



Appeal Decision

Site visit made on 17 February 2026

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 March 2026

Appeal Ref: APP/A5270/C/24/3350759

39 Alfred Road, Acton, London W3 6LH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended.
- The appeal is made by Mr Samuel Lubmir against an enforcement notice issued by the Council of the London Borough of Ealing.
- The notice was issued on 10 July 2024.
- The breach of planning control as alleged in the notice is *without planning permission, the installation of UPVC windows in the front elevation*.
- The requirements of the notice are:
 1. *Remove the replacement windows from the front elevation;*
 2. *Reinstate the windows to match the proportions, size, colour, appearance and design of the previous timber sash windows; and*
 3. *Remove all resultant debris following compliance with the above steps*
- The period for compliance with the requirements is: *three months from the date this notice takes effect*.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (g) of the 1990 Act (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.

Formal Decision

1. It is directed that the enforcement notice is varied by:
 - Deleting the text in the time for compliance paragraph at section 5 of the enforcement notice and substituting with the text "You are required to complete these actions within six months (6) after the date on which this notice takes effect".
2. Subject to this variation, 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.

Appeal under ground (c)

3. An appeal under ground (c) is that those matters (if they occurred) do not constitute a breach of planning control. In a legal ground of appeal, the onus of proof is firmly on the appellant to make their case, on the balance of probabilities¹.
4. From the information before me the works carried out to the premises involve the installation of double glazed uPVC windows at 39 Alfred Road. Both parties agree that the appeal site is in use as residential accommodation as a flatted development. Given the property is not considered a dwellinghouse as defined under the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), it does not benefit from 'permitted development'

¹ *Thrasivoulou v SSE & Hackney LBC (No 1) [1984] JPL 732*

(PD) allowing physical alterations to existing dwellinghouses as set out in Schedule 2 Part 1 of the GPDO.

5. Both parties refer to section 55 of the 1990 Act (as amended) and the definition of development, in respect to the proposed works. Section 55 provides the relevant meaning of 'development', which includes the carrying out of building operations. Subsection (1a) provides a non-exhaustive list of what 'building operations' include. These are: (a) demolition of buildings; (b) rebuilding; (c) structural alterations of or additions to buildings; and (d) other operations normally undertaken by a person carrying on business as a builder. In this context, section 336 of the 1990 Act explains that 'building' includes any structure or erection and any part of a building.
6. Section 55(2) further provides that the following operations or uses of land shall not be taken for the purposes of the Act to involve development of the land; (a) the carrying out for the maintenance, improvement or other alteration of any building of works which (i) affect only the interior of the building, or (ii) do not materially affect the external appearance of the building.
7. Case law² establishes that for alterations to the exterior of a building to fall within development they must materially affect the external appearance of the building. In reaching a judgment, the decision maker will need to have consideration of the change to the external appearance of the building as a whole and not just a part in isolation; the degree of visibility by an observer outside the building; the nature of the building; and the nature of the alterations/works.
8. The appellant contends that the windows have been replaced in a like for like manner and the shape and division of the windows has not been altered. Whilst I would acknowledge that the windows have been reinstated within the existing openings of the building, the original sash windows have been replaced with casement windows, i.e. the windows no longer slide up and down within the frame, moreover the windows open outwards projecting away from the external walls. Therefore, when the units are open during more clement times of the year, these would have a materially different appearance to that of the original sash windows.
9. The appellant has sought to replicate the divisions of the windows, in particular the mullion in the upper ground floor bay window, which I noted during my site observations. However, based on my visit and from the information before me, the uPVC frames are substantially thicker, thus more noticeable than the slender timber frames that previously existed at the appeal site. The provision of trickle vents on the transoms, also provides an additional feature which is out of keeping with traditional timber frame finishes. Collectively, these changes result in the window frames appearing chunky, which has a noticeable visual effect.
10. Overall, the materials used for the windows are non-traditional and visually different from those they originally replaced. Given that the windows front the street scene, they are highly visible from public vantage points. The works described in the enforcement notice therefore constitute development, as they materially affect the external appearance of the building as a matter of fact and degree.
11. The appeal on ground (c) does not therefore succeed.

² *Burroughs Day v Bristol CC* [1996] 1 PLR 78; 1 EGLR 167

Appeal under ground (a)

12. An appeal under ground (a) is that planning permission should be granted for the matters alleged in the enforcement notice, in whole or in part. Consequently, the deemed planning application is for the installation of uPVC windows in the front elevation at 39 Alfred Road, Acton, London W3 6LH.

Main Issues

13. The main issues are the effects of the development on the character and appearance of the host property and the street scene and whether it would preserve or enhance the Acton Town Centre Conservation Area (ATCCA).

