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## Appeal Decision

Site visit made on 5 August 2020

**by Chris Hoult BA(Hons) BPhil MRTPI**

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

**Decision date: 27 August 2020**

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**Appeal Ref: APP/X5210/C/20/3249234**

**Land at 71 Lawn Road, London NW3 2XB**

- 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 1990 Act").
  - The appeal is made by Castillo Limited against an enforcement notice issued by the Council of the London Borough of Camden.
  - The enforcement notice, numbered EN19/0383, was issued on 10 February 2020.
  - The breach of planning control as alleged in the notice is the installation of external insulation to all of (*sic*) elevations of the ground floor single storey rear extension.
  - The requirements of the notice are: (1) completely remove the external insulation on all elevations of the ground floor single storey rear extension and make good any resulting damage to the brickwork; (2) remove any resultant debris and paraphernalia from the premises as a result of the above works.
  - The period for compliance with the requirements is 3 months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the 1990 Act.
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### Decision

1. It is directed that the enforcement notice be corrected by, in Section 3, the deletion of the word "of" following the words "insulation to all". Subject to this correction the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under s177(5) of the 1990 Act.

### Matters Concerning The Notice

2. There is a drafting error in the wording of the alleged breach ("...all of elevations..."). I shall therefore make a minor correction to the notice.
3. I considered whether the annexe, as a separate flat numbered "71A", might constitute a separate planning unit and whether to correct the notice and amend the plan accordingly. However, I do not know how its occupation relates to that of the main building, for example, whether it is fully self-contained or whether the occupier has internal access to the main building and/or uses facilities within it. In the light of this, I shall leave the notice unchanged as it clearly and accurately identifies which part of the building the breach refers to.

### Ground (a) Appeal

#### *Main Issues*

4. The appeal property is a three-storey Victorian villa standing prominently at the junction of Lawn Road and Downside Crescent, within the designated Parkhill and Upper Park Conservation Area ("the CA"). The annexe is located in the

property's rear garden. It is one of two similar single-storey brick-built hipped-roofed rear extensions but, in this case, the appellants have applied insulation boards to its exterior in an effort to improve its energy efficiency and applied white render to the surface, completely covering the original brickwork.

5. In the light of this, the main issues are: (a) the effect of the development on the character and appearance of the area; (b) whether the development preserves or enhances the character or appearance of the CA; and (c) whether any harm identified is outweighed by the benefits of the development.

#### *Character and appearance*

6. The appeal property is located in a leafy mature "garden suburb" setting characterised by large imposing late 19thC/early 20thC dwellings which are set back from the street behind small front gardens. A number of them have been subdivided into flats, as is the case with the appeal property. Further south, along Lawn Road, the dwellings are of more modern appearance. Downside Crescent leads gently down to Lawn Road from the main Haverstock Hill. Just before it reaches it, the annexe, together with its neighbour, are viewed across the plain grassed rear garden, across a driveway into it and over a boundary hedge. It is to an extent hidden behind a semi-mature conifer tree which flanks its rear elevation but its overall appearance, including form, proportions and detailing, can nevertheless be made out.
7. The development may be likened to wrapping an insulation "blanket" around all four main elevations but this has resulted in it having an unbalanced, squat appearance, most evident in the relationship of the elevations to the hipped roof. The guttering sits on top of the elevations as extended and any eaves overhang has been subsumed. Window reveals have increased in thickness and an awkward inset gap is now evident at ground level.
8. The building is admittedly modest in size and in its architectural detailing (taking its neighbour as a cue). It nevertheless has been given a discordant appearance, to which the eye is inevitably drawn as a result of the white render which has been applied. The main building has a slightly run-down appearance but contains much original detailing and fenestration and is well-proportioned, and the annexe now looks incongruous alongside it and as part of the scene viewed across the garden, in spite of the presence of the tree.
9. The neighbouring annexe also has its own entrance door and the energy efficiency issues which led to the development may lead to a similar application of external insulation should I allow this appeal. It is more prominently sited and its upper parts are readily visible above the hedge. The development to that extent sets an unwelcome precedent.
10. The appellants refer me to examples of rendered buildings elsewhere in the neighbourhood. At no. 77 Lawn Road, a photograph of which appears as part of their evidence, a stepped side and rear extension in white render is visible down a driveway alongside the main dwelling. Its simple form and flat roof suggests an extension of modern appearance to a recognisably 20thC main dwelling with modernist echoes in its design. Further north along Lawn Road is the iconic 1930s Grade I listed Isokon Building in stark white render, with its striking modernist tower and arrangement of raised walkways. It is evident therefore that the use of render is a feature in the locality but in those nearby examples, its use is as an integral part of a self-consciously 20thC design as

opposed to being awkwardly retro-fitted on to an older building of more traditional form and materials.

