



Appeal Decision

Site visit made on 10 October 2023

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th January 2024

Appeal Ref: APP/F5540/C/22/3298996

Premises known as 764 Great West Road, Isleworth TW7 5NA

- 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 Act).
- The appeal is made by Dr Pharroda against an enforcement notice issued by London Borough of Hounslow.
- The notice was issued on 29 April 2022.
- The breach of planning control as alleged in the notice is without planning permission the erection of a single storey side extension with extractor flues, a rear infill extension, first floor roof terrace with fencing, first floor rear extension, erection of storage containers, installation of hardstanding and all associated works to the Land.
- The requirements of the notice are to:
 - i. Demolish the single storey side extension with extractor flues (position marked A on the attached plan)
 - ii. Demolish the rear infill extension (position marked B on the attached plan)
 - iii. Cease the use of the roof of the ground floor extension as a roof terrace and remove the fencing associated with this use (position marked C on the attached plan)
 - iv. Demolish the first floor rear extension (position marked D on the attached plan)
 - v. Remove the hardstanding from the east of the site and restore soft landscaping (position marked E on the attached plan)
 - vi. Remove the storage containers (position marked F on the attached plan)
 - vii. Remove all resultant debris from the Land
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (e) and (f) of the Act. 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.

Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - The deletion of sub-paragraph 5.iii. and the substitution of 'iii. Remove the roof terrace fencing (position marked C on the attached plan)'
 - The deletion of sub-paragraph 5.vi. and the substitution of 'vi. Remove all the storage containers (position marked F on the attached plan) except for the light blue storage container directly adjacent to the north boundary wall.'
2. Subject to the correction and variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Preliminary Matters

3. Other planning appeals¹ associated with this site have been brought to my attention. These relate to a breach of planning control as alleged in the notice being, without planning permission, the unauthorised use of part of the property as a car wash and valeting service and unauthorised erection of associated canopy, office structure and associated paraphernalia. These appeals were pending at the time when this appeal was submitted however, these other planning appeals have subsequently being dismissed and at the time of my site visit the car wash and valeting service was not visible at the site. I have dealt with this appeal accordingly.
4. The requirement in sub-paragraph 5.iii. of the notice, to cease the use of the roof terrace, is excessive as a material change of use (MCU) is not alleged. I have corrected the notice in order to deal with the operational development, so only the removal of the roof terrace fencing is required.

Appeal on ground (e)

5. An appeal on ground (e) is a claim that a copy of the enforcement notice was not properly served as required by section 172(2) of the Act.
6. Section 172(2) provides that a copy of the notice shall be served on the owner and occupier of the land to which it relates, and any other person having an interest in the land which, in the opinion of the Council, is materially affected. It is for the Council to decide who is materially affected by the notice, but it runs the risk of the notice being quashed if it exercises its discretion incorrectly.
7. The Council state that they are aware that there are multiple operations on the site which are not believed to be solely the responsibility of one individual and therefore the notice was addressed to "the manager(s)". The appeal was also submitted in the name of "Mr/Mrs The Manager(s)" with the appeal form confirming that the appellant was also the land owner. Clarification was sought by the Inspectorate on the owner and appellant's name which was confirmed by the appellant through his agent as Dr Pharroda.
8. The appellant has not identified any other persons as owners, occupiers, or with an interest in the land who were not served with a copy of the notice, or how they may have been materially affected by the notice, or how any such parties or the appellant himself has been substantially prejudiced by any failure of service.
9. As such, I am unable to find that there has been a failure of service resulting in substantial prejudice to any party. Consequently, even if there was a failure to properly serve the notice I would disregard the failure in accordance with s176(5) of the Act.
10. The appeal on ground (e) therefore fails.

Appeal on ground (d)

11. In order for an appeal on ground (d) to succeed it has to be shown that at the time the notice was issued it was too late for enforcement action to be taken. The test on the evidence is on the balance of probability.

