



Appeal Decision

Site visit made on 8 January 2026

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 February 2026

Appeal Ref: APP/Y5420/C/24/3340946

116-118 Fortis Green Road, London N10 3HN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mss Joy Yardley against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The notice was issued on 29 February 2024.
 - The breach of planning control as alleged in the notice is Without planning permission, the installation of UPVC windows to the front elevation of the property at upper floor levels.
 - The requirements of the notice are:
 1. Remove the PVCu windows installed to the front elevation of the property at first, second and third floor levels
 2. Re install timber sash windows that are an exact match to those removed prior to the installation of the unauthorised PVCu windows.
 3. Remove from the land any debris resulting from carrying out step 1 & 2 above.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (b), (c), (f) 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 (Notice) is:
 - corrected by deleting the words "120 Fortis Green Road, Hornsey, London, N10 3HN" under section 2 of the Notice (the land affected) and replacing them with "116-118 Fortis Green Road, London N10 3HN".
 - corrected by deleting requirement 1) within section 5 (What you are required to do) and replacing it with:

"Remove the UPVC windows installed to the front elevation of the property at first and second floor levels; and"
2. Subject to these corrections, 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.

Matters concerning the Notice

3. The site address in the Notice is incorrect in so far as it refers to "120 Fortis Green Road, London, N10 3HN", whereas the correct address is 116-118 Fortis Green Road, London, N10 3HN", which are the upper floors of the building, above 120 Fortis Green Road. Both parties have been offered the opportunity to comment.

4. The Council have provided Land Registry details for the appeal site¹ which demonstrates that 116, 118 and 120 Fortis Green Road, London, N10 3HN all fall under the same single ownership of 'N10 DEVELOPMENTS LTD' (the freeholder). Proof of service has been submitted which shows that the freeholder, and the owner/occupier of 120 Fortis Green Road have been served a copy of the Notice. The Director of N10 DEVELOPMENTS LTD, is the appellant, and therefore the owner of the appeal site has not been prejudiced. In addition, the owners and occupiers of 116-118 Fortis Green Road, London (N10 3HN) have also been notified of this appeal, thus given the opportunity to submit representations. However, no representations from occupiers of these addresses have been submitted.
5. The appellant has not responded to the Inspector's request for further information with regard to the site address. Nevertheless, the appellant appears to have understood what the appeal relates to. Indeed, their appeal form confirms that the correct address is '116-118 Fortis Green Road', and the plan attached to the Notice identifies the site correctly.
6. In my opinion, the error on the notice does not render the Notice unclear. It is necessary however to correct the address on the Notice. This would not cause injustice, and I can therefore use my powers under the provisions of s176(1)(a) to make this correction. I have applied the correct address in the banner heading above.
7. The first requirement of the Notice is also poorly worded in so far as it refers to the removal of UPVC windows on the front elevation at first, second and third floor levels. However, there is no third floor. The appellant appears to have understood the requirements, and, in my opinion, the error referring to the third floor does not render the notice unclear. It is necessary however to correct the first requirement to remove reference to the third floor. This would not cause injustice, and I can therefore use my powers under the provisions of s176(1)(a) of the Act to make this correction.

The Appeal on Ground (b)

8. This ground of appeal is that the matter stated in the notice which may give rise to the breach of planning control, has not occurred. This has not been demonstrated. On the contrary, the appellant states in an email dated 1 July 2024 to the Planning Inspectorate that "*The windows were unsafe and needed to change.... So, if there's way that these windows can stay it would benefit everybody.*" Since the appellant accepts that the new windows have been installed and I also observed these UPVC windows during my site visit, the matters as alleged by the notice have occurred as a matter of fact.
9. The appeal therefore fails on ground (b).

The Appeal on Ground (c)

10. Ground (c) arises where an appellant seeks to argue that the matters alleged by the enforcement notice do not constitute a breach of planning control. The onus of proof lies with the appellant, the relevant test of the evidence being the balance of probability.

