



Appeal Decisions

Site visit made on 4 March 2025

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

an Inspector appointed by the Secretary of State

Decision date: 10 June 2025

Appeal A Ref: APP/X5210/C/23/3334398

Appeal B Ref: APP/X5210/C/23/3334399

Flat A, 17 Nassington Road, London NW3 2TX

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Mr Matthew Finn (Appeal A) and Ms Andriana Finn (née Naidoo) (Appeal B) against an enforcement notice issued by the Council of the London Borough of Camden.
 - The notice was issued on 23 October 2023.
 - The breach of planning control as alleged in the notice is, without planning permission, the installation of razor wire on the flat roof of the single-storey rear extension.
 - The requirements of the notice are to:
 1. Completely remove all razor wire from the flat roof of the single-storey rear extension;
 2. Make good the site following the completion of the above works and removal all resultant debris from the site.
 - The period for compliance with the requirements is one month of the notice taking effect.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (b), (c), (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), (c), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Summary Decisions: The appeals are dismissed and planning permission is refused.

Preliminary Matters

1. The appellants refer to the conduct of the Council during its enforcement investigation. This is not a matter for me to consider within the remit of these appeals. Furthermore, whilst I note the appellants' reference to the use of the extension roof as a sitting out area, this is not a matter that is alleged in the notice. Any action taken by the Council in respect of other alterations to No 17 are not relevant in this case. My determination of the appeals is only with regard to the matter alleged in the enforcement notice and to the grounds of appeal made against it, as set out below.
2. I was able to view the appeal site from the garden area to the rear and side of the single storey extension and from the property above the flat roof extension, i.e. from the rear of Flat B at 17 Nassington Road.

Ground (b)

3. An appeal on ground (b) is that the matters alleged in the enforcement notice, which appears to the Council to constitute the breach of planning control, have not occurred. In order to succeed on this ground, the appellants must demonstrate that, on the balance of probability, the matters stated in the enforcement notice

have not occurred. The appellants case under ground (b) is that the matters stated in the notice have not occurred in the manner suggested.

4. The allegation is of the installation of razor wire on the flat roof of the single-storey rear extension. Having viewed the flat roof at close quarters, I could see that coils of razor wire have been fitted in rows to the flat roof. The coils were, on the whole, taller than the parapet detail around the perimeter of the flat roof and have been fixed in several locations to the flat roof, including to the parapet wall detail. Although the coils have been covered with plastic mesh and artificial foliage, the coils of razor wire were clearly visible beneath this. In view of this, I find the alleged breach to be an accurate description of the matters that have occurred in this case.
5. I note the appellants' suggestion that the works are not complete or that they could be further adjusted. This does not, however, alter my finding that razor wire has been installed on the flat roof of the single-storey rear extension.
6. The intention might be for the razor wire to be temporary. Whilst this is a matter I consider further under the ground (c) appeal, it does not change that the matters alleged in the notice have occurred. For this reason, the ground (b) appeals must fail.

Ground (c)

7. To succeed on ground (c), the appellants must demonstrate that, on the balance of probability, the matters alleged in the notice do not constitute a breach of planning control.
8. The appellants' case on ground (c) is briefly stated. Whilst they say that they robustly argue that the matters stated in the notice do not constitute a breach of planning control, there is little in their case to support this claim or to explain why they contend that what is alleged in the notice does not fall within the control of The Town and Country Planning Act 1990 as amended (the 1990 Act). Nevertheless, I have considered the matter as follows.
9. Part 1 of the enforcement notice states that there has been a breach of planning control falling within section 171A(1)(a) of the 1990 Act, which is the carrying out of development without the required planning permission. Section 57 of the 1990 Act provides that planning permission is required for the carrying out of any development of land. Accordingly, if I were to conclude that the breach of planning control as alleged in the notice does not constitute the development of land, it follows that planning permission would not be required for it.
10. Development is defined in section 55(1) of the 1990 Act as including the carrying out of building, engineering, mining or other operations in, on, over or under land. Section 55(1A) of the 1990 Act informs that building operations include, amongst other matters, additions to buildings and other operations normally undertaken by a person carrying on business as a builder.
11. Having regard to the extent of razor wire fitted to the roof and its means of attachment, its installation is not likely to have been easy or quick. Particular care would have been needed in handling the materials and fitting these so securely to the building. For this reason, I find that the matters alleged in the notice can, as a

matter of fact and degree, be regarded as an operation. Indeed, it is likely that the razor wire was installed by a specialist trades person, such as a builder.