¹ References: APP/F5540/C/21/3284851 and APP/F5540/W/21/3282588

12. This ground of appeal is made in respect only for the breach of the 'erection of storage containers' (marked F on the attached plan to the notice). The appellant argues that area F of the site has been used for the placement of storage containers for over a 10-year period from the date the notice was issued and therefore they are immune from enforcement action. Historic Google images suggest that various different storage containers have been located in area F at different times and positions during a 10-year period. The notice alleges operational development and not a MCU, and I will therefore be assessing the matter on this basis.
13. Section 171B(1) of the Act provides that no enforcement may be taken in respect of any unauthorised operational development after the end of the period of four years. The Council now accept that the light blue storage container, adjacent to the north boundary wall, has been located in the same position for over four years, and therefore is immune from enforcement action, and I have no reason to disagree.
14. On balance, I conclude that the light blue storage container was located on the site more than four years before the notice was issued and therefore it was too late for the Council to take enforcement action with regards to this specific container. The other storage containers, however, were not located more than four years before the notice was issued and it was not too late for the Council to take enforcement action on these containers.
15. The appeal on ground (d) therefore partially succeeds in respect of the light blue storage container and the notice is varied as detailed above. The appeal on ground (d) fails in respect of the other storage containers.

Appeal on ground (a)

16. The ground of appeal is that planning permission should be granted for the erection of a single storey side extension with extractor flues, a rear infill extension, first floor roof terrace with fencing, first floor rear extension, erection of storage containers, installation of hardstanding and all associated works to the land.

Main issues

17. The main issues are whether the development preserve or enhances the character or appearance of the Osterley Park Conservation Area and the locally listed building; the effect of the development on the living conditions of occupiers of neighbouring properties in terms of outlook, privacy and noise; and the effect of the development on pedestrian safety with regards to parking.

Conservation Area and locally listed building

18. The appeal site is located within the Osterley Park Conservation Area (OPCA) which was extended in 2019. The appeal site sits within the extended part of the OPCA. The original two-storey hotel building is described as being locally listed.
19. In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Moreover, paragraph 205 of the National Planning Policy Framework 2023 (the Framework) states that when considering

the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

20. The character of the OPCA, particularly in the immediate locality of the appeal site, is predominantly residential properties. The built form of the area is modest with properties being constructed of traditional design and materials. The locally listed building is a two storey building having mock Tudor feature gables, tiled roof with rendered main elevations. There have been extensions and other additions built within the appeal site however, it is the main two storey locally listed building which sits forward and is a prominent feature in the street scene, positively contributing to the OPCA. The significance of the OPCA, within close proximity to the appeal site, is the traditional design, materials and scale of the properties interspersed with prominent buildings.
21. The single storey side extension, the rear infill extension and the first floor rear extension with the roof terrace and fencing are not sensitive forms of development that are in keeping with the main two storey building. They are bulky additions with inappropriate design including flat roofs that are intrusive features within the surrounding area. The materials used in the construction of the extensions do not match the host building and appear as odd additions.
22. The storage containers and the extractor flues are industrial in nature and their design and materials do not blend in with the residential character of the area. The hardstanding covers a large area with minimal soft landscaping which detracts from the appearance of the site and the surrounding area.
23. I note that other buildings in the area have been altered and extended, and there is a variety in scale and appearance of the surrounding built form. These matters, however, do not alter my findings that the development alleged in the notice are visually intrusive and have a harmful effect on the locally listed building, the surrounding area and the significance of the OPCA.
24. Accordingly, the development does not preserve or enhance the character and appearance of the OPCA or the locally listed building. The development does not accord with Policies CC1, CC2, CC4 and GB7 of the London Borough of Hounslow Local Plan 2014 (HLP) and Policy G6 of the London Plan (LP) which seeks development to conserve and enhance the character of places, promote high quality urban design, conserve and take opportunities to enhance the significance of the borough's heritage assets and encourage the greening of the borough.

Living conditions

25. There are neighbouring windows in the properties of Braybourne Drive which have windows that overlook the appeal site. The first floor extension and terrace is situated over 18 metres from neighbouring windows. Given this separation distance and the scale of the first floor extension and terrace, the outlook of neighbouring occupiers are not compromised and privacy levels are not adversely affected.
26. Due to the location and scale of the single storey side extension, rear infill extension, storage containers and the hardstanding, they do not have a detrimental effect on the living conditions of neighbouring occupiers with regards to outlook and privacy.

