



APPEAL BY:
Mr Kennedy

AGAINST THE LONDON BOROUGH OF CAMDEN'S REFUSAL
TO GRANT PLANNING PERMISSION FOR:

*Replacement of existing single glazed timber framed windows with
double glazed uPVC windows (retrospective)*

AT
38 Crediton Hill, London, NW6 1HR

London Borough of Camden Council's Reference: 2017/1986/P

WRITTEN REPRESENTATIONS: GROUNDS OF APPEAL

November 2017

1.0 INTRODUCTION

1.1 This statement has been prepared by RJS Planning, on behalf of Mr Kennedy, in support of the appeal lodged against the refusal of planning application 2017/1986/P.

1.2 The application was registered by the council on 7th June 2017 and sought planning permission for the replacement of the existing single glazed timber framed windows with double glazed uPVC windows (retrospective) at No. 38 Crediton Hill in London. The application was refused under delegated authority on 5th September 2017 for the following reason:

1. *The replacement windows, by reason of their material and detailed design, harm the appearance of the host building and the character and appearance of the West End Green Conservation Area, contrary to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017.*

1.3 This grounds of appeal will address the central concerns raised within the council's reason for refusal, notably:

- Whether the replacement windows, by reason of their material and detailed design, harm the appearance of the host building as well as the character and appearance of the West End Green Conservation Area.

1.4 By way of background to the case, the appellant did not realise that the alterations required planning consent as some of his neighbours had implemented similar changes to their properties and, therefore, began work on 1st June 2014 which was completed on 10th February 2015. Had the appellant known that an application was necessary, this would have been made prior to the works being carried out. However, as the windows are now in place, the following statement will seek to clarify why the alterations have been made and the reasons for allowing them to be retained.

1.5 To set some context, this statement will first provide a description of both the appeal site and the proposed development. This statement will then discuss the relevant national and local planning policy before responding to the Council's concerns.

2.0 PLANNING HISTORY

2.1 **Application Ref 9005142** – Installation of dormer windows at second floor level as shown on drawing 2A revised on 20.07.90 – Granted 13th December 1990.

2.2 **Application Ref 22358** - The enlargement of the existing rear extension and the construction of a means of access to the highway in connection with use of part of the front garden area for car parking purposes – Conditional 18th May 1976.

2.3 **Application Ref 20012** - The formation of a self-contained ground floor flat, and raising of the roof level of the existing rear extension – Conditional 17th April 1975.

3.0 THE SITE



3.1 No. 38 is part of a pair of semi-detached properties which is situated to the eastern side of Crediton Hill within a predominantly residential area. The properties along the road are built in the arts and crafts style with red brick walls and traditionally proportioned casement windows, subdivided by glazing bars.

3.2 The appeal property is within the West End Green Conservation Area and is identified along with the other properties on Crediton Hill as buildings that make a positive contribution in the Appraisal and Management Strategy.



RJS PLANNING

T: 0208 3543582 M: 07884 138682 E: info@rjsplanning.co.uk
RJS Planning. 132 Brunswick Road, London, W5 1AW

4.0 THE PROPOSED DEVELOPMENT

- 4.1 The appeal proposal sought planning permission for the replacement of the existing single glazed timber framed windows with double glazed uPVC windows (retrospective) at No. 38 Crediton Hill.
- 4.2 The number of window openings within the property has not altered and the appellant has purely replaced the old, rotten timber framed windows with windows of like-for-like styles which are double glazed with uPVC frames to the front, side and rear elevations and within the existing roof dormer, that are identical to the windows at No. 46.

5.0 RELEVANT PLANNING POLICY

- 5.1 The reason for refusal refers to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017.
- 5.2 Although it is not referred to within the reason for refusal, the National Planning Policy Framework is also considered to be of relevance to this appeal. The following paragraphs provide a brief summary of the relevant policies. The paragraphs are in a hierarchical order relative to the importance of national and local planning policy.

National Planning Policy Framework (NPPF)

- 5.3 The NPPF sets out the Government's planning policies for England and how these are expected to be applied. The following sections and paragraphs make reference to the parts of the NPPF which are directly relevant to this appeal.

