



Date: 26th August 2022
Your Refs: APP/X5210/C/22/3303170
Our Refs: EN21/0508
Contact: Sophie Bowden
Direct Line: 020 7974 6896
sophie.bowden@camden.gov.uk

Faiza Kanwal
The Planning Inspectorate
Room 3B
Temple Quay House
2 The Square
Bristol BS1 6PN

Dear Ms Kanwal,

APPEAL BY: Mrs Mandy Seal
Site at: FLAT 3,10 HILLTOP ROAD, LONDON, NW6 2PY

Enforcement Notice against the unauthorised:
- Replacement of timber sash windows with 3 x white UPVC windows on the front elevation at second floor level.

I write in connection with the above referenced appeal. The appeal relates to an enforcement notice that was issued on 27 June 2022 in order to secure the removal of 3 uPVC windows to the front elevation at second floor level and reinstate timber-framed one over one sliding sash windows to match the design and proportions of those which previously existed.

The Council's case is largely set out in the Officer's delegated report, a copy of which was sent with the appeal questionnaire. In addition to the information sent with the questionnaire I would be pleased if the Inspector could take into account the following comments before deciding the appeal.

1. Summary

- 1.1 The property is a four-storey terraced building located on Hilltop Road. The building comprises 4 flats and the appeal relates to flat 3 which is on the second floor.
- 1.2 Hilltop Road comprises a mixture of flats and residential dwellings of two to four storeys. The majority of the properties have Victorian features and characteristics which benefit the appearance of the street scene and the

surrounding area.

- 1.3 The appeal site and the row of terraced properties comprise unique architectural features of the Victorian period. The building is not listed and not in a Conservation Area. However, it sits within the Fortune Green and West Hampstead Neighbourhood Plan area and opposite the South Hampstead Conservation Area. Therefore, any development at this site should preserve and support the distinct character, appearance and setting of the street scene and surrounding area.
- 1.4 The majority of properties on Hilltop Road have traditional timber sash windows which is an important characteristic of the Victorian era and of this street. Timber sash windows dominate a high number of properties in the borough and where possible the council tries to preserve this aesthetic.
- 1.5 Planning permission was refused on 21st March 2022 for retrospective permission for replacement of white painted timber sash windows with white UPVC windows (reference 2021/5138/P). The reason for refusal was as follows:

The replaced windows, by reason of their detailed design including opening mechanism, proportions and inappropriate uPVC materials, would detract from the appearance of the host building and wider street scene, and would not be environmentally sustainable, contrary to policies D1 (Design) and CC1 (Climate Change Mitigation) of the London Borough of Camden Local Plan 2017 and Policy 2 of the Fortune Green and West Hampstead Neighbourhood Plan 2015.

- 1.6 As the application was retrospective the notification of refusal was passed on to the planning enforcement team on 21st March 2022 in respect to the replacement of white painted timber sash windows with white UPVC windows (Ref: EN21/0508) - **The case is the subject of this appeal.**
- 1.7 An enforcement notice was then served on 27th June 2022, which would have taken effect on 9th August 2022. The enforcement notice required that within 3 months of it taking effect the Appellant should:
- Remove the 3 uPVC windows to the front elevation at first floor level;
 - Reinstall timber-framed one over one sliding sash windows to match the design and proportions of those which previously existed; and
 - Make good any damage to the building caused by the works.

2. Relevant planning history

- 2.1 The relevant planning history demonstrates that the Council is consistent in resisting unacceptable development at the rear of this terrace of buildings.

The council however seeks to grant permission where visual amenity is preserved or enhanced. The relevant planning history is below:

2021/5138/P - Replacement of white painted timber sash windows with white UPVC windows (retrospective) – Refused

3. Relevant enforcement history

EN21/0508—complaint received in respect to unauthorised replacement of timber sash windows with 3 x white UPVC windows on the front elevation at first floor level. The enforcement case is subject to this appeal.

4. Relevant planning policy:

4.1 In arriving at its current position the London Borough of Camden has had regard to the relevant legislation, government guidance, statutory development plans and the particular circumstances of the case. The development subject to this appeal was considered in the light of the following policies:-

5. National policy documents:

National Planning Policy Framework 2021 London Plan 2021

5.1 The full text of each of the policies has been sent with the questionnaire documents.

Camden Local Plan 2017

A1 Managing the impact of development.
CC1 Climate Change Mitigation
D1 Design
D2 Heritage

Camden Planning Guidance 2021

CPG Design 2021
CPG Home Improvements 2021

Fortune Green and West Hampstead Neighbourhood Plan 2015

Policy 2 Design and Character

6. Grounds of appeal:

6.1 The Appellant has appealed against the Enforcement Notice under grounds A, C, F and G and has submitted an Appeal Form which sets out their case.

