



Appeal Decision

Site visit made on 22 April 2024

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date: 28th May 2024

Appeal Ref: APP/A5270/C/23/3322049
79 Twyford Avenue, Acton, London W3 9QD

- 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 Barry Nawaf Jaber against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The enforcement notice, numbered 21EN0666(1), was issued on 29 March 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the laying of hardstanding in the front garden.
 - The requirements of the notice are to:
 1. Remove the hardstanding in the front garden; and
 2. Remove all resultant debris.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) (f) (g) of the Town and Country Planning Act 1990 as amended (the Act). Since an appeal on ground (a) has been made, the application for planning permission deemed to have been made under section 177(5) of the Act falls to be considered.
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Decision

1. It is directed that the enforcement notice be varied by:
 - replacing the word "three" with "six" in Section 5.
2. Subject to this variation, which is due to success on ground (g), the appeal is otherwise dismissed and the enforcement notice is upheld.
3. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Ground (a) and the deemed planning application (DPA)

Main Issue

4. The main issue in the DPA is the effect of the development on the character and appearance of the host dwelling, streetscene and Creffield Conservation Area (CA).

Reasons

5. The appeal property lies within the CA. I have applied the statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paid special attention to the desirability of preserving or enhancing the character or appearance of the CA by attaching considerable importance and weight to that desirability.

6. The CA Appraisal summarises the special interest of the CA as being its architecturally superior houses which have fine detailing. The Appraisal further notes that Twyford Avenue retains a superior suburban appeal and that the view along it is one of the key views which make an important contribution to the character of the CA.
7. The CA Appraisal says that the suburban character of the CA is created by a building line set substantially back from the highway behind generous front gardens. It notes as a key issue the harm caused by the introduction of hardstanding to provide further parking areas. Further, the CA Management Plan highlights the threat caused by removal of boundary walls and the conversion of green-space front gardens to hardstandings.
8. Before the appeal development, there was hardstanding on the frontage (from at least 2008) in the form of red brick pavers. The property had a low front wall with vegetation behind and with ungated vehicle and gated pedestrian access gaps, together with a further strip of soft landscaping along the boundary with the semi-detached pairing at 81 Twyford Avenue (No 81).
9. The appeal development constitutes hardstanding in the form of large scale tiles in three tones of grey. The tiles are non-porous and there is no added drainage visible. The former boundary wall and vegetation have been removed (leaving only a very thin strip of planting next to the boundary fence with No 81).
10. Notwithstanding the pre-existing hard surface upon the frontage, the almost total loss of all green space - which had afforded it a degree of identity as a front garden - is directly contrary (and harmful) to the character of the CA as described in the Appraisal. Further, it creates a striking degree of visual starkness aggravated by the greyness of the materials in contrast to the colour palette of the building. The texture of the tiles is also in harmful contrast to the texture of the property's brickwork. Moreover, with the loss of the boundary wall and soft landscaping, the hardstanding is brought sharply into prominent view¹. Consequently, I give very limited weight to the appellant's argument that the hardstanding is of better appearance than the one before, notwithstanding any issues with the sub-base (which could have been remedied without replacement by an unsuitable material).
11. I also place significant weight on the findings of the Inspector in the 2021 dismissed appeal as regards a nearby property at 66 Twyford Avenue ('the dismissed appeal'), which found harm in respect to the CA, and whose misgivings about that proposal included loss of the front garden to hardstanding. The dismissed appeal scheme included a boundary wall and more soft landscaping than in the appeal development before me.
12. While the appellant makes a claim that the appeal development contains more soft landscaping than that approved under application ref 172748HH (which he says proposed only a small section to the front of the site), I give it very limited weight as he has not included a copy of the relevant approved plan (Revision 1 version of RMF0417_PP_004 dated 24 July 2017) and neither has the Council been able to provide me with a copy.

¹ Which would also be the case on implementation of planning permission 172748HH if, as the appellant says, it consents the partial removal of a front boundary wall, fencing and hedge to improve access onto the front driveway (I have however not been provided with a copy of the relevant plan).

13. My attention has been drawn to other local examples of frontages with hardstandings for vehicles². However, they do not change my finding on harm in the case before me (particularly given the virtually total extent of the hardstanding and its unsuitable materials). Indeed, they draw even more into focus the cumulative harm to the CA through the dwindling of features within it (as identified in the Appraisal) which contribute to its significance.
14. There are also no conditions I could reasonably impose which would make the visually harmful hardstanding acceptable.

Planning Conclusion

15. Having regard to paragraph 208 of the National Planning Policy Framework (the Framework), whilst the harm caused to the significance of the CA is less than substantial, it is a matter of considerable weight and importance. The appeal development arguably reduces demand for parking on the highway, but this public benefit does not outweigh the harm.
16. I conclude that the development causes significant harm to the character and appearance of the host dwelling, streetscene and CA. It fails to preserve the character or appearance of the CA, causing less than substantial harm to its significance as a designated asset. The public benefits do not outweigh this harm and the proposal is therefore contrary to Policies D3 and HC1 of the London Plan (2021) and Policies 7.4, 7B and 7C of the Ealing Development Management Development Plan Document (2013) which together seek to ensure that developments are of good design and protect the character and appearance of places, including conservation areas. The development is also contrary to the heritage protection and design principles of the Framework.
17. The development does not accord with the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the ground (a) appeal does not succeed and I will not grant permission in respect of the DPA.

Ground (f)

18. For success under this ground of appeal, I must be satisfied that the requirements of the notice are excessive in achieving its purpose. From the way the notice is drafted, I find that its purpose is to remedy the breach of planning control by restoring the land to its condition before the breach took place. The legitimate requirements go no further than that, and are accordingly not excessive.
19. The appellant has suggested that the notice could be varied to require compliance with permission 172748HH (as an 'alternative scheme' under this ground). However, the Council says that the permission does not relate to the hardstanding and the appellant has not provided sufficient details of the scheme for my consideration – including a copy of the salient approved plan for the property frontage (Revision 1 version of RMF0417_PP_004).
20. I also do not accept the appellant's further suggestion of varying the notice to simply require a drainage scheme to be submitted and approved in respect of the hardstanding, since it is not the absence of drainage which I have found to be the cause of the harm I have identified.

² Some examples very near the appeal property are also unauthorised and subject to enforcement action.

21. Accordingly, ground (f) does not succeed.

Ground (g)

22. For an appeal to succeed on this ground, I must be satisfied that the compliance period set out in the notice is unreasonably short.

23. The appellant says that 6 months, rather than 3 months, is needed for a suitable contractor to undertake the works given a waiting time and various logistics that need to be resolved. The Council does not oppose the request, and I agree. Therefore, ground (g) succeeds to this extent and I am using my powers to vary the notice accordingly.

Conclusion

24. For the reasons given above I conclude that the appeal should not succeed, save on ground (g). I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the deemed application.

Andrew Walker

INSPECTOR