Reasons

Character and appearance and impact on the ATCCA

14. I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LB Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the ATCCA.
15. 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. Paragraph 212 of the Framework states 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. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
16. The appeal property is located in the residential enclave of Alfred Road and Burlington Gardens character area as defined in the ATCCA Character Appraisal. The significance of this part of the ATCCA is principally derived from late 18th Century, Victorian and Edwardian architectural heritage, with most of the buildings associated with the time when Acton started to expand and flourish after the advent of the railway. Alfred Road and Burlington Gardens character area is solely residential and features houses dating from 1870 to 1890 with many commonalities in terms of materials and architectural details, providing the feel of a middle class Victorian suburb.
17. The ATCCA Character Appraisal further highlights that windows in this area are predominantly timber sash, 2/2 or 1/1, with ground floor canted bay windows characterising a good number of residential late Victorian properties in this residential enclave. The loss of the traditional fenestration patterns together with later doorways where the materials, design and decoration patterns are not in keeping with the character of the properties, is a major concern for the quality of the architecture in the ATCCA. Inappropriate replacements weaken the finish of the houses and give them a bland look.
18. The appeal site appears to be an 18th Century building, originally containing single glazed timber sash windows. However, like several other properties the windows have been replaced over time, adding to the variation of window treatments found in the area, which include single glazed timber sash and double-glazed uPVC units.

19. Despite the variation in materials, the architectural design of the windows in Alfred Road is visually consistent. I acknowledge that some timber windows are in a poor state of repair and also that there are other uPVC replacements along the road. Nevertheless, the overall rhythmic pattern is retained. It is the provision of thicker uPVC frames, including the trickle vents, coupled with their casement operation, which provide a significantly different appearance to the original windows, standing out amongst other more respectful sash units in the area. As such, the windows subject to this appeal, particularly when opened, appear to be visually disruptive to the character and rhythm of the terrace of buildings. These window units result in a noticeable and harmful change to the host property, street scene and the ATCCA in general.
20. Consequently, there is some harm to the ATCCA arising from the development within its setting and similarly to the host property itself. As such, the windows fail to preserve or enhance the character or appearance of the ATCCA and harm its significance. I attach considerable importance and weight to the desirability of avoiding any such harmful effect in accordance with Section 72(1) of the LB Act.
21. The harm the proposal would cause to the significance of the ATCCA would be less than substantial. Paragraph 208 of the Framework advises 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 development including, where appropriate, securing its optimum viable use.
22. I have had regard to the public benefits of the appeal scheme, which include the provision of more energy efficient double glazed units. However, I have been presented with little information as to whether similar energy efficiency measures could still be achieved with replacement timber framed sash windows, which could provide less harm to the significance of the heritage asset. To these benefits I therefore apportion modest weight given the limited scale and nature of the development. As I must attach importance and great weight to the preservation of the significance of the ATCCA, accordingly, the public benefits would not outweigh the less than substantial harm caused to the significance of this heritage asset.
23. The appellant contends that the provision of the uPVC windows will not have a detrimental impact on the ATCCA, given that there are several other properties which have been granted planning permission³ for replacement uPVC windows, notably at Nos. 11, 19, 27, 28, 37 and 45 Alfred Road. However, I am not aware of the full circumstances and/or planning history associated with these cases, but it is evident from the limited details presented that they turned on their own particular merits. I therefore give these examples limited weight, as I cannot be certain that these are directly comparable. In any case, each scheme must be considered on its own merits. While consistency in decision making is important, ultimately, applications should be determined in the light of the specific circumstances and context of each case.

Conclusion on ground (a)

24. Overall, I conclude that the development harms the character and appearance of the area and fails to preserve or enhance the ATCCA. The proposal is therefore contrary to policies 7.4, 7B and 7C of the London Borough of Ealing Development

³ LB Ealing Planning Refs: 220383FUL, 193880FUL, 223574FUL, 223828FUL, 223575FUL and 221000FUL.

Management Development Plan Document, adopted December 2013 and policies D3 and HC1 of the London Plan, adopted March 2021; and the aims and objectives of the ATCCA Character Appraisal 2009 and the ATCCA Management Plan 2009, which amongst other things collectively require development of heritage assets and their settings, to conserve their significance and protect and, where appropriate, restore original and/or historic fabric. Nor does the development accord with the Framework which seeks to conserve and enhance the historic environment, ensuring new development is responsive to local history, culture, and heritage.

Appeal under ground (g)

25. For an appeal on ground (g) to succeed, it is to be demonstrated that the period specified in the notice for compliance in accordance with section 173(9) of the 1990 Act (as amended) falls short of what should reasonably be allowed.
26. The appellant highlights that the three month period is too short to undertake the necessary works as stated in the enforcement notice. The appellant also highlights that the changes required to remedy the breach, would necessitate a further three months (six in total) to source reputable contractors to carry out the works. The Council has conceded that six months would be a reasonable timeframe.
27. I would concur that an increase of three months to six for compliance, would give ample time for the appellant to make the arrangements and carry out the remedial works. Furthermore, the six month timeframe would strike an appropriate balance between the remedial rather than punitive requirements of the enforcement notice whilst also maintaining public confidence in the planning system. I will therefore vary the enforcement notice accordingly.
28. To that extent, the appeal succeeds on ground (g).

Overall Conclusion

29. For the reasons given above, I conclude that the appeal should be dismissed, and the enforcement notice is upheld with a variation.

Robert Naylor

INSPECTOR