



Appeal Decision

Site visit made on 6 January 2025

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2025

Appeal Ref: APP/G5750/C/23/3316425

92A Osborne Road, Forest Gate, London E7 0PL

- 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 Ms Shehnaz Abdul Karim against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice was issued on 10 January 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the installation of uPVC windows within the front elevation of the property.
 - The requirements of the notice are:
 1. Remove the uPVC windows located on the front elevation of the property (as shown outlined in yellow on the photograph attached at Appendix 1).
 2. On completion of step 1, remove all materials and debris from the site.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) 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.
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Decision

1. It is directed that the enforcement notice be:
 - Varied by deleting the words “three months” within section 5 (what you are required to do) and its replacement with “six months”.
2. Subject to this variation, the appeal is dismissed, and 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.

Application for costs

3. An application for costs was made by London Borough of Newham against Ms Shehnaz Abdul Karim. This application is the subject of a separate Decision.

Main Issue

4. The main issue is whether the development preserves or enhances the character or appearance of the building and the Woodgrange Estate Conservation Area ('CA').

Reasons

5. The appeal relates to a Victorian two storey property situated within the CA. The Woodgrange Estate Conservation Area Guide (WECAG) explains that the Woodgrange Estate was built as a smart middle class Victorian suburb between 1877 and 1892, with a distinctive character, set in attractive surroundings. The unauthorised works, the subject to this appeal relate to the replacement of the timber framed windows with UPVC framed windows, at the front of the property at ground floor level.
6. With regard to the effect on designated heritage assets, Section 72(1) of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
7. The National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. The Framework also states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
8. The CA is characterised predominantly by Victorian properties of similar scale, with stock brickwork, pitched (including symmetrical) slates roofs with prominent chimney stacks, single and two storey front bay windows, timber framed sliding sash windows, recessed front doorways, and the use of stucco for windows and door surrounds, cill bands, keystones and console brackets. The appeal building shares many of these Victorian features and materials and makes a positive contribution to the significance of the CA. I also observed that the traditional qualities of the building including its materials are fundamental to preserving the special character and appearance of the CA. Therefore, the re-use of traditional materials on this historic building should be encouraged to preserve the character and appearance of the building and the special character of the CA.
9. This view is supported in the WECAG, which states windows have a significant effect on the appearance of a house as they are the largest external feature and that all houses were originally fitted with timber sliding sashes. Along with other features like doors they give each style of house its own special appearance. Keeping these original characteristics or replacing to match will ensure the character of the area is protected, and therefore changes to most materials on the front of properties is now controlled by the Article 4 Direction removing certain permitted development rights.
10. With regard to the current appeal development, the variations in style and appearance of the new UPVC windows contrast unfavourably with the simple and elegant nature of the former timber framed windows. Indeed, the replacement UPVC windows installed comprise "chunkier" frames than former timber windows and smooth "plastic" finishes. These differences in the characteristics all detract from the traditional façade of this historic building and its contribution to the character and appearance of the wider CA.

11. In the terms of the Framework, the harm that the development causes to the significance of the designated heritage asset, which is the CA, would amount to less than substantial harm. Accordingly, this should be weighed against the public benefits of the development.
12. The former windows were in a poor state of repair, with draft entering the property and were also infested with insects. However, I am not persuaded that the UPVC windows would be the only way of addressing these issues and there is no substantive evidence to suggest that these issues could not be achieved with replacement timber windows, without harming the significance of the heritage asset. I have great sympathy for the appellant's personal circumstances, and I appreciate that UPVC windows are less costly than timber framed ones. Nevertheless, the WECAG suggests that heat loss can be significantly reduced by fitting secondary glazing inside the frame or that it may also be possible to install double-glazed units within the existing timber sliding sashes. Consequently, I find that the harm to the character and appearance of the CA would not be outweighed by these benefits.
13. I therefore conclude that the development has a harmful effect on the character and appearance of the host building and fails to preserve or enhance the character or appearance of the CA, as a whole, contrary to Policies S6, SP1, SP3, SP5, and SP8 of the London Borough of Newham Local Plan 2018 (LP), and Policies D1 and HC1 of the London Plan, 2021 (London Plan). Amongst other things, these seek to deliver high quality of urban design, ensure integration with the street scene including consideration for the quality of materials; and conserve and enhance heritage assets with any change to them based on an understanding of the nature of their significance and the contribution of their settings to that significance.
14. It would also conflict with the relevant requirement of the Framework which seeks to conserve and enhance the historic environment. Finally, it would not preserve or enhance the character or appearance of the conservation area as required by Section 72(1) of the Act. This carries considerable weight and importance to my decision.
15. The Council have also referred to policies H1, SC1 and SC4 of the LP and Policy G6 of the London Plan. However, these appear to relate to the delivery of new homes, environmental resilience and biodiversity which is not relevant to the main issue outlined above and the considerations of this appeal. I therefore find no conflict against these policies.

Conclusion on Ground (a) and the Deemed Planning Application

16. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The development has a harmful effect on the character and appearance of the host building and fails to preserve or enhance the character or appearance of the CA, as a whole in conflict with the development plan taken as a whole. None of the other matters raised by the appellant, including the benefits of providing UPVC windows and their lower cost outweighs the harms identified. Therefore, there are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.

17. For the reasons given and with regard to all other matters raised, I conclude that the appeal on ground (a) should fail, and the deemed planning application should be refused.

The Appeal on Ground (g)

18. The appeal on this ground is that any period specified in the notice falls short of what should reasonably be allowed. The appellant asks that the time for compliance is extended from 3 months in order to raise funds to carry out the remedial works.
19. The time for completing the requirements should be what is reasonably considered necessary to complete the requirements. In my view, 6 months would strike a more reasonable and proportionate balance to carry out the remedial works. I shall therefore extend the period from 3 to 6 months for compliance with the notice.
20. To this extent, the ground (g) appeal succeeds, and I will vary the notice accordingly.

Conclusion

21. 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.

R Satheesan

INSPECTOR