6.2 In order to respond to the appellants grounds of appeal I will seek to break

down the issues raised on each ground:

7. Ground A: that planning permission should be given for what is alleged in the notice;

- 7.1 The appellant states that the replacement windows insofar as they can be considered to constitute development, provide for an acceptable householder alteration to the host building.
- 7.2 The Council will argue that the works are not in accordance with the Council's planning policies, in particular in relation to design and sustainability.
- 7.3 The Council's design policies are aimed at achieving the highest standard of design in all developments, including where alterations and extensions are proposed. Local Plan policy D1 (Design) requires development to be of the highest quality design.
- 7.4 Local Plan policy CC1 (Climate Change Mitigation) requires development to minimise the effects of climate change and encourage all developments to meet the highest feasible environmental standards.
- 7.5 Policy 2 (Design & Character) of the neighbourhood plan requires 'All development shall be of a high quality of design, which complements and enhances the distinct local character and identity of Fortune Green and West Hampstead.' Camden's Local Plan Document is supported by CPG Design 2021 and CPG Home Improvements 2021.
- 7.6 CPG Design 2021 guidance recommends that alterations take into account the character and design of the property and surroundings, and that windows, doors and materials should complement the existing building.
- 7.7 Both CPG Design 2021 and CPG Home Improvements also state that uPVC windows are strongly discouraged both aesthetically and for their inability to biodegrade. In addition, timber window frames have a lower embodied carbon content than uPVC and aluminium. The traditional and dominant window material in the property and the surrounding properties is timber. Therefore, the replacement of the original timber windows with uPVC is not considered to complement the existing building or surrounds.
- 7.8 The replacement of the previous timber windows with uPVC windows fails to preserve the appearance of the building on account of both their non-

traditional materials, their thicker proportions of frames which give a bulkier appearance and the opening mechanisms which opens outwards rather than sliding upwards.

7.9 The poor-quality materials and the detailed design of the windows are considered harmful to the host building, and the character and appearance of surrounding buildings, contrary to Camden Local Plan policies, Camden Planning Guidance 2021 and the Fortune Green and West Hampstead Neighbourhood plan 2015.

7.10 The material of UPVC is also unacceptable in respect of sustainability due to its inability to degrade high carbon embodied content. As such the proposals fail to comply with policy CC1 and CPG Home Improvements.

8. Ground C: that there has not been a breach of planning control:

8.1 The appellant states that there has not been a breach of planning control as the replacement windows do not constitute development. The appellant goes on to explain that replacing windows is an everyday occurrence within the country, wherein there are deviations from the original window design and planning permission is not secured.

8.2 To finish, the appellant states that common sense dictates that the replacement windows do not constitute development for which planning permission is required. Otherwise the planning system would be cluttered with applications for minor/non-material development.

8.3 The Council will argue that the works carried out comprise “development” under Section 55(1) of the Town and Country Planning Act 1990. The Council will set out that, as a result, the works require planning permission and in the absence of this they are in breach of planning control.

8.4 Under Schedule 2 Part 1 of the General Permitted Development Order 2015 (as amended) alterations to windows and doors relate solely to dwelling houses. Flat and maisonettes do not benefit from permitted development rights therefore, if the replacement windows differ in appearance or size to those being replaced (in this case the material and design would differ) planning permission would be required.

8.5 Both CPG Design 2021 and CPG Home Improvements also state that uPVC windows are strongly discouraged both aesthetically and for their inability to biodegrade. In addition, timber window frames have a lower embodied carbon content than uPVC and aluminium. The traditional and dominant window material in the property and the surrounding properties is timber. Therefore, the replacement of the original timber windows with uPVC is not considered to complement the existing building or surrounds.

8.6 Since planning permission was refused for the replacement windows and the Appellants have not demonstrated a lawful use on the basis of lapse of time there is no evidence to suggest that such works have been permitted.

9. Ground F that the steps required to comply with the notice are excessive, and lesser steps would overcome the objections

9.1 The appellant states that it is not necessary to replace the windows as the alleged reason for expediency in issuing the notice can be address via modifications

9.2 The Council will argue that the steps that are required by the Notice are reasonable and proportionate to deal with the harm that is identified in the Notice.

9.3 In the Ground F appeal the onus is on the Appellant to propose alternative steps to remedy the breach. It is not clear what mitigation measures the Appellant is referring to as these have not been identified in their Grounds of Appeal form.

9.4 The steps required by are reasonable and proportionate in relation to the harm caused by the breach and no alternative lesser steps have been proposed to overcome the objections identified in the Notice. In the absence of a list of alternative lesser steps no further comments are made under this ground in addition to those which are set out above.

10. Ground G: that the time given to comply with the Notice is too short

10.1 The appellant considers that a period of 6 months should be allowed in order to resource appropriate replacement windows. The appellant states that there is likely to be a considerable lead time, given the current availability of materials within the building industry.

10.2 The Council will argue that a period of three months is an adequate amount of time to carry out the works required by the Notice.

10.3 There are no Notice requirements which require specialist builders or contractors who may be difficult to find in a short timeframe and there is no reason why the carrying out of the requirements would be technically unfeasible within the three-month period. No evidence has been provided by the appellant to confirm current lead times or whether there is a shortage in materials.

10.4 Therefore, as a result of the above, the Council will argue that the 3-month compliance period set out in the Notice is reasonable and proportionate.

11. Conclusion

- 11.1 The replaced windows, by reason of their detailed design including opening mechanism, proportions and inappropriate materials, detract from the appearance of the host building, wider street scene and the wider area, and would not be environmentally sustainable.
- 11.2 Therefore the appeal proposal is contrary to policies D1 (Design) and CC1 (Climate Change Mitigation) of the London Borough of Camden Local Plan 2017 and Policy 2 of the Fortune Green and West Hampstead Neighbourhood Plan 2015.
- 11.3 On the basis of the information available and having regard to the entirety of the Council's submissions, including the content of this letter, the Inspector is respectfully requested to dismiss this appeal for the reasons stated on the enforcement notice.
- 11.4 The Council is unable to recommend any conditions to mitigate the impact of the development should the appeal be allowed.

If you require any further information or clarification on any matter associated with this case please contact Sophie Bowden on the above direct dial number.

Yours Sincerely,

Sophie Bowden
Planning Officer
Culture and Environment Department