



Appeal Decision

Site visit made on 4 February 2025

by **J Moss BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 February 2025

Appeal Ref: APP/X5990/C/24/3338553

46 Huxley Street, London W10 4QQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Luke Shelley against an enforcement notice issued by City of Westminster Council.
- The notice was issued on 9 January 2024.
- The breach of planning control as alleged in the notice is: Without the requisite planning permission and within the last four years, the installation of a new front door and the installation of security lights and a CCTV camera to the front of the Property at ground floor level (the 'Unauthorised Works').
- The requirements of the notice are:
 - FRONT DOOR
 - OPTION 1
 - 1) Remove the front door of the Property as shown and outlined in red in Photograph A attached.
 - 2) Upon completion of Step 1) of Option 1, install a solid timber door with chamfered lower panels and glazed upper panels, to match the detailed design and materials of the door which previously existed (as shown in attached Photograph B);
Remove all waste, materials, equipment, and debris from the Property resulting from compliance with requirements 1) & 2) of Option 1.
 - OR
 - OPTION 2
 - 1) Remove the two timber upper panels (outlined in blue) of the front door of the Property as shown and outlined in red in Photograph A attached.
 - 2) Upon completion of Step 1) of Option 2, in the openings created, install two obscure glass panels to match the glazing in the door which previously existed (as shown outlined in blue in attached Photograph B);
 - 3) Remove all waste, materials, equipment, and debris from the Property resulting from compliance with requirements 1) & 2) of Option 2.
 - SECURITY LIGHTS AND CCTV CAMERA
 - 1) Remove the lights and CCTV camera, and the associated cabling, fixtures and fittings from the front elevation of the Property, as shown and outlined in red in Photograph C attached.
 - 2) Fill any holes resulting from compliance with Step 1 of Notice B using materials to match the existing and remove all waste, materials, equipment and debris from the Property.
- The period for compliance with the requirements is six months of the notice taking effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (c) 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, the enforcement notice is upheld and planning permission is refused

Ground (c)

1. To succeed on ground (c), the appellant must demonstrate that, on the balance of probability, the matters alleged in the notice do not constitute a breach of planning control. The burden of proof is on the appellant.

2. The appellant's case on ground (c) is twofold. The first, is that the security lights and CCTV camera do not constitute development. The second is that the installation of a new front door, security lights and a CCTV camera are development that is permitted by reason of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 2015 Order). I deal with each in turn as follows.

Whether or Not Development

3. Section 55(1) of The Town and Country Planning Act 1990 as amended (the 1990 Act) informs that the meaning of development includes the carrying out of building or other operations. Section 55(2)(a) excludes from the definition of development works for the alteration of any building which do not materially affect the external appearance of the building. The matter in dispute between the parties is whether or not the installation of the CCTV camera and security lights constitute a material alteration to the external appearance of the building.
4. The building in question is a mid-terrace, two storey property. I viewed the building from the front elevation, which is where the CCTV camera and security lights have been installed. From here the building appeared to be a typical, traditional terrace property of a modest scale.
5. The CCTV camera and security lights in question appear to comprise a single composite unit comprising two spot lights and what appears to be a single camera. These are attached to a single backing (all black in colour), mounted on the brickwork between the front entrance porch and the brickwork above the ground floor window.
6. The unit is a notable feature on the front elevation of the property. It projects some distance from the façade of the building and, although to the side of the projecting porch, its projection is prominent. Its utilitarian appearance is in contrast with the other features on this elevation of the dwellinghouse. Within the context of the building as a whole, I cannot regard the unit as 'de-minimis'. The unit constitutes a material alteration to the external appearance of the building.
7. Notwithstanding the above, I am mindful of Class F of Part 2, Article 3, Schedule 2 of the 2015 Order. In the drafting of this provision, 'the installation, alteration or replacement on a building of a closed circuit television camera to be used for security purposes' is clearly regarded as development. What has been done in this case includes the installation of a CCTV camera, which is consistent with the description of development in Class F.
8. Having regard to the above, and having been given no reason to find otherwise, I conclude that the installation of a CCTV camera and security lights on the front elevation of the appeal property is development as defined in section 55(1) of the 1990 Act.