Presumption in Favour of Sustainable Development

- 5.4 Paragraph 14 of the NPPF sets out that a presumption in favour of sustainable development is at the heart of the National Planning Policy Framework with paragraph 187 stating that local planning authorities should approach decision making in a positive way and should look for solutions rather than problems. The NPPF also advises that decision takers at every level should seek to approve applications for sustainable development where possible.
- 5.5 For decision making this means:
- Approving development proposals that accord with the development plan without delay;
 - Where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.

Core Planning Principles

5.6 Paragraph 17 of the NPPF sets out 12 core land-use planning principles which should underpin both plan-making and decision taking. The second, fourth and tenth bullet points state that planning should:

- *“Not simply be about scrutiny but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives”.*
- *“Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”.*
- *“Conserve heritage assets in a manner **appropriate to their significance**, so that they can be enjoyed for their contribution to the quality of life of this and future generations.”*

Requiring good design

5.7 Section 7 of the NPPF refers to design, however there are no specific policies or guidance relating to residential development. Indeed paragraph 60 states:

“Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles”.

5.8 Paragraph 58 states that planning policies and decisions should aim to ensure that development should respond to local character and history and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation.

Conserving and enhancing the historic environment

5.9 Section 12 of the NPPF refers to the conservation and enhancement of the historic environment. Paragraph 131 sets out that that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, to the positive contribution that the conservation of heritage assets can make to sustainable communities and the desirability of new development making a positive contribution to local character and distinctiveness.

5.10 Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset that great weight should be given to the asset’s conservation. Paragraph 133 states that local planning authorities should refuse consent if a proposed development would lead to substantial harm to the significance of a designated heritage asset (including a Conservation Area).

5.11 The NPPF does not define “*substantial harm*” but it is widely accepted as including the total loss of a heritage asset, or fundamental compromise of its significance by means of extensive physical alterations, or inappropriate development within its setting. Such an impact can only be justified on the grounds that the harm is necessary to deliver important public benefits that outweigh the value of the heritage asset. In these terms it is absolutely

clear that the application proposal will not result in “*substantial harm*” to the Conservation Area. Moreover, it must be pointed out that even the Council do not state within the reason for refusal that the proposal would lead to substantial harm to the historic significance of the Conservation Area.

- 5.12 Paragraph 134 of the NPPF sets out that “*less than substantial harm*” arises from proposals which include physical alterations or development within the setting, which on balance retain the fabric-authenticity and integrity of the heritage asset. The NPPF advises that such proposals should be “*weighed against the public benefits of the proposal*”. Such benefits include securing a sustainable future for the heritage asset.

Decision-taking

- 5.13 Paragraph 196 reiterates that the planning system is “*plan led*” stating that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 196 clarifies that the NPPF is a material consideration in planning decisions. Paragraph 197 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

Camden Local Plan 2017

- 5.14 The Camden Local Plan sets out the council’s planning policies and replaces the Core Strategy and Development Policies planning documents (adopted in 2010). It ensures that Camden continues to have robust, effective and up to-date planning policies that respond to changing circumstances and the borough’s unique characteristics and contribute to delivering the Camden Plan and other local priorities. The Local Plan will cover the period from 2016-2031. Policies D1 (Design) and D2 (Heritage) were referred to within the decision.

Policy D1: Design

- 5.15 The council will seek to secure high quality design in development, ensuring amongst other things that it respects local context and character, preserves or enhances the historic environment and heritage assets in accordance with policy D2 Heritage and comprises details and materials that are of high quality and complement the local character.

Policy D2: Heritage

- 5.16 The council will preserve and, where appropriate, enhance Camden’s rich and diverse heritage assets and their settings, including conservation areas, listed buildings, archaeological remains, scheduled ancient monuments and historic parks and gardens and locally listed heritage assets.

6.0 THE APPELLANT'S CASE

Introduction

6.1 The appellant's case will focus on the central concerns of the reason for refusal, notably:

- (a) Whether the replacement windows, by reason of their material and detailed design, harm the appearance of the host building as well as the character and appearance of the West End Green Conservation Area.