12. As I note under the ground (b) appeal, the appellants suggest that the matters alleged in the notice are temporary. I could see that the coils of razor wire have been fitted in rows and that the coils have been extended across the width of the flat roof. This addition to the building (the rear extension in this case), is substantial in size. I noted the several means of attachment of the razor wire to the building, which in my judgement would not be easily undone. Furthermore, the razor wire has a particularly permanent, rather than transient appearance. For these reasons I cannot regard this addition to the building to be temporary for the purposes of this appeal.
13. Notwithstanding the above, I am mindful of the provisions of section 55(2) of the 1990 Act, which informs that certain operations shall not be taken for the purposes of the Act to involve development of the land. These include the carrying out for the alteration of any building of works which do not materially affect the external appearance of the building.
14. Whilst I acknowledge that the razor wire is not highly visible from the ground floor surrounding the extension, it was particularly prominent when viewed from the rear of Flat B at No 17. I have no doubt that the razor wire would be equally visible from the rear windows in the floors above Flat B and from the rear windows in the upper floors of the adjoining properties at Nos 15 and 19.
15. Having regard to the area of roof covered by the razor wire and its depth, I consider this operation to be a substantial installation that has caused a significant alteration to the appearance of the building as a whole; the relevant building in this case being the single storey extension. For these reasons, I find as a matter of fact and degree that the operation comprising the installation of the razor wire has resulted in an alteration of the building that has had a material effect on its external appearance.
16. I can identify no other reason why the matters alleged in the enforcement notice would not comprise development within the meaning of section 55(1) of the 1990 Act. Furthermore, I have not been made aware of any reason why the matters alleged would not require the benefit of express planning permission, in accordance with section 57 of the 1990 Act, and it has not been suggested that the necessary planning permission has otherwise been granted. Accordingly, and on the balance of probability, the matters alleged in the enforcement notice constitute a breach of planning control. For this reason, the ground (c) appeals must fail.

Ground (a) and the deemed application for planning permission

17. 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.

Main Issue

18. I note the substantive reasons for issuing the enforcement notice and from these I have identified the main issue as the effect of the development on the character and appearance of the appeal building and the surrounding area. Important to

this is whether or not the development preserves or enhances the character or appearance of the South Hill Park Conservation Area (CA).

Legislation, Policies and Guidance

19. As the development is located within a designated heritage asset, the CA, I must have regard to the duty imposed under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended. This requires that, in determining this appeal, I must pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
20. The guidance in the historic environment chapter of the National Planning Policy Framework (the Framework) is also of particular relevance. This advises that heritage assets should be conserved in a manner appropriate to their significance. Paragraph 205 informs that 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. Paragraph 206 goes on to say 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.
21. The development plan for the area includes the Camden Local Plan 2017 (CLP). The enforcement notice refers to Policy D1 (Design), which informs that development will be required, amongst other matters, to respect local context and character; comprise details and materials that are of high quality and complement the local character; and preserve or enhance the historic environment and heritage assets in accordance with Policy D2 (Heritage). Policy D2 reflects the statutory duty for conservation areas, and informs that development in conservation areas will be required to preserve or, where possible, enhance the character or appearance of the area.
22. Although not referred to in the notice, the Council say that Policy C5 (Safety and Security) of the CLP is of relevance, which promotes community safety and security. I have also had regard to the supplementary planning guidance that has been drawn to my attention, including the Camden planning guidance on design and home improvements.

Reasons

23. The appeal site is occupied by a 4 storey, semi-detached building that has been extended to the rear with a single storey flat roof extension. The development for which permission is sought is, as already described, the installation of razor wire on the flat roof of the single-storey rear extension.
24. The South Hill Park Conservation Area Statement (CAS) informs that the building occupying the appeal site dates from the late 19th century. This is a well maintained property and, although used as flats and extended with the modern single storey addition, it has maintained its historic character and charm.
25. The CAS informs that the CA is characterised by substantial semi-detached houses, such as that subject of this ground (a) appeal. Pertinent to the main issue identified above, the CAS makes clear that the special interest and significance of the CA is derived in part from the architectural style of buildings in the CA.