Whether or Not Permitted Development

9. It is the Council's case that the installation of a new front door and the installation of security lights and a CCTV camera constitute a material alteration to the dwellinghouse. The Council point to an Article 4 Direction, dated 29 October 1992, approved on 12 November 1992 (the Article 4 Direction). The Council's case is

that, as a result of the Article 4 Direction, the permission otherwise granted for this development by the 2015 Order does not apply in this case.

10. In the first instance, the appellant says that the Article 4 Direction is no longer applicable as 'it does not refer to any future permitted development changes or new Orders'. The Article 4 Direction refers to the Town and Country Planning General Development Order 1988 (the 1988 Order), which has of course been amended and superseded over time, resulting in the 2015 Order. Whilst I can see that the Article 4 Direction does not make reference to any future revocations, etc. of the 1988 Order, this does not mean that it does not have any effect at present.
11. Section 17(2)(b) and 23 of the Interpretation Act 1978 gives continuing effect to Article 4 Directions made under legislation, including subordinate legislation (e.g. the 1988 Order), that has been revoked and re-enacted, with or without modifications. I have been given no reason to conclude that these provisions do not apply in this case.
12. The first matter in the list in Schedule 1 of the Article 4 Direction refers to 'physical alterations which would affect the appearance of any part of the front elevation or an elevation that is visible from the highway (including alterations to front doors and windows), being development comprised within Class A referred to in Part 1 of Schedule 2 of the Order'. Class A of the 1988 Order permitted 'the enlargement, improvement or other alteration of a dwellinghouse'. This is consistent with Class A of Part 1, Article 3, Schedule 2 of the 2015 Order. In view of this, and having regard to the provisions of the Interpretation Act 1978 referred to above, I can find no reason to conclude other than that the Article 4 Direction continues to have effect with regard to the development specified in 1. of schedule 1, which is development that would otherwise be permitted by Class A of Part 1, Article 3, Schedule 2 of the 2015 Order.
13. The appellant does not dispute that the installation of a new front door constitutes development as described in 1. of schedule 1 of the Article 4 Direction. Accordingly, the permission granted by Class A of Part 1, Article 3, Schedule 2 of the 2015 Order for such an alteration does not apply in this case (by reason of the Article 4 Direction). As such, the installation of a new front door is development that requires the benefit of express planning permission.
14. As for the CCTV camera and security lights, the appellant suggests that these have the benefit of permission granted by reason of Class F of Part 2, Article 3, Schedule 2 of the 2015 Order. They say that the Article 4 Direction does not have any effect with regard to the provisions of Class F.
15. As I note above, Class F permits 'the installation, alteration or replacement on a building of a closed circuit television camera to be used for security purposes'. There are a number of limitations to the provisions of Class F set out in F.1., including the dimensions and height above ground level. The onus of proof is on the appellant to demonstrate that the development does not exceed these specifications. Even if I were satisfied that a unit comprising a CCTV camera, as well as security lights, would benefit from the provisions of Class F, as the appellant has not provided any specification of the unit installed, I cannot be satisfied that it does not exceed the limitations set out in F.1.
16. In addition to the above, F.1.(f) informs that development would not be permitted by Class F if any part of the camera would be less than 10 metres from any part of

another camera installed on a building. I have noted the location of a second camera close to the front door of the appeal property, which has also been referred to by the Council. If this was present or installed at the same time as that subject of this appeal, I cannot be satisfied that the development does not fall within F.1.(f).

17. Notwithstanding the above, I have concluded above that the unit comprising the CCTV camera and security lights constitute a material alteration to the external appearance of the building. The building in this case is a dwellinghouse. Ordinarily, Class A permits, amongst other development, the alteration of a dwellinghouse. In view of the Article 4 Direction, the permission ordinarily granted by Class A does not apply in this case. For this reason, and notwithstanding the provisions of Class F, the installation of the CCTV camera and security lights constitute development that requires express planning permission in this case.
18. All things considered, I conclude that, on the balance of probability, the matters alleged in the notice are development that does not have the benefit of permission granted by the 2015 Order and, therefore, require express planning permission. As the necessary planning permission has not been granted, the matters alleged in the notice constitute a breach of planning control.

