



Appeal Decision

Site visit made on 29 July 2013

by **A U Ghafoor BSc (Hons) MA MRTPI**

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

Decision date: 6 August 2013

Appeal Ref: APP/X5210/C/13/2190489

Land at 2nd and 3rd Floor, 9 Primrose Gardens, London NW3 4UJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Adam Grint against an enforcement notice issued by the Council of the London Borough of Camden.
- The Council's reference is EN12/0344.
- The notice was issued on 27 November 2012.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised enlargement of the roof area, the installation of a spiral staircase and railings at roof level.
- The requirements of the notice are: (1) the complete removal of the spiral staircase (2) no action to be taken against the enlargement of roof terrace (3) no action to be taken against the railings installed at roof level (4) remove all debris from the premises as a result of requirement (1).
- The date specified for compliance with the requirements is 8 April 2013.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed subject to the enforcement notice being corrected in the terms set out below in the Formal Decision.

Matters concerning the notice

1. Section 173 (9) to the Town and Country Planning Act 1990 as amended requires a notice to specify a period for compliance [my emphasis] rather than a due date. The issued notice specified a date for compliance - 8 April 2013 which is not a period for compliance. The specified date was three months after the stated effective date - 8 January 2013 and it is clear that this is the period that the Council intended to specify. Before I determine the ground (a) appeal, the notice should be corrected subject to the essential test of injustice. From all of the written submissions, I am satisfied that no injustice would be caused by substituting the specified date with three months to comply with the notice.

Ground (a)

2. The terms of the deemed planning application are directly derived from the allegation. Planning permission is sought for the enlargement of the roof area, the installation of a spiral staircase and railings at roof level.
3. The **main issue** to consider is whether the development preserves or enhances the character or appearance of the Belsize Park Conservation Area ('the CA').

4. The Council's representations confirm that they have no particular issue with the enlargement of the roof terrace and the railings installed at roof level. This is because these two elements of the development carried out preserve the character and appearance of the CA, due to the design and layout of the roof alterations. I have no reason to disagree with that particular stance. The Council's concern focus upon the effect of the spiral staircase upon the host building and the locality.
5. The relevant planning history is set out in the Council's statement. An aspect of that history is set out next. A planning application for the enlargement of the rear roof level terrace and enclosure with railings and the installation of a spiral staircase was refused permission¹. Subsequently, planning permission was granted for the following description of development: '*Enlargement of rear roof level terrace including extension of railings and installation of access ladder from terrace to main roof (for maintenance purposes only) of existing dwelling (Class C3)*'². Condition no. 2 required the development to be carried out in accordance with the approved plans. Drawing no. P0016_00_004 showed the rear elevation which included an access ladder to the roof of the property for maintenance purposes. Instead, a metal spiral staircase, the design of which is materially different to the one considered under the refused scheme, has been installed. The appellant maintains that the approved access ladder would have been unsafe.
6. The quality of the CA is derived from the architectural style and design of mainly residential properties and the layout and makeup of the streetscape. The appeal building's architecture is similar to other properties in this part of the CA. It is a four-storey terraced building comprising two self-contained maisonettes. Flats 2 and 3 are situated on the upper floors of the building. The rear terrace is accessed from within the flat. The raised platform is limited in size; the metal spiral staircase is situated at one end of the raised platform.
7. In comparison to the unauthorised spiral staircase, the Council's argument is that the approved scheme's access ladder would be modest. The installed spiral staircase is set above the existing dormer window, but its overall height and scale does not materially harm the architectural quality of the host property. The spiral and ornate design complement the metal railings and roof alterations, which the Council have no objections to. The spiral staircase successfully integrates with the architectural quality of the host property and does not materially harm its external appearance, because of the staircase's setting.
8. Metal railings and external fixtures are not that alien to the quality of the CA. The metal spiral staircase is visible from within neighbouring gardens, but only if one is looking for it. Taking account of the host property's height, the spiral staircase does not form a visual protuberance due to its design, scale and proximity to the property. The spiral staircase does not detract from the overall character of the CA because of its positioning. The location, ornate and sympathetic design of the staircase does not harm the special historic or architectural interest of the wider CA and it is not out-of-keeping with the character of the locality.

¹ The Council's ref: 2011/3661/P dated 20 September 2011.

² The Council's reference is 2011/5277/P dated 14 December 2011.

9. Taking all of the above points together, the development would not harm the Borough's aims and objectives to manage the impact of growth and development given the nature of the unauthorised building work. The location and ornate design of the spiral staircase would meet with the aims to promote high quality design, conserving Camden's heritage and to manage the impact of development on neighbours. Accordingly, the development complies with Policies CS5 and CS14 of the London Borough of Camden Local Development Framework Core Strategy, and Policies DP24, DP 25 and DP26 of the Camden Development Policies. These local planning Policies are broadly consistent with advice found in the National Planning Policy Framework, which this particular development does not materially conflict with³.
10. For all of the above reasons, on the main issue, I conclude that the spiral staircase at least preserves the character and appearance of the CA and the host building. The development does not materially harm the character or appearance of the Belsize Park CA.

Conditions and other matters

11. The Council did not submit any suggested conditions. The development has been carried out in sympathetic building materials. The development is acceptable given the design and location of the metal spiral steps and roof alterations. Having considered advice contained in Circular 11/95: '*The use of conditions in planning permissions*', and advice found in paragraph 203 and 206 to the Framework, it would be unnecessary and unreasonable to impose conditions.
12. The appeal parties refer to other developments in the locality some of which the Council is considering enforcement action. Nonetheless, I have considered and evaluated this ground (a) appeal upon its individual planning merits.

Overall conclusion

13. For the reasons given above, and having considered all other matters, I conclude that the appeal should succeed on ground (a) and I will grant planning permission in accordance with the application deemed to have been made under section 177 (5) of the 1990 Act as amended.

Formal Decision

14. It is directed that the enforcement notice is corrected by the deletion of the number and words '*compliance due date: 8 April 2013*' and the substitution therefor of the words '*the period for compliance with this enforcement notice is six months*' in section 5 of the enforcement notice.
15. Subject to the correction, the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177 (5) of the 1990 Act as amended, for the development already carried out, namely the enlargement of the roof area, the installation of a spiral staircase and railings at roof level on land at 2nd and 3rd Floor, 9 Primrose Gardens, London NW3 4UJ referred to in the notice.

A U Ghafoor

INSPECTOR

³ In particular see paragraphs 56, 61, 131 to 134 to the Framework.