



Appeal Decision

Site visit made on 12 September 2024

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2024

Appeal Ref: APP/X5990/C/23/3320107

29 Acacia Road, London, NW6 6AR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (hereafter “the Act”).
- The appeal is made by Mrs Stephanie Mordehachvili against an enforcement notice issued by the City of Westminster Council.
- The enforcement notice was issued on 30 March 2023.
- The breach of planning control as alleged in the notice is: within the last 4 years and without the benefit of planning permission the removal of the former front garden boundary treatment and its replacement with a new front garden boundary treatment consisting of dwarf brick walls, piers finished in painted render, railings to the dwarf walls with a metal backing, a vehicular gate with metal backing and a pedestrian gate and side panels with metal backing (“the Unauthorised Works”).
- The requirements of the notice are:
 1. Remove;
 - i) The railings with metal backing (outlined in red in Photograph A, attached);
 - ii) The vehicular gate with metal backing (outlined in red in Photograph A); and
 - iii) The pedestrian gate/side panels with metal backing (outlined in red in Photograph A);And either;
 2. Upon completion of Step 1, alter the dwarf walls on either side of the vehicular and pedestrian gates (outlined in blue in Photograph A) so that they accord with the height of the dwarf walls shown outlined in red on approved drawing no. P_105 C of planning permission referenced 20/06671/FULL (copy attached at Appendix B) and soot wash the altered dwarf walls to match the Townshend Road boundary wall in accordance with Condition 15 of planning permission referenced 20/06671/FULL; and
 3. Install the remainder of the front boundary treatment, namely the railings, vehicular and pedestrian gates, in full accordance with approved drawing nos. P_105C and P_03C of planning permission referenced 20/06671/FULL (both drawings attached at Appendix B showing the front boundary treatment outlined in red);Or
 4. Reinstate the front boundary wall, railings gates and piers that existed prior to the Unauthorised Works taking place as shown in Photograph B attached.And then:
 5. Remove all debris resulting from compliance with either requirements 1 - 3 above or requirements 1 and 4 above from the Property.
- The period for compliance with the requirements is 6 months.
- The appeal proceeds on the grounds set out in section 174(2)(a) of the Act. As such, an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development upon the character and appearance of the host property and whether it would preserve or enhance the character or appearance of the St. John's Wood Conservation Area (the CA), a designated heritage asset¹.

Reasons

3. The works of re-development to the front boundary of 29 Acacia Road subject of the appeal comprise the removal of the former boundary treatment and the construction of dwarf walls topped with black metal railings, capped piers finished in painted render, a single sliding vehicular gate, and a pedestrian gate with side panels. Solid black metal plate provides backing to the railings and gates to their full height. The boundary as constructed has an average height of approximately 2 metres across the range.
4. No.29 is an attractive early 19th Century detached villa built in Italianate style and finished in stucco, occupying a prominent corner position at the junction with Townshend Road. Along with a number of other similar styled villas and other properties in the area it is set back from the road and enclosed with boundary walls and piers, railings and gates. In combination the architectural design, layout and boundary enclosure of these properties, including No. 29, are key factors which contribute greatly to the character and appearance of the CA.
5. In the context of other similar properties in the CA I saw, including those referred to by the parties, I concur with the Council's view that the constructed height of the boundary treatment, if taken in isolation, would not be harmful. However, height is only one element of the overall design and finished appearance.
6. The installed railings and gates have a flat horizontal top rail which is an atypical design in the context of the majority of boundary railings I saw in the area, including the majority of those referred to by the appellant. In this regard the few flat top designs that I did note were generally part of lower height boundary treatments, some backed with hedgerow, rather than the taller boundaries similar to that of No. 29. The taller boundary treatments (and many of the lower height ones) in the area, predominantly terminated vertically with spearhead or other decorative finials.
7. The appellant refers to the former boundary treatment, particularly with regard to that part above the dwarf wall having a flat top rail finish. However, the original front boundary was not as tall as that now in place and which is of greater prominence.
8. Since boundary treatments form key characteristics and features of the CA, as I previously described, I find the lack of appropriate finial detailing to the current railings and gates, in combination with their overall height which gives them greater prominence, is harmful to the character and appearance of the host property and fails to preserve or enhance the character or appearance of the CA.

¹ National Planning Policy Framework (2023): Glossary, page 69

9. Further to the above, and also in combination with the finished height of the development, the full height backing to the railings and gates as installed result in an overly solid enclosure to the front boundary. As such, the design of the installed railings and gates is somewhat lost against the backing; the overall effect is simply a continuous solid enclosure along the frontage. The same effect would result even with spearhead finials if set against full height backing. This also adds to my view that the development fails to preserve or enhance the character and appearance of the CA.
10. The appellant also refers and compares the as-built development to the boundary treatment approved under planning permission Ref. 20/06671/FULL. (It forms an optional requirement of the enforcement notice that the appellant could carry out). Unlike the as-built development, the approved scheme would have a noticeably lower height across the frontage with spearhead finials projecting above a horizontal rail, and also above the height of an acrylic backing. As such, the railings would have the stronger visual presence and expression in the overall composition, with the lower height backing subservient to the railings, resulting in a significantly less solidifying structure in the street scene. It would be a significantly more desirable form of development than currently exists.
11. For the avoidance of doubt I have taken no account of the alleged harm *"to the visual amenities of neighbouring occupiers who have a view"*² of the development, since the desire by any neighbours for a particular view of something is not a material consideration.
12. Taking account of all the above factors and all other evidence before me, I conclude overall that the development carried out results in harm to the character and appearance of the host property and the wider area, and fails to preserve the character or appearance of the St John's Wood Conservation Area, a designated heritage asset. There are no public or other benefits before me which would outweigh this harm.
13. As such, the development conflicts with the requirements of Policy HC1 of the London Plan (2021) and Policies 38, 39 and 40 of the Westminster City Plan (2021), which taken together seek to ensure that development proposals are of high quality design, including important architectural details, boundary walls and railings, and which will preserve or enhance the character and appearance of conservation areas. It thereby conflicts with the Development Plan overall.

Conclusion

14. For all the above reasons the appeal on ground (a) fails.

Thomas Shields

INSPECTOR

² Section 4 of the enforcement notice