¹ Annex A of the Council's Appeal Statement

11. Under s55(1) of the 1990 Act, 'development' comprises 'two limbs':

- 1) The carrying out of building, engineering, mining, or other operations in, on, over or under land (operational development);
- 2) The making of any material change in the use of any buildings or other land.

12. It is clear that the allegation is referring to 'operational development,' and that the installation of replacement windows relates to a 'building operation.' 'Operational development' comprises activities which result in some physical alteration to land which has some degree of permanence. The term 'building operations' is defined for the purposes of the 1990 Act in s55(1A) as including:

- (a) demolition,
 - (b) rebuilding,
 - (c) structural alterations of or additions to buildings, and
 - (d) other operations normally carried on by a person in business as a builder.
- The list is not exhaustive.

13. S55(2)(a) of the 1990 Act excludes from the definition of development works for the maintenance, improvement, or other alteration of any building which:

- (i) affect only the interior; or
- (ii) do not materially affect the external appearance of the building. (Materially affecting the external appearance means an impact capable of having some effect in planning terms.)

14. With regard to s55(2)(a)(i), the replacement UPVC windows does not affect only the interior of the building.

15. Turning to s55(2)(a)(ii), the appellant states that "Next door has the same windows". The Council argue that the UPVC windows have thicker frames with trickle vents, a glossy finish and are outward opening. They state that the UPVC windows differ from the former windows in so far as the former windows were white timber framed windows with thinner frames, which were of a sliding sash design rather than outward opening. They further state that the former timber framed sash windows were without trickle vents and were set deeper within the window recess, which provide more visual interest to the building.

16. Since neighbouring upper floor flats in the terrace have retained their timber framed sliding sash windows, I was able to compare the differences between the former timber framed windows and the current UPVC ones, with the current UPVC window frames appearing chunkier than the former timber sliding sash windows. The timber framed sash windows are also set deeper within the window reveal than the current UPVC windows. Furthermore, the upper section of the timber framed sliding sash windows comprises a 12-panel frame. However, the configuration of the windows has changed in so far as the upper section of the UPVC windows now comprise a 9-panel frame.

17. The UPVC windows are positioned in a prominent location on the front elevation of the building at first and second floor level where they are visible from public vantage points on Fortis Green Road. Therefore, as a matter of fact and degree, these works

materially affect the external appearance of the building as a whole and therefore are not exempt from the definition of 'development' under s55(2)(a).

18. I therefore find that, on the balance of probabilities, the matters stated in the notice amounts to a building operation for the purposes of s55 of the 1990 Act. Planning permission is required for this development. There is none in place, and, given the property relates to a flat, the works are not permitted development. Therefore, based on all the evidence before me, there has been a breach of planning control, and the appellant has not discharged the onus to demonstrate otherwise.

19. Accordingly, the appeal fails on ground (c).

Appeal on Ground (a) and the Deemed Planning Application (DPA)

Main Issue

20. The main issue is whether the development preserves or enhances the character or appearance of the building and the Muswell Hill Conservation Area ('CA').

Reasons

21. The appeal relates to the upper floors of a three-storey terraced property situated within the CA. The unauthorised works, the subject to this appeal, relate to the installation of UPVC windows to the front elevation of the property at first and second floor levels.

22. 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.

23. 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.

24. The Muswell Hill Conservation Area Character Appraisal, 2008 (MHCACA) explains that Muswell Hill is a notable and well-preserved example of an Edwardian suburb of considerable consistency and quality. The commercial centre at the heart of Muswell Hill is characterised by a high density of development, predominantly three storeys, with a mixture of retail, commercial and leisure uses at ground floor and residential flats above. The buildings are generally in the form of adjoining consistent parades, and at junctions the parades are curved to turn the corner. The series of terraces, each of which has slight variations in the detailing of their elevation treatment, are unified by their common materials. The result is that the shop units and their upper floors create an attractive rhythm along the street making a positive contribution to the quality of the core of the CA.

