



Appeal Decisions

Site visit made on 4 February 2025

by **Peter White BA(Hons) MA DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 February 2025

Appeal A Ref: APP/F5540/C/23/3325559

Appeal B Ref: APP/F5540/C/23/3325560

18 Grove Road, Isleworth TW7 4JH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeals are made by Mr Ali Khan (Appeal A) and Mrs Sofia Khan (Appeal B) against an enforcement notice issued by the Council of the London Borough of Hounslow ("the Council").
 - The notice was issued on 26 May 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised partial demolition of structures (dwelling house, garage and pedestrian entrance).
 - The requirements of the notice are:
 - (i) To rebuild to match in facsimile the structures (dwelling house, garage and pedestrian entrance) as they stood immediately prior to their demolition. The rebuild shall be in conformity with the architectural description and the 'existing plans' shown via Council planning reference 00531/18/P3, drawings 01 (Existing Floorplans) and drawing 04 (Existing Elevations). In addition the build shall conform with photographs taken by Council prior to the partial demolition of the structures. The drawings and photographs are attached to this notice.
 - The period for compliance with the requirements is: 18 months.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (b), (f) 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.
 - Appeal B is proceeding on the grounds set out in section 174(2)(b), (f) and (g) of the Town and Country Planning Act 1990 (as amended) ("the Act").
 - **Summary of decisions:** The appeals are dismissed, and the enforcement notice is upheld with corrections and variations in the terms set out below in the Formal Decision.
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Preliminary Matters

1. Section 5 of the Notice makes reference to drawings and photographs it states are attached to the Notice, but no drawings or photographs were attached to the copy of the Notice provided to the Planning Inspectorate. The Council have provided plans and photographs which they say are part of the Notice, and the appellants have not disputed the Council's claim. I have therefore considered the appeals on that basis.
2. The appellants' case on ground (b) is primarily associated with whether or not the matters were development or whether planning permission had been granted for them. These are normally arguments to be considered in relation to an appeal on ground (c). At the same time, the alleged breach of planning control is that demolition had occurred without planning permission, and whether or not the alleged breach had occurred is a matter for ground (b). These matters are therefore intertwined, and as both parties have addressed the arguments made, no injustice would arise to the Council or the appellant were I to consider these matters together as appeals on grounds (b) and (c). I have therefore done so below.

3. On submission of the appeals the appellants sought a Hearing in order to discuss the points of law associated with the options available for reconstruction of the dwelling. Considering the criteria for determining the procedure for appeals, the grounds of appeal are clearly understood from the appeal documents and a site inspection, the relevant issues are not complex and it is not necessary for the Inspector to test the evidence by questioning or to clarify matters, and the requirements of the notice are clear. The written procedure is therefore suitable.

The appeals on grounds (b) and (c)

4. Appeals on ground (b) are made on the basis that the matters stated in the Notice as having constituted the breach of planning control have not occurred, and those on ground (c) on the basis that those matters (if they occurred) do not constitute a breach of planning control.
5. The appellants have not disputed that the partial demolition of structures (dwelling house, garage and pedestrian entrance) has occurred. But rather whether those works were development, or whether planning permission was granted for them.
6. Section 55(1) of the Act defines “development” as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. In Section 55(1A) “Building operations” expressly includes the demolition of buildings. It also includes structural alterations of or additions to buildings, and other operations normally undertaken by a person carrying on business as a builder.
7. Section 55(2) excludes certain operations from development, including the demolition of any description of building specified in a direction given by the Secretary of State. The Town and Country Planning (Demolition Description of Buildings) Direction 2021 excludes any building the cubic content of which, measured externally, does not exceed 50 cubic metres. For the relevant part of the Direction the term “building” does not include part of a building.
8. The first element of the appellants’ case is that the garage is 42.6 cubic metres, excluding the store to its rear, and that neither the garage nor the conservatory and store off the kitchen exceeded 50 cubic metres.
9. The partial demolition of the dwelling exceeded 50 cubic metres, and the demolition materially affects the external appearance of the building. It was therefore development of the land. Plans showing the ‘existing’ dwelling prior to the works¹ show the conservatory was attached to the dwelling, such that it formed part of the building constituting the dwellinghouse. Demolition of the conservatory was therefore not excluded from the development.
10. The store stood as a separate structure in terms of its walls and roof, and was joined to the dwelling only by means of a canopy and steps. I have only limited details of the canopy, but it appeared to have been a cover, perhaps lightweight in construction, laid between, but separate from, the roofs of the dwelling and the store. The steps provided access to the store from the garden, but not from the kitchen adjacent to them. Overall, I consider the store to be a separate building to

¹ Drawing numbers AH 730-01, 04 and 07B as submitted with planning application 00531/18/P3

the house. It is one which did not exceed 50 cubic metres, and its demolition was therefore not development for the purposes of the Act.

