

Town and Country Planning Act 1990

Appeal by Mrs Mandy Seal

Site Address: Flat 3, 10 Hilltop Road, LONDON, NW6 2PY

APP/X5210/C/23/3327893

These comments on the Local Planning Authority's written appeal statement, utilises its paragraph numbering for ease of reference. This document does not seek to comment on all that the Local Planning Authority has written, as most has already been addressed in the appellant's appeal statement.

1.2 – The Council makes an unsubstantiated statement of fact that "*the appeal site and the row of terraced properties comprise **unique** architectural features of the Victorian period.*" (My Emphasis). It is within this mindset and context, that the Council has approached its assessment of the replacement windows. The definition of unique in the Oxford English Dictionary is given below:

"being the only one of its kind."

The west side of Hilltop Road in which the appeal site sits, is a pleasant road, typically found in inner London boroughs. The appeal site is:

- not within a Conservation Area,
- not opposite a Conservation Area
- not a Listed Building,
- not within an Area of Special Character,
- not a locally listed building.

Moreover, given the Council's claim that the appeal site has unique architectural features, it is noted that the road is not the subject of an Article 4 direction, to protect this "uniqueness."

The Council fails to list one unique quality of the appeal site, which is not surprising given it is typical of buildings found in many streets within the borough and within many London boroughs and is therefore not unique.

1.2 - The Council somewhat bizarrely – given its failings identified above - conclude that "*therefore, any development at this site should preserve and*

support the distinct character, appearance and setting of the street scene and surrounding area." The Council has failed to identify a distinct character, a distinct appearance or a distinct setting, its use of the adjective "distinct" follows on from its misuse of the adjective "unique." The Collins dictionary gives the following explanation *"if something is distinct from something else of the same type, it is different or separate from it."* The appellant fails to understand what is "unique" or "distinct" about the appeal site and the Council has failed to provide an informed explanation through a character analysis, seeking to rely on unsubstantiated jargon. The simple explanation to the Council's failure and the appellant's bemusement is that it is because the site is not unique, it is not distinct, it is not a heritage asset and it is not subject to an Article 4 direction.

1.3 – The Council states that *"timber sash windows dominate a high number of properties in the borough."* Prima facie this appears to contradict the claims outlined above, which centred on the appeal site and the row of buildings being "unique" and "distinct".

2 – The Council's claim that the relevant planning history demonstrates that it is *"consistent in resisting unacceptable development at this site and this terrace of buildings"* is somewhat disingenuous, listing only one application seeking express planning permission from the Local Planning Authority.

However, crucially it does give a significant and important insight to the attitude and approach of the Council in respect of the appeal site, as noted above there has only been one planning application seeking express planning permission. The other example used by the Council relates to a S191 application and the appellant considers that it is implicit within the Council's statement and the above quotation in particular, that its determination was pre-conceived.

Moreover, such is the blinkered approach by the Council, it duly ignores other examples identified by the appellant and raised in the appeal statement.

5.4 – *"In addition, timber window frames have a lower embodied carbon content than uPVC and aluminium."* It is unfair and unreasonable for the Council to cite comments as facts, without underpinning them accordingly as it has done consistently throughout this appeal.

The appellant has found a source on the Building Boardroom with research showing that wooden frames are, the lowest embodied carbon option, at 40kg CO2e per m2 of double-glazing, with uPVC not so far behind at 52kg.

The appellant acknowledges it is somewhat fashionable to be critical of uPVC windows, but also identifies that this is just one input of sustainability. The

Council's focus here and comments fail to have due regard or produce any evidence as to where timber is sourced and the biodiversity and ecological issues that arise from the loss of trees. It is essential to flag the somewhat blinkered approach of the Council in this respect, a fact that the appellant has already highlighted in its written submissions.

5.5 – the Council's "gung-ho" approach of copying and pasting policies without providing substance to the text is fully self-evident here, as the appellant is left wondering what the Council considers to be the distinct local character and identity of Fortune Green and West Hampstead. The Council fails to identify these essential component parts yet uses this as justification for its approach.

The appellant notes that the Council's statement has clearly not been able to address the appellant's position under this ground of appeal and that the appeal should be allowed under this ground.

6.1 – 6.4 – at 6.3 the Council advance comments that are not substantiated and it is simply not accepted that the replacement windows are "shinier." the claim that the windows are "much" thicker in proportions is also unjustified and no detail measurements or assessment undertaken to qualify this anecdotal comment. Additionally, the comment made in respect of when the current windows are closed, they are "radically" different to the ones replaced. The use of emotive language to try and justify their actions reflects poorly on the Council. Notwithstanding the Council still fails to demonstrate how the windows represent a material alteration to the external appearance of the "building."

The appellant's position that the replacement windows are not development. The replacement windows were undertaken by a glazier and not a builder, no building operations were involved. The appellant considers that the replacement windows are therefore not development in terms of section 55(1) of the Act and for the reasons set out in the earlier appeal statement.

9 – the appellant has not been provided with the full details of this case and this in itself raises many questions. In short it cannot be considered material to the appeal proposal. The appellant would consider the matter enforced against to be significantly different to this appeal proposal, given that the enforcement notice related to 22 timber sash windows, rather than 5 as is the case here (although the Council maintained previously it was only 3 windows, hence the quashed "notice." Moreover, it is noted that the site was highly prominent corner site on the heavily trafficked A5 trunk road, located opposite a locally listed building. Despite the Council's failure to provide full disclosure of the appeal details, it is clear from the appellant's brief observations that the site's are not comparable.

Conclusion – the appeal should be allowed, and the enforcement notice quashed as the window replacements are not development. and do not

materially alter the external appearance of the "**building**". Notwithstanding, if planning permission is required, it should most definitely be granted as the replacement windows comply with the Council's development plan policies.