Ground (a) and the deemed application for planning permission

Main Issue

19. The appeal on ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.
20. I note the substantive reasons for issuing the enforcement notice and from these I have identified the following main issue, mindful of the statutory duty imposed under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the LBCA Act 1990):
 - Whether the development preserves or enhances the character or appearance of the Queen's Park Estate Conservation Area.

Reasons

Special Interest and Significance

21. The Queen's Park Estate Conservation Area (QPECA) is dominated by late 19th Century streets of terraced housing. The Queen's Park Estate Conservation Area Audit, dated 15 April 2005 (the CAA), describe it as a large and well-preserved area of picturesque Victorian cottage-style housing. Having viewed certain parts of the conservation area, including Huxley Street, I can only agree with this description.
22. The CAA describes the use of a similar palette of materials in the terrace rows within the QPECA, but with Victorian gothic detailing repeated in differing combinations to avoid monotony throughout. Save for two properties within the terrace row, the front façade of properties on Huxley Street have largely retained this uniformity in materials and design, but with the variety in Gothic style features mentioned in the CAA. This includes the front façade of the appeal property.

23. Save for the development subject of this appeal, the front façade of the appeal property appears largely unaltered and particularly well-maintained. It is, therefore, a fine example of a historic Victorian cottage-style terrace property described in the CCA. Accordingly, the appeal property and the wider Huxley Street, make a positive contribution to the character and appearance of the QPECA as a whole and thereby to its significance as a designated heritage asset.
24. I can only agree with the CAA that advises that window and door openings establish the character of any building's elevation, and that original doors and windows, including their detailing, materials and method of opening make a significant contribution to the historic and architectural character of Conservation Areas.
25. Neither the CAA nor The Queen's Park Estate Design Guide (the DG) describe variety in the style of front doors in the QPECA as adding interest to the heritage asset. Instead, paragraph 4.26 of the CAA identifies painted timber panelled doors as being characteristic of those on the estate. It describes fielded or herringbone lower panels below glazed upper panels, as shown in the photographs at figures 17 and 18. This advice is broadly the same as that in the DG. Such front doors are, therefore, a feature of properties in the QPECA that provides a sense of uniformity in design.
26. Although the vast majority might not be historic, this style of door is prevalent throughout Huxley Street, including on the adjoining property at No 48. Whilst there is variety in the painted finish of doors on the street, these panelled doors with upper panel glazing are of a particular style that contribute to the special interest of the terrace rows.

Effect of the Development

27. The door installed on the appeal property features the panelling described in the CAA, which is to its credit. It does not, however, include the glazed panels above the lower panels. Its appearance is, therefore, at odds with the historic style of door described in the CAA and that is retained on many other properties within the street. I cannot, therefore, describe the front door as preserving or enhancing the character or appearance of the QPECA. Accordingly, it causes harm to the significance of the heritage asset.
28. Turning to the CCTV camera and security lights, the front façade of the appeal property retains a vast array of historical features. As I note above, it is a fine and well-maintained example of the Victorian cottage-style terrace housing that contributes to the significance of the QPECA. In contrast to this, the CCTV camera and security lights are a wholly utilitarian addition to the front façade. The colour of the unit assists in reducing its visual impact, to a degree. However, it is still a prominent feature by reason of its size and projection from the façade of the building. The unit is out of keeping with the character of the building and, therefore, fails to preserve or enhance the character or appearance of the QPECA. In doing so, the unit harms the heritage asset and its significance.