6.2 The main material planning considerations in the determination of this case are:

- Design
- Impact on the conservation area

Design

6.3 Policy D1 (Design) of the Camden Local Plan seeks to secure high quality design in development, ensuring, amongst other things, that works respect local context and character, preserves or enhances the historic environment and heritage assets, and comprises details and materials that are of high quality and complement the local character.

6.4 The council have raised concerns that where timber is the traditional window material, any replacement should also be in timber frames, stating that *"UPVC windows are not acceptable both aesthetically and for environmental reasons, including their relatively short lifespan and inability to biodegrade."*

6.5 In response to this, it is asserted that the replacement windows are of a similar design to the original windows, although, their high quality finish has undoubtedly improved the overall appearance of the property which does not detract from its character.

6.6 The council's suggestion that uPVC windows have a relatively short lifespan and an inability to biodegrade is misleading. Timber windows can have an even shorter lifespan if they are not continuously maintained, something which, unfortunately, many people do not have the time to upkeep.

6.7 High quality installations, similar to that at the appeal site, have a life expectancy of between 20 and 30 years, although, it is not the plastic that fails but usually a misting-up between the two panes of glass. Furthermore, uPVC can be recycled, like all other thermoplastic materials, with the primary aim to elicit a net environmental benefit through reducing the use of primary resources and/or diverting resources from landfill. It is common practice to recover and recycle such materials which are then incorporated within virgin polymer to produce further long life products including other window profiles.

- 6.8 Whilst the appellant acknowledges that the windows within the appeal property are an important feature of the building, he disputes the council's opinion that they harm the appearance of the host building. As demonstrated in the following image, the windows installed at the appeal site replicate the windows on the adjoining property, ensuring the alterations do not appear obtrusive. The windows are of high quality, complementing the existing building and harmonising with other similar alterations that have taken place in close proximity of the site.



Appeal Property (left) and No. 36 Crediton Hill (right)

- 6.9 As part of the consideration of this appeal, the appellant also wishes to draw the Inspector's attention to a number of other properties within the vicinity, which have implemented similar changes, notably Nos. 16, 39 and 46 Crediton Hill (the latter of which has identical windows). The properties illustrated in the following pictures are all located on Crediton Hill and have previously installed uPVC fitments. No.39 Crediton Hill (below) had planning permission granted for replacement timber framed windows in 2011 but instead installed UPVC replacements and, as far as the appellant is aware, the Council have not taken enforcement action against the owner implying the visual impact is negligible.



**No. 39
Crediton Hill**



RJS PLANNING

T: 0208 3543582 M: 07884 138682 E: info@rjsplanning.co.uk
RJS Planning. 132 Brunswick Road, London, W5 1AW



**No. 46
Crediton Hill**



**No. 16
Crediton Hill**



6.10 The above examples seek to demonstrate that no significant harm is caused to the character and appearance of the properties upon Crediton Hill through the installation of uPVC windows. Therefore, the retention of the windows at the appeal site is considered to enhance the existing property and does not result in the loss of an original architectural feature as the windows are a like-for-like replacements of the previous fittings and, as such, do not appear out of place or unacceptably impact on the heritage asset.

- 6.11 The following image shows the street scene of Crediton Hill and illustrates how the windows at the appeal site appear as an appropriate addition that provides coherence and harmony to the surrounding area.



Street scene of Crediton Hill viewed from the south

- 6.12 As the above image demonstrates, the uPVC windows do not appear visually intrusive or prominent and it is, therefore, maintained that the alterations are entirely acceptable to the property and respect the form and appearance of the existing building whilst improving the residential amenities of occupiers of the appeal property. As such, it is considered that the replacement uPVC windows at No. 38 Crediton Hill comply with the aims of Local Plan policy D1 (Design), as the works respect local context and character and comprise details and materials that are of a high quality.

Impact on the Conservation Area

- 6.13 Policy D2 (Heritage) of the Camden Local Plan seeks to preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas.
- 6.14 Whilst it is acknowledged that the appeal site is located within the West End Green Conservation Area, this in itself does not mean that the replacement windows are unacceptable in principle or that they would be of detriment to the appearance of the Conservation Area. It is absolutely clear that the appeal proposal does not result in substantial harm or even less than substantial harm to the Conservation Area.
- 6.15 In this instance, the replacement windows replicate the pre-existing timber framed windows at the appeal site. The windows do not appear visually intrusive within the street scene and, as demonstrated previously, resemble other similar installations along Crediton Hill, consequently, having little impact on the setting of the conservation area.

