



Appeal Decision

Site visit made on 10 November 2023

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22/12/2023

Appeal Ref: APP/T5150/C/22/3309771

21 St Gabriels Road, London NW2 4DS

- 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 Ms Tamara Lavarello against an enforcement notice issued by the Council of the London Borough of Brent.
- The enforcement notice was issued on 20 September 2022.
- The breach of planning control as alleged in the notice is: Without planning permission, the erection of a new front boundary wall, pillars and gate, the installation of a hard surface to the front of the premises, the widening of the access way, the replacement of the front door, and the replacement of the ground floor windows.
- The requirements of the notice are:
 - STEP 1 Demolish the new front boundary wall, including the demolition of the pillars and the removal of the gate.
 - STEP 2 Remove the hard surface to the front of the premises, except that part of the hard surface that is approved in planning permission reference 18/0168. A copy of these plans is attached to this notice.
 - STEP 3 Reinstall the original dwarf red brick wall, erect red brick pillars with pier caps and plant privet hedge behind the dwarf red brick wall. Install a gate in the red brick wall ensuring that this scheme fully complies with the plans approved in planning permission reference 18/0168. A copy of these plans is attached to this notice. For the avoidance of doubt, please make sure that the location, size and design of the wall, pillars, gate and hedge matches those approved plans.
 - STEP 4 Remove the front door, and replace with a wooden front door which exactly matches the original door at the premises.
 - STEP 5 Remove the ground floor windows, and replace with a wooden windows, which exactly matches the original windows at the premises, particularly ensuring that the leaded lights, stain glass and drip rails are installed as per the original windows.
- The period for compliance with the requirements is 3 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.

Summary Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Reasons

1. An appeal on ground (a) is that planning permission ought to be granted for the breach of planning control stated in the notice.
2. The main issues in this case are the effect of the appeal development on the character and appearance of the area, including the Mapesbury Conservation Area and the effect of the appeal development on highway safety.

Character and Appearance

3. The appeal building is within the Mapesbury Conservation Area. So it constitutes part of a designated heritage asset and there is a statutory duty upon me under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
4. The Council has adopted the Residential Extensions & Alterations Supplementary Planning Document (SPD No 2) in January 2018 and the Mapesbury Conservation Area Design Guide (the Design Guide) in February 2018. I have had regard to these as material considerations for the appeal development in this case.
5. The area is characterised by large detached and semi-detached two storey houses, set back from the road by generous front gardens. These gardens soften the appearance of the buildings behind and I consider the gardens constitute part of the significance of the Mapesbury Conservation Area.
6. Many front gardens have been altered to accommodate off-street car parking, particularly on the same side of the road as the appeal site. Front boundary treatments in the area vary but in the context of the appeal site, the front boundaries are generally formed of brick walls with planting behind.
7. The widened access on the appeal site is seen within the context of the front boundary openings on either side. These are of a comparable width to that in the appeal scheme, notwithstanding that this may be wider than the 3 metre maximum cited in the Design Guide.
8. The new front boundary wall and piers are consistent in height with those seen next door at No 23 and immediately opposite. The Council has indicated that the wall of the adjoining property is unauthorised but immune from enforcement action. Be this as it may, I consider it is now an established part of the character and appearance of the area that the new front boundary wall matches.
9. From the drawings provided, the pier caps of the new wall are substantially the same in appearance as those in the previously approved scheme. The choice of brick for the new wall and piers is not dissimilar to that used next door on parts of the building at No 19 and on the parapet of the side extension to the appeal property itself.
10. From the information provided, the new front metal gate replaces a previous metal gate of the same height and in the same location.
11. Whilst the area of hardstanding in the front garden has increased, the evidence provided indicates that 50% of the total garden area has been retained for plantings and soft landscaping. This is consistent with SPD No 2 and the Design Guide. Moreover, the path leading to the front door is separate from the car parking area and this is consistent with the Design Guide.
12. Paving has been provided for the hardstanding. From the information provided, this is consistent with the previously approved scheme and the hardstanding treatments used on neighbouring properties, notwithstanding that the Design Guide and SPD No 2 seek traditional and permeable materials.

