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Your Reference

Our Reference
T/APP/C/91/X5210/612697-8/P6
Council Reference
E11/9/1 ENF1224
Date

7 APR 1992

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
APPEALS BY MR MIAH AND MR HASHMI
LAND AND BUILDINGS AT 56 CHETWYND ROAD, LONDON NW5

1. I have been appointed by the Secretary of State for the Environment to determine your appeals, which are against an enforcement notice issued by Camden London Borough Council concerning the above mentioned land and buildings. I have considered the written representations made by you and by the Council, and also those made by South Highgate/Dartmouth Park Conservation Area Acting Committee, Chetwynd Road and Twisden Road Residents' Association, and interested persons. I inspected the site on 3 February 1992.
2.
 - a. The date of the notice is 23 August 1991.
 - b. The breach of planning control alleged in the notice is the failure to comply with condition number 02 subject to which planning permission was granted.
 - c. The permission (PL/8903156/R3) was granted on 27 December 1990 and was for alterations, including the erection of a new shopfront and rear ventilation duct at 56 Chetwynd Road, NW5.
 - d. The condition which is alleged not to have been complied with is as follows:

02. The ventilation duct hereby approved shall be erected in strict accordance with the details shown on drawings hereby approved.
 - e. It is alleged that the condition has not been complied with in that the erection of a rear ventilation duct has taken place not in accordance with conditions and limitations contained in the planning permission.
 - f. The requirements of the notice are to remove the duct as erected and:



- either 1. replace with a ventilation duct to accord with the approved drawings and condition 02 of the planning permission 8903156/R3 of the 27 December 1990,
- or 2. replace with a ventilation duct in the position on the approved drawings to the minimum dimensions acceptable to the Council's Head of Environment Health and consumer services such details having been agreed in writing with the applicant prior to the commencement of any works relating to this development on site.

In both 1 and 2 above the duct shall be clad and painted to match the original building in accordance with approved details.

g. The period for compliance with the notice is 28 days.

3. Your appeal is proceeding on ground (a) as set out at Section 174(2) of the 1990 Act prior to its amendment by the 1991 Act, that is to say that a condition or limitation alleged in the enforcement notice not to have been complied with ought to be discharged.
4. The appeal property lies on the corner of Chetwynd Road and Twisden Road, at the end of a small shopping centre. It is a three storey property with a restaurant on the ground floor and residential accommodation above. At the rear there is a two storey extension, which then adjoins a single storey extension. The extractor duct follows the varying roof line from the rear wall of the single storey extension and rises up the original rear wall of the property to ridge level. It is set back slightly from the Twisden Road elevation, and is constructed in aluminium with a square profile. The surrounding area is predominantly residential.
5. I note that the Council has adopted a guidance document on ventilation plant design, and this states, at paragraphs 3.1 and 3.2 that external ducting should not be sited in a prominent position but generally on a flank or rear wall, and that such ducting should not obscure views from windows or result in a poor lookout to neighbouring premises. The duct as approved would have run along the two lower roof levels as it does now, but at a location further from the Twisden Road elevation. It would have then risen up the main rear elevation to the ridge level. From my consideration of all the representations made, and my visit to the site and its surroundings, in my opinion, the main issue in this case is whether the retention of the duct without compliance with condition No.2 attached to the permission would be seriously detrimental to the appearance of the area.
6. The immediate area is composed of attractive terraced housing, which gives the area a definite and pleasant character. The duct is visible from the front windows of some houses in Twisden Road and Chetwynd Road. It is also visible from the rear windows of houses in York Rise and others in Twisden Road. In addition, it is seen by people travelling along Chetwynd Road from the south west, and in particular by those travelling north-eastwards along Twisden Road and turning to enter Chetwynd Road. The light aluminium finish and the profile snaking along the varying roof levels is extremely intrusive. It stands out as a distinctly alien element in an area of otherwise dignified character. In its present state, therefore, I consider that the duct is detrimental to the appearance of the area.
7. Nevertheless, in one respect the present location is better than that approved, in that it is further away from windows to the residential accommodation on the first and second floors of the appeal property. In the location approved the duct could cause annoyance to the residents by reason of noise, and would probably be visible from those windows. Consequently, I believe that the current position of the duct has a similar degree of compliance with the Council's guidelines on the

design of ventilation plant as does the approved position. Further, I do not believe that the approved location would significantly reduce its intrusiveness from the major viewpoints in Twisden Road. In my opinion, a major cause of the detrimental effect is the natural aluminium finish, and I note that the approved plans show the ducting clad in exterior quality plywood painted to match the brickwork. I consider that if the existing ducting were clad in this way it would not be noticeably more detrimental than the ducting as approved. Consequently, I will permit the development to be retained without compliance with condition No.2, but subject to a condition that the ducting shall be clad upto eaves level, as indicated on the approved plan, within three months from the date of this letter. The appeal under ground (a) thus succeeds to this extent.

8. I have taken into account all the other matters raised, including the fact that the appeal building is within a proposed conservation area. However, the principle of a ventilation duct on this property has been approved, and I have explained why I consider that with the additional cladding that the duct will present an acceptable appearance. There are no other matters of sufficient weight to over-ride the considerations which have led me to my decision.

FORMAL DECISION

9. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal, quash the enforcement notice, and grant planning permission on the application deemed to have been made under Section 177(5) of the 1990 Act for the retention of the extractor duct without compliance with condition No.2 attached to the planning permission PL/8903156/R3 for alterations, including the erection of a new shopfront and rear ventilation duct, at 56 Chetwynd Road, NW5, granted on 27 December 1990, but subject to the condition that within three months from the date of this letter the rear ventilation duct shall be clad up to eaves level in exterior quality plywood and painted to match the existing brickwork.

10. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than under section 57 of the Town and Country Planning Act 1990.

RIGHT OF APPEAL AGAINST DECISION

11. This letter is issued as the determination of the appeal before me. Details of the rights of appeal against the decision are enclosed for those concerned.

I am Gentlemen
Your obedient Servant

V. Harris

MRS V. HARRIS BA Dip.TP MRTPI
Inspector