- 6.16 The alterations do not affect, to any substantial degree, the front, side and rear elevations of the building and have not led to any demonstrable harm to the character and appearance of the dwelling so as to warrant a refusal. In fact, the new windows have greatly improved the overall appearance of the building when viewed from the public realm and, therefore, comply with the aims of policy D2 (Heritage) of the Camden Local Plan which seeks to enhance Camden's rich and diverse heritage assets.
- 6.17 As such, the replacement windows clearly sustain the significance of the conservation area and people's experience of it and it is strongly asserted that the significance and appreciate of the conservation area within the zone of influence would not be compromised by the retention of the appeal scheme. It is therefore questioned as to what actual impact the works have on the conservation area, when the alterations have very limited visual impact upon it.
- 6.18 It is suggested that it is incorrect and a gross exaggeration to suggest that the retention of the windows would not comply with Camden's Local Plan policies and although it is recognised that the street frontages and the public realm within a conservation area provide the main features and characteristics, the appellant asserts that in this case the windows cause no actual or demonstrable harm to the character and appearance of the conservation area setting.
- 6.19 Similar alterations which have taken place on Crediton Hill now form part of the architectural detailing of the buildings and, as such, uPVC windows are now considered to play a part in the established built environment. The following image again illustrates the street scene of Crediton Hill and also emphasises that, as the replacement windows are almost identical to the neighbour's fitments, it is only after close inspection of the windows does it become apparent that they are of uPVC construction. This implies that their retention would not undermine the significance of the area or, indeed, the host property.



Street scene of Crediton Hill viewed from the north

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T: 0208 3543582 M: 07884 138682 E: info@rjsplanning.co.uk
RJS Planning. 132 Brunswick Road, London, W5 1AW

6.20 In summary, the retention of the alterations at the appeal site would not have a detrimental impact on the visual amenities of the building, the surrounding properties or its sensitive setting. The windows make a positive contribution to the appearance of the dwelling, reflecting nearby alterations and would be of no substantial harm to the host property, the street scene or the conservation area. The proposal is, therefore, considered to comply with the aims of policy D2 (Heritage) as it both preserves and enhances the character and appearance of the area.

7.0 CONCLUSION

- 7.1 The impact of the replacement windows is negligible and the council confirm that the harm to the site may be less than substantial. As set out above, the NPPF states that planning permission should be refused only if a proposed development would lead to substantial harm to the significance of a designated heritage asset (including a Conservation Area). The NPPF does not define “*substantial harm*” but it is widely accepted as including the total loss of a heritage asset or fundamental compromise of its significance, by means of extensive physical alterations or inappropriate development within its setting. It is absolutely clear that the retention of the replacement windows will not result in substantial harm, or even less than substantial harm to the setting of the Conservation Area. It is acknowledged that the Local Plan policies seek to conserve and enhance heritage assets including the character, appearance and setting of conservation areas. However, the National Planning Policy Framework states that heritage assets should be conserved in a manner appropriate to their significance. It is put forward that the works, by virtue of their limited impact on the street scene and the public realm, would, at the very least, conserve the character and appearance of the Conservation Area.
- 7.2 The appellant understands why the council may have concerns but it is considered that the council have adopted an overly cautious approach in appraising the design and high quality finish to the windows and their actual limited impact upon the conservation area. The appellant has no desire to gain permission for alterations that are not worthy of the existing building and, given that similar fitments have been installed in a number of properties on Crediton Hill, feels strongly that the proposed alterations make a positive addition to the appearance of the area whilst improving the living conditions and health and well-being of existing and future occupants of the property.
- 7.3 The National Planning Policy Framework (NPPF) states that decision-takers at every level should seek to approve applications for sustainable development where possible and that applications should be considered in the context of the presumption in favour of sustainable development. The development to be retained would not be contrary to national or local planning policy, and for the above reasons, it is politely requested that this appeal is allowed.