11. The garage was a separate building, independent of the dwelling. I note the rendered arch which stood over the pedestrian gate between the dwelling and the garage, but garages of this type are a feature of other houses on the street without that link. The archway appeared to have been constructed as a separate, self-standing, feature and did not make the garage one building with the house.
12. At the rear of the garage was a store, of which I have only very limited information. The plans show it had only 3 sides of its own, relying on the rear wall of the garage for its enclosure. Although it was narrower than the garage, and its walls were slimmer, I have not seen sufficient evidence that it was a separate building. As the garage alone is 42.6 cubic metres, and the Council consider the building as a whole to be 57 cubic metres, it has not been evidenced that the demolition of the garage/store building is excluded from the definition of development.
13. The second element of the appellant's case is that planning permission² was granted for the demolition of the garage and store on the 2 December 2020 ("the 2020 planning permission").
14. The 2020 planning permission granted consent for "demolition of existing garage" among other works. It preceded the demolition, which occurred in January 2022, and was not subject to pre-commencement conditions. Demolition of the garage included the store attached to it, and both were permitted in order to facilitate extension of the dwelling.
15. With the evidence before me, demolition of the garage was a commencement of the planning permission, which also granted consent for the alteration of the building in terms of the removal of the conservatory and the archway over the pedestrian gate between the garage and the house. The demolition of these elements was necessarily permitted by the planning permission as they would be located inside the extended building and were not shown on the 'proposed' plans permitted.
16. In conclusion, planning permission has not been granted for the full extent of the demolition which has occurred. The partial demolition of the dwellinghouse has occurred without planning permission.
17. The appeals on grounds (b) and (c) therefore succeed in part. Consequently, I shall correct the Notice by deleting the words "structures (dwellinghouse, garage and pedestrian entrance)" from Sections 3 and 5 of the Notice, and replacing them with the words, "the dwellinghouse".

Appeal A on ground (a)/the DPA

18. Appeals on ground (a) are made on the basis that planning permission ought to be granted for the matters stated in the Notice as constituting the breach of planning control. The matters before me are those stated in the Notice as corrected, that is the demolition of the dwelling, not its redevelopment.

² Reference 00531/18/P3

Main Issues

19. The main issues are:

- the effect of the development on the housing stock in the borough, including family sized dwellings;
- the effect of the development on the character and appearance of the Spring Grove Conservation Area (SGCA); and
- the effect of the development on the living conditions of neighbouring occupiers.

Housing stock in the Borough

20. Policy H8 of The London Plan (2021) (“TLP”) requires the loss of existing housing to be replaced by new housing at existing or higher densities, with at least the equivalent level of overall floorspace.
21. Policy SC1 of the Hounslow Local Plan 2015-2030 (2015) (“HLP”) seeks to maximise the supply of housing in the borough to meet housing need, achieving at least 12,330 new homes in the plan period. One of the ways it seeks to achieve that is by a presumption against the development of self-contained residential units within the curtilage of existing dwellings where it would conflict with other policies. The policy was adopted on the basis of the London Strategic Housing Market Assessment (SHMA) 2014 which identified the need for a substantial increase in housing supply in Hounslow and across London generally. The Council advises its SHMA 2018 also identifies a need in the borough for family sized homes.
22. The partial demolition of the dwelling reduces housing stock in the Borough and therefore conflicts with Policies H8 of the TLP and SC1 of the HLP, which are described above.

Character and appearance

23. The appeal site lies within the Spring Grove Conservation Area (SGCA), and I have a statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing its character or appearance. Paragraph 202 of the National Planning Policy Framework sets out how heritage assets are irreplaceable resources which should be conserved in a manner appropriate to their significance.
24. The significance of the SGCA is associated with it being an estate planned in the 1850s to be a grand Victorian suburb, although its development was not complete until the 1930s. The Spring Grove Conservation Area Appraisal (2019) identifies six distinct character areas, of which the appeal site is within the College Road area. 18 Grove Road is identified as a positive contributor in an area laid out as part of the later phase of the original estate. The area comprises residential development of a mix of characters, including a number of two storey semi-detached and detached houses from the interwar period. The prevailing pattern of development has mostly been respectful to the original layout and design.

