

Appeal Decision

Site visit made on 30 October 2013

by Anthony J Wharton BArch RIBA RIAS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 November 2013

Appeal Ref: APP/X5210/X/13/2193912

16 Upper Woburn Place, London WC1H 0QP

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr James Macaskill against the decision of the London Borough of Camden.
 - The application Ref 2013/0293/P dated 10 January 2013 was refused by notice dated 22 February 2013.
 - The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is the replacement of non-original timber and glazed doors with glazed doors on the Euston Road elevation of gym in (Class D2).
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Decision

1. The appeal is dismissed.

Reasons

2. The appeal building is on the corner of Upper Woburn Place and Euston Road and lies within the Bloomsbury Conservation Area. It is a four storey brick and stone commercial building constructed in a neo-Queen Anne style. Alterations have been carried out at ground floor level to provide restaurant facilities. The application for a Lawful Development Certificate (LDC) relates to a new entrance door (pair of glazed doors) which has been installed at the western end of the Euston Road elevation.
3. The application for the LDC was refused because the Council considers that the pair of glazed doors has resulted in a material change in the external appearance of the building and that planning permission is required. On behalf of the appellant it is contended that the doors do not materially affect the external appearance and it is stressed that whether or not the external appearance has been affected is clearly subjective. In support of the appellant's case Section 55(2) of The Town and Country Planning Act (as amended) is referred to, as is the case of *Burroughs Day v Bristol City Council* (Burroughs Day case) and a reported appeal, (1995) JPL 643 (the Metro Centre Building case).
4. An appeal relating to a LDC is confined to the narrow remit of reviewing the local planning authority's reason for refusal and then deciding whether or not the reasons are well founded. The planning merits of the case do not fall to be considered. In relation to this LDC appeal, the question to be asked is whether or not, as a matter of fact and degree, the doors as installed have materially affected the external appearance of the building. In reaching my conclusion I have considered all of the representations and all of the matters raised in the Burroughs Day case and the Metro Centre Building appeal.

5. I acknowledge that the doorway in question forms only a small part of the overall building and that the existing (restaurant) *'consented glass doors play a significant role in the building's appearance'*. I also accept that the *'character and appearance of the ground floor is one which has modern, floor to ceiling glazed windows and entrance doors, along both frontages'*.

6. However, having seen the whole of building (and particularly its doors and windows), from both near and distant viewpoints, I consider that these specific glazed doors, in combination with the timber fanlight, significantly affect the external appearance of the No 16 Upper Woburn Place. The other doors to the building are either glazed with glazed fanlights (the corner door to Euston Road and the door fronting Upper Woburn place) or timber, with timber fanlights (the corner one to Upper Woburn Place). In contrast the appeal doors have the much 'lighter' glazed doors, above which is the heavy and ornate timber fanlight.

7. When walking past the doors along Euston Road, or viewing them from the opposite side of the road, I consider that their appearance contrasts starkly with the simple glazed doors to the restaurant and the timber doors on the corner of Upper Woburn Place and Endsleigh Gardens. This in turn affects the whole of the elevation on to Euston Road. I accept that all of the doors to the ground floor cannot be seen in conjunction with each other but that does not alter the fact that, in my view, the appeal doors have materially altered the appearance and character of this part of the building.

8. In the Burroughs Day case it was held that an alteration must be one which affects the way in which the exterior of the building is seen by an observer outside the building and that 'materiality' must in every case take account of the nature of the particular building which it is proposed to alter. I consider that the alteration to this single doorway has, as a matter of fact and degree altered the character and appearance of the building as a whole and that it has resulted in a 'hybrid' doorway (timber fanlight and glazed doors) which is materially noticeable from Euston Road.

9. The 'nature' of the building is such that a ground floor modern idiom has been combined with the more traditional upper floors. The appeal doors, by trying to combine both modern and traditional features have materially altered the external appearance of the building. Irrespective of whether the visual effect is negative or positive, I consider that, as a matter of fact and degree, the works constitute development. Therefore, a LDC ought not to be granted. It follows that, in my view, the Council's decision to refuse to issue a certificate was well-founded and the appeal must fail.

10. In reaching my conclusions I have taken into account all of the other matters raised on behalf of the appellant and the Council. These include all of the points set out in the appeal statements; the final comments; the photographic evidence and the information submitted with the application. However, none of these carries sufficient weight to alter my conclusion that the works as carried out have materially affected the external appearance of No 16 Upper Woburn Place.

Anthony J Wharton

Inspector