25. Above the shopfronts the parades are constructed in red brick with contrasting stone and plasterwork features. The variety between the parades results from different combinations of common architectural details includes quoins, string courses, banding, decorative window hoods and surrounds, corbelled eaves and capping stones. The contrasting materials give strong horizontal emphasis to the elevations. This is balanced by a combination of vertically proportioned window openings (originally all timber vertical sliding sashes with multi-paned upper sections, some of which have since been altered), full height bays and dormers and Dutch style gables projecting above the height of the parapet.
26. The parades either have pitched or mansard roofs visible from street level above their parapet. Party walls with chimney stacks are expressed at roof level and sometimes in the elevation treatment to break up the mass of a block. The use of turrets or other features to turn corners and add interest at road junctions is a common theme. The widths of individual shopfronts are defined by large decorative corbels and pilasters, each shopfront relating to a single bay of the elevation above. Some of the parades have shopfronts within cambered arched openings, although many of the arches are now hidden behind unsympathetically designed fascias. Other parades feature original curved glass in their shopfronts, and some have paired recessed doorways serving two units.
27. Nos. 22 to 120 (even) Fortis Green Road are the remnants of a terrace known as 'St James Parade' that originally extended from Nos 12 to 122. The terrace has a 1900 date stone and is a positive contributor to the CA. The terrace has two storeys of residential accommodation above ground level shops, with wide bay windows above each cambered arched shopfront that provide articulation to the elevation. The bays are terminated at roof level by alternating pairs of hips or gables. Round headed arched entrances to the flats are located centrally beneath the paired bays, between every second shop. Some of the shopfronts within this parade retain their original detailing including central recessed doorways, curved glazing, coloured glazed top lights and delicately carved mullions. The parade provides a consistent rhythm and appearance to the north-east side of the road
28. 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.
29. 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 sash windows. Indeed, the majority of the properties in the terrace, including the adjoining property, have retained timber sliding sash windows.
30. The replacement UPVC windows installed comprise "chunkier" frames than former timber windows and smooth "plastic" finishes. In addition, the UPVC windows now open outwards, and do not confirm with the consistent rhythm and appearance of the majority of other timber sliding sash windows seen elsewhere in the terrace. Furthermore, the former timber framed sash windows were fitted with deeper window reveals than the current UPVC windows. These differences in the characteristics all detract from the traditional façade of this historic building, and terrace, and its contribution to the character and appearance of the wider CA.

31. 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. The former windows were in a poor state of repair. 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 framed sash windows, without harming the significance of the heritage asset. I have great sympathy for the appellant's personal circumstances, and I appreciate that retaining the UPVC windows would be more cost effective for the appellant. However, I find that the harm to the character and appearance of the CA would not be outweighed by these benefits.
32. I therefore conclude that the development has a harmful effect on the character and appearance of the host building, terrace, and fails to preserve or enhance the character or appearance of the CA, as a whole, contrary to Policies SP11 and SP12 of Haringey's Local Plan Strategic Policies (2013), and Policies DM1 and DM9 of Haringey's Development Management DPD (2017), and Policies D1 and HC1 of the London Plan (2021). Amongst other things, these state that development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings, and that all new development and changes of use must achieve a high standard of design and contribute to the distinctive character and amenity of the local area.
33. 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.

Conclusion on Ground (a) and the Deemed Planning Application

34. 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, terrace, 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 the existing 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.
35. 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 (f)

36. The appeal on this ground is "that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters (i.e. the

matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".

37. The enforcement notice requires the removal of the UPVC windows and to install timber framed sliding sash windows to match the ones which were replaced. As such, the purpose of the notice is to remedy the breach of planning control rather than only remedy any injury to amenity.
38. The appellant has re-iterated their appeal on ground (a) and state that they consider that the windows are the same as those installed next door. However, the neighbouring property also has timber framed sash windows at upper floor levels and so these are not the same as the UPVC windows at the appeal site.
39. As the notice does no more than seek remedy of the breach, it is not excessive. There are no lesser steps drawn to my attention or any obvious alternatives that would remedy the breach of planning control which is the purpose of the notice.
40. On this basis, the Ground (f) appeal fails.

Conclusion

41. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections 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