11. Accordingly, I conclude that the development harms the character and appearance of the area. It fails to comply with the aim of Policy D1 of the Camden Local Plan 2017 to promote high-quality design and conflicts with criteria (a) and (e) of that policy in its response to local context and character.

#### *Effect on CA*

12. The appeal building is identified in the CA townscape appraisal map as making a positive contribution to the character and appearance of the area, an assessment with which, given its size and visibility, I agree. The broad thrust of the Council's approach to the management of the CA, as set out in its CA Appraisal, is to seek to preserve the picturesque, garden suburb feel and features within the network of streets east of Haverstock Hill.
13. While the development is modest in scale, the factors I have identified above mean that it harms the significance of the CA as a designated heritage asset in so far as its incongruous appearance serves to erode its particular suburban character, to which the use of white render draws attention. As such, it fails to preserve the character and appearance of the CA, contrary to the aims of local plan Policy D2 in respect of heritage assets. However, and being mindful of the provisions of paragraph 196 of the National Planning Policy Framework ("the NPPF"), the harm to the significance of the CA is unquestionably less than substantial. The NPPF requires me to weigh it against any public benefits of the development. The appellants' case is in any event premised on public benefits which would result from making it more habitable as a small residential unit.

#### *Public benefits*

14. The appellants argue that, given an energy efficiency rating of G, the annexe would have been unlettable from April 2020. They cover options for providing insulation and rule out any insulation to the inside walls as not feasible given its small size. The use of the external thermal cladding has increased the rating to D, as evidenced by the "before and after" energy performance certificates attached to their statement. The Council questions the contention that it could not be let owing to its energy efficiency, saying that landlords who bring about energy improvements within a cap of £3,500, even if that does not result in an improvement beyond a F or G rating, can still rent properties out. They point to other grounds for exemption, such as where energy efficiency measures may lead to damage or reduce the property's value.
15. The appellants comment on the Council's statement but they do not engage with these points. Their contention that the property could not legally be rented out is I consider countered by the Council's evidence, which they do not address. Elsewhere, they expand upon the rejected options referred to in their statement, such as providing underfloor insulation. They generally point to the unfavourable circumstances of the annexe in providing residential accommodation, with three external walls and no means of countering heat loss to the ground. They introduce concerns regarding condensation inside the annexe as providing further support for insulation to the walls.
16. I am unpersuaded by these arguments. The annexe would not have been either designed or built to provide residential accommodation, its most likely original

use according to the Council being as a scullery. The accommodation it provides is in the form of a single-room bedsit of exceptionally small size (estimated by the appellants to be 18 sq m) in which any form of internal insulation to the walls is considered unfeasible. Its value in contributing to the Borough's stock of small residential units must therefore be questionable.

17. Given the Council's evidence regarding improvements to energy efficiency and ability to rent out, I can only surmise that the appellants' view that the annexe cannot be rented out without the insulation as applied is based on commercial as opposed to legal considerations. If the annexe could only be made viable as rented property at the expense of harm to its appearance and the character and appearance of the CA, that must temper the weight I attach to the public benefit of contributing to the Borough's housing stock. Other less harmful solutions need to be investigated. In the light of this, I conclude that the public benefits fail to outweigh the harm on the other main issues. Accordingly, the ground (a) appeal does not therefore succeed.

### **Ground (f) Appeal**

18. The appellants put forward the lesser-steps alternative of covering the rendered surface with brick slips to match those of the main building. The purpose of the notice seems to me both to remedy the breach and remedy the injury to amenity caused by the breach by making it revert to its form and appearance prior to the breach taking place. The Council says that such a solution may be acceptable providing the brick slips used match exactly those of the main building. I could vary the notice's requirements accordingly.
19. However, there is no certainty that an exact match could be sourced and, in any event, this would not deal with the increase to the thickness of the elevations and their relationship with the annexe's roof and eaves, and the treatment of its base. The use of white render is to that extent less of an issue than the changes to the annexe's basic form and detailing. The lesser steps outlined would not therefore remedy either the breach or the injury to amenity caused by the breach. Accordingly, the ground (f) appeal must fail.

### **Ground (g) Appeal**

20. The appellants contentions are premised on the option to surface the elevations with brick slips being found an acceptable lesser step. They say that time should be set aside to allow for the need to obtain planning permission. However, for the reasons given, I have ruled out varying the notice to allow that option. Accordingly, I see no compelling reason to extend the period for compliance, bearing in mind that it will need to cover removing the insulation only and making good. The ground (g) appeal therefore fails.

### **Conclusions**

21. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with its one minor correction and refuse to grant planning permission on the deemed application.

*C M Hoult*

INSPECTOR