



## Appeal Decision

Site visit made on 10 November 2015

**by Kenneth Taylor BSc (Hons) PGDip**

**a person appointed by the Secretary of State for Communities and Local Government**

**Decision date: 7 January 2016**

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**Appeal Ref: APP/X5210/C/15/3100542**

**Land at: Flat 4, 102 Fellows Road, London NW3 3JG**

- 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 Barry Seigler against an enforcement notice issued by the Council of the London Borough of Camden.
  - The notice was issued on 7 April 2015.
  - The breach of planning control as alleged in the notice is without planning permission: installation of pvc-framed doors to the first floor side elevation facing King's College Road.
  - The requirements of the notice are to remove the pvc-framed doors and replace with timber framed windows to replicate the previous design.
  - The period for compliance with the requirements is three months of the notice taking effect.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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### Decision

1. I direct that the enforcement notice be corrected by the deletion of the words 'timber framed windows to replicate the previous design' and the substitution of the words 'windows to replicate those that existed before the breach of planning control took place' within paragraph 5.
2. Subject to this correction the appeal is dismissed and the enforcement notice upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### The enforcement notice

3. The notice requires that the pvc-framed doors are replaced with timber framed windows. The appellant contends that the previous windows were PVCu and the Council has not provided any evidence that the pre-existing windows were timber framed. There is no appeal on ground(c) and the appellant is not suggesting that planning permission was not required to install the pvc-framed doors. Indeed the photographic evidence submitted by both parties show that the previous windows were of a different design and as such, even if the framing material was the same, planning permission would be needed for the replacement doors.
4. Under s173(4) of the 1990 Act an enforcement notice can seek to remedy a breach of planning control by requiring the restoration of the land to its condition before the breach took place. Given there is no certainty that the previous, lawful, windows were timber framed the notice should not require this. It is sufficient to require that the replacement windows replicate those that existed before the breach of planning control took place. Both parties had the opportunity to comment on this matter and I am satisfied that no injustice would be caused by this correction.

## **Main issues**

5. The main issue in this appeal is the effect of the pvc-framed doors on the character and appearance of the property and whether the doors preserve or enhance the character or appearance of the Belsize Conservation Area.

## **Character and appearance**

6. Number 102 Fellows Road is a detached property that contains a number of flats. The property is located on a corner plot with one side of the building facing King's College Road. It is situated within the Belsize Conservation Area (CA). Number 102 still retains many traditional features and although of an individual design it relates to the neighbouring buildings on the north side of Fellows Road in terms of scale and positioning. I consider that Number 102 and these neighbouring buildings make a positive contribution to the character of the CA.
7. The pvc-framed doors, which are subject to this appeal, are located at first floor level on the side of the building facing King's College Road. The doors provide access to the roof of a projecting bay below. Although they are doors, the positioning in the building and their style is such that they relate to the other window openings rather than the doors in the building.
8. There is a variety in the styles and shapes of windows, including some sliding sash windows and some casement windows in the building. On the side of the building facing King's College Road, casement windows are predominant and these have a horizontal divide to the glazing separating a smaller section of glazing in the top portion of the frame and a larger area of glazing in the bottom section. Although there are a variety of styles of windows, the casement windows share a similar design, and this contributes to the character of the building. The photographic evidence shows the pre-existing windows had a similar horizontal divide.
9. Within the doors, some detailing has been provided to attempt to replicate the windows in the projecting bay below such as the addition of a lead grid pattern and by dividing the unit into three vertical sections of glazing. However other detailing, such as a horizontal divide to the glazing, has been lost and the profile of the frames are markedly different from the other casement windows in the building. Furthermore the visible handle and hinges add clutter and a modern appearance which is absent in the other windows. The pvc-framed doors cause material harm to the character and appearance of the host property.
10. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas. Within the National Planning Policy Framework (the Framework) a conservation area is defined as a designated heritage asset. Paragraph 132 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. Paragraph 134 states that where development proposals 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 proposal.
11. The pvc-framed doors are visible from King's College Road and noticeable from parts of Fellows Road. The doors are seen from a relatively small section of the CA and consequently the extent of the harm is limited and less than substantial. Nevertheless they have a harmful effect on the character and

appearance of the CA. The appellant has not identified any specific benefits that arise from the pvc-framed doors. Whilst the harm may be less than substantial, in the absence of any specific public benefits, this harm is not outweighed.

12. The development is therefore contrary to Policy CS14 of the Camden Core Strategy and Policies DP24 and DP25 of the Camden Development Policies. These policies seek to secure high quality design and conserve the heritage of the Borough.
13. The appellant contends that the previous windows were PVCu. However the replacement doors differ significantly in design from the pre-existing windows which more closely replicated the other casement windows in the side of the building. Even if the pre-existing windows were lawful and PVCu framed, it would not outweigh the harm that has arisen from the design and appearance of the replacement doors.
14. The appellant has referred to examples of other PVCu windows in the area and that the site is located close to more recent development including a tower block of flats located on the southern side of Fellows Road. The development on the southern side of Fellows Road is not located within the CA and its proximity, as well as the presence of other PVCu windows, does not minimise the harm that the pvc-framed doors have caused to 102 Fellow Road and the wider CA; therefore these factors do not weigh in favour of granting permission.
15. I have taken into account all other matters raised; however they do not affect my finding in respect of the main issue in this appeal.

### **Conclusion**

16. For the reasons given above and having regard to all other matters raised, I conclude that the development has a harmful effect on the character and appearance of the property and the Belsize Conservation Area. Consequently the appeal on ground (a) fails; and the deemed planning application will be refused.

*Kenneth Taylor*

Appointed Person