26. As I have already noted, the coils of razor wire fitted to the roof of the extension are a substantial addition to this building. The metal coils in no way complement the predominant materials present in the building. The razor wire is, in my judgement, an entirely unpleasant and visually jarring addition in this domestic setting. It is also incongruous within this historic environment and detracts from the architectural value of the building within the CA.
27. I acknowledge that the razor wire is not overtly visible from any public views. It is, however, highly visible from adjoining properties, as I have already noted. Whilst I note the artificial foliage fitted on top of the coils, this has done little to mitigate the visual effect of the razor wire. Indeed, this is itself an addition that does not compliment the historic value of the building and, therefore, the surrounding area.
28. The razor wire causes harm to the character and appearance of the building and, therefore, causes detriment to the contribution this building makes to the special interest and significance of the CA. It neither preserves nor enhances the character or appearance of the CA.
29. For the purposes of the relevant paragraphs of the Framework, I find the harm caused to the heritage asset would be less than substantial, but nevertheless of considerable importance and weight. In these circumstances, paragraph 208 of 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 the razor wire creates an infrastructure for a 'living roof' to cover the entirety of the extension roof. Whilst this appears to have been proposed in order to mitigate the effect of the development, I acknowledge that a living roof might benefit ecology and enhance the visual amenity of the area. However, without the necessary details of how this would be achieved, it is difficult to understand how the substantial coils of razor wire might successfully be incorporated into what is likely to be roof top planting, particularly as it has a substantial depth that protrudes over the height of the surrounding parapet wall. Without the necessary details of what is proposed, I cannot conclude that a living roof would successfully disguise the razor wire coils, while achieving the intended effects.
31. All things considered, the development fails to preserve or enhance the character or appearance of the CA. 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 that great weight should be given to the conservation of a heritage asset. The public benefits I have identified are not sufficient to outweigh the harm that has occurred to the character and appearance and thus significance of the CA.
32. Accordingly, I conclude that the development conflicts with Policies D1 and D2 of the CLP, as well as the supporting planning guidance. Furthermore, it does not achieve what is required in Policy C5. It is also in conflict with the Framework. I have considered whether conditions would overcome the harm caused in this case, but conclude that they would not. Accordingly, and having regard to the above, I have not been able to identify material considerations of sufficient weight to indicate that the determination of this ground (a) appeal and the deemed

planning application should be made otherwise than in accordance with the development plan, when considered as a whole. For these reasons the ground (a) appeal must fail.

Ground (f)

33. The purpose of the notice is clearly to remedy the breach. Accordingly, to succeed on ground (f), the appellants must demonstrate that the steps required by the notice to be taken exceed what is necessary to remedy the breach.
34. The thrust of the appellants' case made under ground (f) is that the steps required by the notice are excessive because the development is acceptable, subject to 'remedial actions'. This reflects the case made under ground (a), which I have considered above.
35. The appellants have not suggested any alternative steps that would achieve the purpose of remedying the breach of planning control in this case. No other steps that would achieve this purpose are obvious to me. On this basis I can only conclude that the steps required in the notice are necessary and proportionate. For these reasons, the appeals under ground (f) should fail.

Ground (g)

36. An appeal on ground (g) is that the period specified in the notice falls short of what should reasonably be allowed. The notice specifies a period of 1 month from the date it takes effect. Whilst I note the case made by the appellants on ground (g), they have not indicated the period of time they consider to be reasonable.
37. Nevertheless, having regard to the time of year my decision will be issued, I can see no reason why the current whether conditions might prevent compliance with the requirements of the notice. The appellants refer to the need for 'corrective measures to be taken'. It is not clear what is meant by this. The notice requires the removal of the razor wire and the making good of the area. I can see no obvious reason why these works could not be undertaken within the time specified.
38. The appellants refer to 'legal and/or police action' between themselves and the other occupiers of No 17. Whatever this may involve, the evidence before me does not demonstrate that this would prevent compliance with the notice within the time period given.
39. I have been given no reason to conclude that the requirements of the notice cannot be complied with within 1 month. As such, I do not find that the period specified in the notice falls short of what should reasonably be allowed. For this reason, the ground (g) appeals should fail.

Conclusions

40. For the reasons given above, I conclude that the appeals 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

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.

J Moss

INSPECTOR