25. Essential to the character of the area is the layout of Henry Daniel Davies' original estate plan and plot forms, and neither are affected by the development. However, one of the identified threats to the SGCA is the loss of architectural detailing and original materials.
26. The dilapidated state of the building, as it remains following its partial demolition, is clearly harmful to the character and appearance of the SGCA and its significance. The remaining façade is supported by a substantial scaffolding structure which is clearly visible from the street, the remaining parts of the roof are unsightly with exposed roof timbers, edges of the remaining structure are rough and unfinished, and the Land remains boarded up to prevent access. Further harm is caused as the dwelling is one half of a pair of semi-detached houses. In the terms of the Framework that harm is less than substantial, but great weight should be given to the conservation of the SGCA.
27. This harm should be weighed against the public benefits of the proposal, but none have been identified by the appellant other than the redevelopment of the dwelling, which is not part of the matters constituting the breach of planning control.
28. On balance, given the above, and in the absence of any substantiated public benefit, the development fails to preserve the character or appearance of the Spring Grove Conservation Area and harms its significance. It therefore fails to satisfy the statutory requirements, and conflicts with HLP Policies CC1, CC2, CC4 and SC7. Together these policies require development to conserve the character of conservation areas and areas which have high quality character and features or qualities that contribute to an area's character. They also require demolition to be accompanied by redevelopment which will conserve and enhance the character of the area.

Living conditions of neighbouring occupiers

29. The supporting scaffolding has been moved to the rear of the remaining façade. However, the partial demolition of the dwelling has required the enclosure of the site frontage with tall timber boarding along front and side boundaries. The boarding is oppressive in its height and length along the boundary between the frontages of the adjoining dwelling. It is harmful to outlook from the neighbouring front garden, and the ground and first floors of the neighbouring dwelling.
30. The development therefore harms the living conditions of neighbouring occupiers and conflicts with HLP Policy CC2, which expects development to provide adequate outlook to adjoining/adjacent dwellings.

Initial conclusion on ground (a)/the DPA

31. The partial demolition of the dwelling reduces housing stock in the borough at a time of housing need, harms the character and appearance of the SGCA and its significance, and is harmful to the living conditions of neighbouring occupiers. As a consequence, the development does not accord with the development plan, which attracts significant weight against the development.
32. There are no public benefits which outweigh the identified harm, and there are no other material considerations that require a decision to be made other than in accordance with the development plan.

The appellants' alternative scheme via s106 planning obligation

33. At the time the appeal was made a planning application had also been submitted to the Council for the erection of a two-storey semi-detached house (application reference 00531/18/P9). That application was approved on 18 September 2023 subject to conditions ("the 2023 planning permission"). The appellants have submitted a planning obligation by unilateral undertaking under Section 106 of the Act, designed to secure implementation of the 2023 planning permission.
34. The redevelopment of the dwelling is not part of the matters constituting the breach of planning control. Nevertheless, the appellants consider it is open to me to grant planning permission for the demolition subject to a s106 planning obligation requiring implementation of the 2023 planning permission. Should I do so, it would provide the appellants with an alternative to restoration of the dwelling to its condition prior to the breach of planning control.
35. The obligation, dated 18 October 2023, required the appellants, as leasehold owners, to submit drawings which accord with the 2020 planning permission to Building Control for approval within 4 weeks of 18 October 2023, then to complete the development within 18 months of the date of Building Control approval. It also requires them to notify the Council of continuation of the works, and of completion. In addition, the owners covenant not to surrender or otherwise determine their leasehold interest without securing a deed of covenant from the freeholder requiring the freeholder to comply with the same planning obligations.
36. It is a significant weakness of the undertaking that the freeholder is not a party to it. Despite the leaseholders' covenant in relation to the freeholder, I can see no security in the event that the leaseholders are required to part with the property through no choice of their own. There is also no guarantee that the leaseholders would be able to secure the agreement of the freeholder in the event that they wished, or were required, to do so.
37. I note that the undertaking describes the 2023 planning permission as a planning application despite having been approved by the Council a month earlier, and refers to an application reference number different to that shown on the planning permission. The description of development also refers to that relating to the 2020 planning permission, rather than the distinctly different description of the 2023 planning permission.
38. The first obligation also requires the submission of drawings for approval to Building Control, but there is no mechanism requiring them to be approved, and the requirement to carry out the development is secured only in relation to that approval, if it occurs. I have seen no evidence as to whether or not Building Control approval has in fact been obtained, but no works of redevelopment appear to have taken place in the period of 16 months since the date of the obligation, and with the evidence before me I cannot say whether a completion date 18 months from that approval, if it occurred, is achievable.
39. I therefore cannot be certain that the obligation would secure the implementation of the 2023 planning permission, and I am unable to afford the obligation any weight. Consequently, planning permission should not be granted for the development.

