



Appeal Decision

Site visit made on 26 February 2024

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 19TH APRIL 2024

Appeal Ref: APP/H5960/C/23/3321653

56 Putney Park Lane, LONDON, SW15 5HQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Adrian O'Brien against an enforcement notice issued by London Borough of Wandsworth.
- The notice was issued on 30 March 2023.
- The breach of planning control as alleged in the notice is Without planning permission and within the last 4 years, the installation of uPVC framed double glazed windows on the front, side and rear elevations of the Property (within a conservation area).
- The requirements of the notice are: 1. Remove the unauthorised uPVC framed windows located on the front, side and rear elevations at ground and first floor levels; 2. Reinstate critchall framed windows to match those previously in situ; and 3. Remove from the site all debris arising from compliance with step 1 and 2 above.
- The period for compliance with the requirements is: Two (2) 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 dismissed and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.

Preliminary Matters

1. Two appeals were originally submitted against the enforcement notice, with the first submitted by the above appellant and the second by Mrs Valerie O'Brien. However, since the appeals were submitted on ground (a) only, the second appeal fell away since a ground (a) appeal can only be made by one appellant.
2. During the course of the appeal, the Council adopted the Wandsworth Local Plan (2023) ('LP'). The Council was asked to submit copies of new policies relied upon and was given an opportunity to provide updated policy representations, with a final comment offered to the appellant. Representations made have been taken into consideration.
3. The appeal site is subject to an Article 4 direction removing various permitted development ('PD') rights under the Town and Country Planning (General Permitted Development) (England) Order 2015 ('GPDO') including as regards 'External alterations to houses which would be visible from the street; i.e. all front elevations and some side and rear elevations; this includes the replacement of windows and doors'. Since there is though no appeal on

ground (c), the appellant does not argue that the windows installed represent permitted development in any event¹.

The appeal on ground (a) and the deemed planning application ('DPA')

Main Issue

4. The main issue is the effect on the character and appearance of the appeal dwelling and the Dover House Estate Conservation Area ('CA').

Reasons

5. The appeal property is an end terrace dwelling located within the CA. The layout and design of the CA was influenced by the Garden City Movement and is characterised by clusters of 1920s cottage-style homes set around picturesque green spaces.
6. The 2007 Dover House Estate Conservation Area Appraisal ('CAA') explains that the cottage style buildings in the CA are characterised by a mixture of metal casement windows (referred to as 'Crittall' after their manufacturer), along with timber sash and casement windows. Both the timber and metal windows originally had glazing bars which divided the glass into small 'cottage style' panes.
7. At the appeal property, the original windows had previously been replaced so that these were metal casement windows but without the cottage-style glazing bars. From the Council's photographs, the previously existing windows shared the elegant slim frames and traditional materials of the original windows seen across the CA.
8. By contrast, the windows attacked by the notice have thick, inelegant uPVC frames and, by reason of their materials and design, have an obviously modern appearance at odds with the historic architectural and materials of the appeal property and numerous other properties within the CA. The end terrace position of this property means that this harmful effect as regards the front and side elevation and upper floor rear windows can be clearly seen from the public viewpoints in the vicinity of the appeal site.
9. I am permitted to grant planning permission in respect of 'part of' the matters enforced against² and the appellant has proposed that, if I make a finding of harm as regards the appeal windows, I could grant planning permission only for those on the side and rear elevations on the basis that these are not prominent in public views. As outlined above though, the end of terrace position of the appeal property means that both the side and rear upper floor rear windows are clearly visible from public viewpoints. The new ground floor rear window is not apparent in public views but would be visible in the rear garden environment and, in my view, a very obviously mismatched ground floor rear window would be harmful to the character of the CA in view of the consistency of slim-framed fenestration being a characterising feature of the CA.

¹ I have no reason to take a different view as regards the ground floor rear window (which is not visible from the street) as the relevant PD right under Schedule 2, Part 1, Class A of the GPDO includes a condition that the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse; the uPVC introduced is not, in my view, similar in appearance to other traditional materials used in the dwelling's exterior

² Per s177(1) of the Town and Country Planning Act 1990 ('1990 Act')

10. The appellant draws my attention to a number of examples of uPVC windows within the CA, including a number within close proximity to the appeal site. I do not have full details of the planning circumstances leading to these developments but the examples of uPVC windows are not so common as to have become the characterising form of fenestration within the CA. The visual harm from other existing uPVC windows resulting from their modern materials and thick frames does not therefore justify the appeal development.
11. I therefore find that the appeal development has a harmful effect on the character and appearance of the appeal dwelling and the CA. Bearing in mind the relatively localised impact, this harm to the significance of the CA is less than substantial in the terms of paragraph 205 of the National Planning Policy Framework 2023 ('the Framework'). I am though required to give great weight to the CA's conservation which is in line with my duty under Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Public benefits

12. Per paragraph 208 of the Framework, where development leads to less than substantial harm to the significance of a designated heritage asset (such as the CA), this harm should be weighed against the public benefits of the proposal. The appellant outlines potential public benefits in terms of health benefits from installation of the new windows and removal of the old windows which were causing mould, and as regards energy efficiency and reducing carbon emissions.
13. As regards public benefits, I note the LP strategic context, vision and objectives related to combating climate change and improving energy efficiency, along with the requirement in Policy LP10 of the LP for development proposals to incorporate measures which improve energy conservation and efficiency. I recognise that these are in the context of the declaration of a Climate Emergency, along with government commitments to reducing greenhouse gas emissions per the Climate Change Act 2008. I acknowledge also that appeal decisions cited by the Council in support of its position pre-date the adoption of the LP.
14. Whilst I have taken public benefits cited into consideration, there is no evidence to suggest that these could not also be achieved by means of a form of fenestration more in keeping with the character of the CA. These factors can therefore only be afforded limited weight and do not outweigh the harm to the CA's significance. Whilst I sympathise with the appellant regarding the financial implications of funding alternative windows, particularly during the current cost of living crisis, I can only accord this matter modest weight as a private matter as it is an argument that could be repeated too often, resulting in significant harm to heritage assets.
15. The appeal development also does not comply with policies LP1, LP3 and LP5 of the LP which indicate that new development should relate positively to prevailing local character, encourage conservation of features that contribute to a heritage asset's significance and that alterations to residential properties should complement the form, setting, period and detailing of the host building. It is contrary also to Policy HC1 of the London Plan (2021) which stipulates that development proposals affecting heritage assets should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings.

Conclusion on ground (a) and the DPA

16. I find then that the appeal development has a harmful effect on the character and appearance of the appeal dwelling and the CA. Whilst I note the energy efficiency and health benefits resulting from the new windows, these do not outweigh the harm resulting to the CA for the reasons given. Whilst I acknowledge LP compliance as regards public benefits cited, nonetheless, the appeal development conflicts with the development plan, read as a whole, in view of the fundamental harm resulting to the heritage asset as outlined above. For the above reasons, and taking into account all other matters raised, the ground (a) appeal fails and planning permission is refused in respect of the DPA.

Period for compliance

17. Whilst there is no appeal on ground (g), the appellant's personal circumstances warrant an extension to the compliance period. I consider that a period of 9 months would be reasonable in the circumstances, bearing in mind also likely timescales to schedule the works and to have these completed. I shall therefore vary the notice under my powers in s176(1) of the 1990 Act.

Overall Conclusion

18. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decision

19. It is directed that the enforcement notice is varied by in paragraph 6 the deletion of the wording 'Two (2) months' and substitution of 'Nine (9) months'.
20. Subject to the 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 1990 Act as amended.

V Bond

INSPECTOR