13. Whilst the Council objects to the removal of the hedge that previously existed, this does not constitute part of the breach alleged in the notice, nor is there any evidence that permission is required for the removal of a hedge, notwithstanding that the Design Guide and SPD No 2 seek their retention.
14. A solid four panel front door has been installed on the appeal building. The Design Guide states that any replacement front door should match the character of the area. At my site visit I observed that a wide variety of front door designs exist on St Gabriels Road.
15. The enforcement notice identifies that the replacement ground floor front windows are not timber and that they do not replicate the stained glass with diamond shaped patterns of the original windows. However, from the information provided and my observations at my site visit, I have no reason to believe the new windows are not timber and it is clear that the previous windows did not incorporate stained glass. The notice in these respects is erroneous.
16. The top lights in the new windows incorporate a rectangular leaded light design. From the information provided, the previous windows incorporated a diamond shape leaded light design in the top lights and a rectangular leaded light design in the panes below. In this regard, the top lights do not reflect the Design Guide insofar as it indicates that replacement windows should copy the original design and glazing that existed when the property was constructed and which was typical of the street.
17. However, the leaded light design for the new top lights matches the top lights on the floor above and matches the leaded light design for the bottom panes of the windows on both floors. Moreover, this arrangement is consistent with the window design seen on other houses in the street, including Nos 7, 9 and 11.
18. Taking all of the above into account, in the particular circumstances of this case, I conclude that the appeal development does not harm the character or appearance of the area, including the Mapesbury Conservation Area, or its significance as a designated heritage asset. Instead, the appeal development preserves the area's character and appearance. Nothing has been provided to lead me to a different conclusion in this regard.
19. As such, in this regard, I find no conflict with Policies D3, D4 or HC1 of the London Plan 2021, Policies DMP1 or BHC1 of the Brent Local Plan 2022, or the design or historic environment policies of the National Planning Policy Framework. Whilst, as noted above, the appeal development does not comply with the Design Guide or SPD No 2 in all respects, this does not alter my conclusion on this main issue.

Highway Safety

20. St Gabriels Road is an unclassified road, lined with a combination of on-street parking and yellow lines. Like many of the houses on the same side of the road, the appeal property already has a section of dropped kerb on the footway immediately outside, so that vehicles can access off-street car parking.

21. On the appeal site, the access to the off-street car parking area has been made slightly wider than the existing pavement crossover which serves it. The Council considers that the front garden alterations fail to prevent illegal crossing of the pedestrian footway to the detriment of pedestrian safety and the Council has drawn my attention to the Design Guide in this regard. But there is no such safety reference in the Design Guide.
22. The appeal development has not changed the existing pavement crossover or the existing arrangement of on-street car parking and yellow lines. Moreover, no evidence has been provided to demonstrate that the front garden alterations have had any appreciable harmful effect on highway safety, particularly bearing in mind the planning history indicates that the widened access way has been in situ since November 2019.
23. A swept path analysis provided demonstrates that a large and medium car can enter and exit the appeal site independently, without crossing over the footway to the side of the dropped kerb. In addition, the presence of on-street car parking outside the appeal site directs vehicles to use the dropped kerb rather than mount the footway to the side of the dropped kerb.
24. Taking all of the above into account, based on the cases put to me, I conclude the appeal development has no harmful effect on highway safety. As such, in this regard, I find no conflict with Policies D3, D4 or HC1 of the London Plan 2021, Policies DMP1, BHC1 or BT2 of the Brent Local Plan 2022, the highway safety policies of the National Planning Policy Framework, SPD No 2 or the Design Guide.

Other Matters

25. My attention has been drawn to an appeal decision for 16 A–D St Gabriels Road, Ref APP/T5150/C/21/3283620, dated 16 January 2022. So I have taken this into account as a material consideration in this case. However, it has not been explained how that decision is directly relevant to the case before me.
26. That appeal decision supports my conclusion on highway safety and it makes no difference to my conclusion on character and appearance for two reasons. First, the widened access way on the appeal site before me is seen within the context of the comparable access ways either side of it. Second, the appeal site before me has retained considerably more space for soft landscaping than the scheme in the appeal decision I have been referred to.

Conclusion on Ground (a)

27. For the reasons given above, I conclude that the ground (a) appeal should succeed and planning permission should be granted. No conditions have been suggested that I consider are necessary.

Conclusion

28. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for: 'The erection of a new front boundary wall, pillars and gate, the installation of a hard surface to the front of the premises, the widening of the access way, the replacement of the front door, and the replacement of the ground floor windows', as described in the notice.

Formal Decision

29. 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 erection of a new front boundary wall, pillars and gate, the installation of a hard surface to the front of the premises, the widening of the access way, the replacement of the front door, and the replacement of the ground floor windows', at 21 St Gabriels Road, London NW2 4DS, as shown on the plan attached to the notice.

L Perkins

INSPECTOR