Public Benefits and Heritage Balance

29. I have identified harm to the significance of the QPECA. Due to the nature and extent of the development in question, I find the harm caused to be less than substantial, but nevertheless of considerable importance and weight. In these

circumstances, paragraph 208 of the National Planning Policy Framework (the Framework) informs that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

30. The appellant suggests that both the new door and the CCTV camera and security lights unit improve the security of the property in an area where there is a relatively high risk of burglary. I can agree that the development improves the security of the property, which would be a private benefit of the development. However, I have no doubt that the development, the CCTV camera and security lights in particular, would be a deterrent to crime within the street. This would be a public benefit of the development that weighs in the heritage balance.
31. Notwithstanding the above, I have been given no reason to find that the public benefit of the development would not be realised by security lights and a CCTV camera that would be more discreet than that subject of the appeal or that a door fitted with reinforced glass would not achieve the same results.
32. All things considered, I cannot be satisfied that any clear and convincing justification exists for the identified harm to the significance of the designated heritage asset in this case. The Framework makes clear in paragraph 205 that great weight should be given to the conservation of a heritage asset. The public benefit I have identified is not sufficient to outweigh the harm that would occur to the significance of the QPECA.
33. The proposal would conflict with the statutory presumption set out in section 72(1) of the LBCA Act 1990, and it would not accord with the provisions within the Framework which seek to conserve and enhance the historic environment.
34. Furthermore, I cannot conclude that the development accords with the development plan for the area, which includes the City Plan 2019-2040, Adopted April 2021 (the CP); the London Plan, dated March 2021 (the LP); and the Queen's Park Community Council Neighbourhood Plan 2020-2040, dated April 2020 (NP). The development conflicts with the policies of the development plan that reinforce the statutory duty and advice on heritage within the Framework, including Policy HC1 (Heritage conservation and growth) of the LP, and Policies 39 (Westminster's Heritage) and 40 (Townscape and Architecture) of the CP. These require, amongst other matters, that Development will preserve or enhance the character and appearance of Westminster's conservation areas, and that heritage assets are conserved and enhanced in a manner appropriate to, and sympathetic to, their significance.
35. The development is also contrary to the good design requirements of Policy 38 (Design principles) of the CP and Policy 6 (Design) of the NP. The requirements of these include that development will positively contribute to Westminster's townscape and streetscape, having regard to, among other matters, the character and appearance of heritage assets; and that new development achieve an exemplary standard of sustainable and inclusive urban design and architecture that respects the character of distinct areas within the neighbourhood plan area.
36. For the above reasons, the development also fails to accord with the relevant guidance within the City Council's Supplementary Planning Guidance document on Development and Demolition in Conservation Areas and the DG.

Other Matters

37. Having regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, I have noted the other relevant matters that have been drawn to my attention, including the other benefits of the development.
38. The benefits of the development noted above that result from the improvements to the security of the property are a material consideration that weigh in favour of the grant of permission. In this regard, the appellant's reference to the wellbeing of his family is noted. The weight attributed to this benefit is, however, limited as it has not been demonstrated that the same benefits would not result from alternative security measures or a front door of the style that accords with the CAA and the DG.
39. I note the appellant's suggested fall back option, that a solid panel could be applied internally to the glazed panels of a door that is consistent with the CAA and the DG. I cannot, however, agree that such a proposal would cause more harm than the existing front door, particularly as this would mean that the glazing panels that are characteristic of front doors in the QPECA would remain. For this reason, whilst a material consideration in this case, it carries minimal weight in the planning balance.
40. Having viewed the properties in Huxley Street, whilst I noted the other front doors that are not of the style described in the CAA and the DG, I cannot agree with the appellant, that the street is dominated by these. As I note above, there were numerous front doors within the street of the style that is characteristic of the QPECA. I note the examples drawn to my attention in the appellant's evidence. It is unfortunate that many of these are now lawful, despite the harm many cause to the significance of the heritage asset. Nevertheless, their presence does not alter my conclusions regarding the harm caused by the front door that is the subject of this appeal.

Planning Balance and Conclusion on Ground (a)

41. All things considered, I have been unable to identify any material considerations of sufficient weight to indicate that my determination of the appeal should be made otherwise than in accordance with the development plan. I have considered whether conditions would overcome the harm caused in this case, but conclude that they would not. Accordingly, for the reasons given, I conclude that planning permission ought not to be granted for the development subject of this appeal and the ground (a) appeal should fail.

Conclusions

42. 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 application deemed to have been made under section 177(5) of the 1990 Act.

Formal Decision

43. 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.

J Moss

INSPECTOR