27. The hardstanding area, which has resulted in loss of soft landscaping, does provide additional space for parking of vehicles which is adjacent to residential properties. Given the size of the hard standing area, there will not be a significant amount of vehicles using this area to increase noise and disturbance to a level that adversely compromises the living conditions of neighbouring occupiers.
28. The development does not have a harmful effect on the living conditions of occupiers of neighbouring properties with regards to outlook, privacy and noise. The development is not contrary to Policies CC2 and EQ5 of the HLP which seek, amongst other things, development to have a positive impact on the amenity of current and future residents and ensure noise sensitive development is protected.

Pedestrian safety

29. The additional parking provided by the hardstanding is located to the east of the buildings along the east boundary of the site. There is a children's play area directly adjacent to the hardstanding and the area is not marked out with parking spaces. Access to this hardstanding parking area is via a gap between the building and the east boundary.
30. The access between the building and the east boundary is narrow with no identifiable footway for pedestrians. The narrowness of the access would cause conflict should two vehicles approach each other, that would likely result in vehicles having to make a hazardous manoeuvre by reversing. The lack of footway and the narrowness of the access between the building and the boundary could also result in conflict between vehicles and pedestrians. As there are no parking spaces marked out there would be confusion over where vehicles can be parked which would lead to awkward manoeuvring for vehicles moving around in this space. The location of the children's playing area so close to the hardstanding parking area without any identifiable pedestrian footways is a hazardous arrangement.
31. The hardstanding provides parking close to hotel rooms which helps in minimising social contact and potential for virus transmission. Heathrow Airport is within close proximity to the appeal site which contributes to demand for parking at the site. These matters, however, do not outweigh that the hardstanding parking, as described above, is harmful to pedestrian safety.
32. The hardstanding car parking is harmful to pedestrian safety and is contrary to Policy EC2 of the HLP and Policy T6.4 of the LP which seeks to promote the active management of car parking and travel demand.

Other matters

33. The hotel is a significant source of employment to the local community and the appellant considers it is essential that the hotel adapts and alters to meet the changing needs of guests needs and expectations. It is also noted that alterations have been made at the site in response to the Covid-19 pandemic to provide more space both internally and externally. Given the scale of the hotel operation I attach minimal weight to these benefits.
34. The appellant has suggested that alterations can be made to the development including having materials to match the existing building, providing screening around the extractor flues, high glazed screening around the terrace,

restricting the use of the terrace area, and also having the hardstanding accommodate sustainable design principles. Requiring the extensions to have external surfaces that match the existing building does not alter that the design and scale of the extensions are intrusive and harmful to the OPCA and locally listed building. High glazed screening may be less intrusive than timber fencing however, it would still appear as an odd addition given its location on the building. Having the hardstanding accommodate sustainable design principles would not outweigh the harm to pedestrian safety.

Conclusion on ground (a)

35. I have found that the development does not compromise the living conditions of neighbouring occupiers. However, this matter and the benefits described above do not outweigh the significant harm I have identified with regards to effects on the character and appearance of the OPCA and the locally listed building, and pedestrian safety.
36. The development conflicts with the development plan as a whole and with the provisions of the Framework. There are no other considerations which, by themselves or cumulatively, lead me to reach any other conclusion.
37. The appeal on ground (a) therefore fails.

Appeal on ground (f)

38. An appeal on ground (f) is that the requirements of the notice exceed what is necessary in order to remedy the breach of planning control or, as the case may be, the injury to amenity that is caused by the breach. In this case the requirements seek to remove all of the unauthorised development and hence the purpose of the notice is to remedy the breach of planning control.
39. The appellant argues that the requirements are excessive given other steps could be undertaken to allay concerns. These other steps include requiring materials to match the existing building to be used on the extensions, screening around the extractor flues, high glazed screening around the terrace with restrictions on the use of the terrace area, and also that the hardstanding accommodates sustainable design principles. I have previously considered these matters under ground (a).
40. Given that in respect of the breach of planning control the notice requirements are to remove all of the development, it is clear that the requirements go no further than remedying the breach. Anything less than removal would not fully remedy the breach.
41. Accordingly, I conclude that the requirements of the notice are not excessive and the appeal on ground (f) fails.

Chris Baxter

INSPECTOR