Final conclusion on ground (a)/the DPA

40. For the reasons given above, the appeals on ground (a) therefore fail, and the DPA is refused.

The appeals on ground (f)

41. Appeals on ground (f) are made on the basis that the steps required by the Notice exceed what is necessary to remedy any breach of planning control constituted by those matters or, as the case may be, to remedy any injury to amenity caused by any such breach.
42. The purpose of the Notice is to remedy the breach of planning control.
43. As corrected, the Notice requires the dwelling to be rebuilt in facsimile with reference to plans, photographs and descriptions of the building before the development took place.
44. The appellant's case is that redevelopment should be permitted in accordance with the 2020 or 2023 planning permissions.
45. Section 173(6) of the Act enables a notice to require the construction of a replacement building which is as similar as possible to the demolished building. Section 5(i) of the Notice, as corrected, does so.
46. Section 173(7) of the Act qualifies that the replacement building may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control.
47. Having found above that the 2020 planning permission had been lawfully commenced by demolition of the garage building, implementation of either the 2020 or the 2023 planning permissions would therefore remedy the breach of planning control. It would also achieve the purposes of the Notice with less cost and disruption to the appellants, in that it would not require restoration of the dwelling to its original condition before carrying out the permitted works of extension and alteration.
48. I shall therefore vary the Notice to provide alternatives to restoration by means of implementation of the 2020 or 2023 planning permissions in addition to restoration of the dwelling as it stood immediately prior to the demolition.
49. The appeals on ground (f) therefore succeed.

The appeals on ground (g)

50. Appeals on ground (g) are made on the basis that the period for compliance with the requirements of the Notice fall short of what should reasonably be required.
51. The time period for compliance set out in the Notice is 18 months.
52. The appellants advise they intend to implement the 2023 planning permission. They initially sought an additional 9 months on the basis that the application resulting in the 2023 planning permission had not at that time been determined. Having now been permitted subject to conditions, they consider the imposition of pre-commencement conditions on the 2023 planning permission mean a longer

time period is required, and that energy efficiency conditions increase the complexity of the construction.

53. The 2023 planning permission was granted on 18 September 2023, which has provided the appellants with a period of 17 months to make submissions required by its conditions, and obtain the approvals needed, including those required under the Building Regulations.
54. I have seen no evidence that a period of 18 months to carry out the reconstruction itself is unreasonable, and indeed, the appellants' s106 planning obligation proposed a period of 18 months for completion of the construction of the 2023 planning permission after securing Building Regulation approval.
55. It has therefore not been demonstrated that the period for compliance with the requirements of the Notice fall short of what should reasonably be required.
56. The appeals on ground (g) therefore fail.

Conclusion

57. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with corrections and variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Decision

58. It is directed that the enforcement notice is corrected by:

- in Section 3, the deletion of the words:

‘the unauthorised partial demolition of structures (dwellinghouse, garage and pedestrian entrance)’

and their substitution with the words:

"the unauthorised partial demolition of the dwellinghouse".

- in Section 5, the deletion of the words:

‘To rebuild to match in facsimile the structures (dwellinghouse, garage and pedestrian entrance) as they stood immediately prior to their demolition’

and their substitution with the words:

"To rebuild to match in facsimile the dwellinghouse as it stood immediately prior to its demolition".

59. And in Section 5, the enforcement notice is varied by:

- the addition of the word "EITHER:" before criterion i; and
- the addition of the following words after criterion i:

"OR

- ii. Reconstruct the dwelling in facsimile as it stood immediately prior to its demolition, with modifications such that it complies with the terms of planning permission 00531/18/P3 dated 02 December 2020, including the conditions subject to which that permission was granted. Except where inconsistent with the planning permission, the rebuild shall be in conformity with the architectural description and 'existing plans' shown via Council planning reference 00531/18/P3 and the plans and photographs attached to this notice.

OR

- iii. Implement in full planning permission 00531/18/P9 dated 18 September 2023 such that the resulting development complies with its terms, including the conditions subject to which that planning permission was granted."

60. Subject to the corrections and variations, the appeals are 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.

Peter White

INSPECTOR