles. They are not at all readily apparent in even medium distance views. As such, I did not find them to be prominent in the street scene.
13. Whilst different from the tiles in the other entrances, due to the small area they cover, they do not undermine the uniformity of the building. That uniformity is overwhelmingly derived from the whole block being painted the same colour, with each property having the same pattern and design of windows, door openings and the front boundary treatment. This small development has no adverse effect on the host building, in the same way that the different door types between Nos 22 and No 24 have no ill-effect. The tiles have preserved the high quality urban environment and represent high quality design.
14. As I have said, their effect is localised. When their effect on the character and appearance of the FPGCA as a whole is assessed, which is the statutory test, they have a near imperceptible effect. Throughout the FPGCA there are such small variations in materials and finishes that have a similar effect on its character and appearance. Locally, in this regard, I saw that there was a wide variety of finishes in porches and similar paths along Burlington Road. I saw a similar token garden behind a dwarf wall arrangement in a three-storey, red brick terrace of properties in which number 47 Burlington Road is located. Save for No 47, the 'gardens' to the properties in this terrace were tiled in black and white tiles whereas it had red and black tiles. The contrast was far greater than in the case before me but, again, it was not harmful to the property nor its wider environs. Each of the four dwellings of the same designs in Jubilee Terrace, a short way along Burlington Road from the appeal site, had a different finish to the floors of their entrance porches. Like the development that is before me, this is unremarkable. The replacement tiles at No 22, as with the materials in the few cases I cite here, are simply a very small element of the street scene. As such, the tiles at No 22 preserve the character and appearance of the FPGCA.
15. The Council did not provide a schedule of conditions with its Questionnaire. However, as the development is acceptable and complete, there is no need to apply any.
16. Thus, the use of the orange tiles passes the statutory test and accords with LP Policy DC8 and Key Principles AH2 and CAG3 of the Council's Planning Guidance Supplementary Planning Document - February 2018 ('SPD'). These require development proposals to protect heritage assets, and protect

conservation areas, in particular, respectively. The tiles represent high quality design and use of materials that ensures that the high quality urban environment of the area is maintained. Therefore, they accord with the terms of LP Policies DC1 and DC4.

Conclusion

17. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice. The appeal on ground (g) does not therefore fall to be considered.

Roy Curnow

Inspector