



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/23/3322011

81 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 Anuj Kapila against an enforcement notice issued by the Council of the London Borough of Ealing.
- The enforcement notice, numbered 21EN0665(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 and the replacement of windows in the front elevation at ground and first floor levels.
- The requirements of the notice are to:
 1. Remove the hardstanding in the front garden; and
 2. Restore the front garden to its condition before the breach occurred; and
 3. Remove the windows in the front elevation at ground and first floor levels; and
 4. Reinstate the windows to match the proportions, size, colour and design of the previous windows; and
 5. Remove all resultant debris.
- OR
 1. Alter the front garden to accord with the development granted planning permission under reference number 222412FUL subject to its terms and conditions for the "alterations to the front driveway to create parking area with paving, soft landscaping and new front boundary walls " in accordance with drawing number: PL/100 (Existing and proposed plans and elevations), attached to this notice; and
 2. Remove the windows in the front elevation at ground and first floor levels; and
 3. Reinstate the windows to match the proportions, size, colour and design of the previous windows; and
 4. Remove all resultant debris.
- The period for compliance with the requirements is 6 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.

Decision

1. The appeal is dismissed and the enforcement notice is upheld. 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

2. 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

3. 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.
4. 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.

Windows

5. The CA Appraisal notes that original windows are all constructed of timber and that, where uPVC has crept in, it is to the detriment of the area. Further, the CA Management Plan highlights the threat caused by unsuitable window and door replacements affecting the parts of houses fronting the highway.
6. The windows to the front elevation at ground and first floor levels have been replaced with uPVC windows with thick frames and top-hung, face-mounted panes. Notwithstanding the lawful uPVC windows in place before the appeal development, the thick design and chunky profile of the current plastic windows draws the eye to their obvious and harmful incongruity with the architectural character of the property and with nearby properties with retained original timber windows (including the other property in the semi-detached pairing). Being in such a key view within the CA, this causes significant harm to the designated heritage asset.
7. I accept that there are local examples of where non-timber windows have replaced with uPVC, but (where authorised) these tend not to be the chunky style implemented in the appeal development before me. Nor was that the style of window approved in the appeal decision for 20 Oakley Avenue¹. But even were that the case, it would not justify approving development that adds to the cumulative detriment of the area referred to in the Appraisal.

Hardstanding

8. 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.
9. Before the appeal development, said to be complete by 30 March 2021, there was hardstanding on the frontage (from at least 2008) in the form of brown/red brick pavers and a low front wall to the left of an ungated vehicle entrance. There was soft landscaping to either side of the parking area upon the hardstanding and in front of the ground floor bay window. There was a tree next to the boundary with 79 Twyford Avenue (No 79, behind the low front wall) and some hedging on part of the boundary with 83 Twyford Avenue.

¹ APP/A5270/D/20/3246547; Decision date 5 August 2020.

10. The appeal development constitutes hardstanding, in the form of large and medium scale tiles in two tones of grey. The tiles are non-porous and there is no added drainage visible. The former partial front boundary wall and soft landscaping on three sides of the front area have been removed (leaving only a very thin strip of planting next to the boundary fence with No 79).
11. 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. 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).
12. I also place significant weight on the findings of the Inspector in the 2021 dismissed appeal² 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.
13. My attention has been drawn to other local examples of frontages with hardstandings for vehicles³. However, they do not change my finding on harm in the case before me (particularly given the virtually total extent of the hardstanding). 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 loss of the remaining soft landscaping features of the front garden, or 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 provides energy-efficient fenestration and reduces demand for parking on the highway, but these public benefits do 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.

² APP/A5720/W/20/3260908; Decision date 29 April 2021

³ Some examples very near the appeal property are also unauthorised and subject to enforcement action.

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 or by making development comply with the terms of planning permission Ref 222412FUL which has been granted in respect of the land. These legitimate requirements go no further than that, and are accordingly not excessive.
19. The appellant hasn't really made a coherent case under this ground. He simply requests that he should be able to retain the existing uPVC windows (while complying with the notice in respect of the hardstanding). However, I have dealt with the merits arguments of that case already under ground (a).
20. Accordingly, ground (f) does not succeed.

Ground (g)

21. For an appeal to succeed on this ground, I must be satisfied that the compliance period set out in the notice is unreasonably short.
22. The appellant says that 9 months is needed to raise funds and employ the services of suitable contractors to undertake the works with suitable materials. However, very limited evidence has been provided in support and I can see no reason why all requirements of the notice cannot be reasonably completed within the 6 month compliance period of the notice.
23. Accordingly, ground (g) does not succeed.

Conclusion

24. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Andrew Walker

INSPECTOR