



## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 15/06/22

**gan A L McCooey BA (Hons) MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: **06.07.22**

## Appeal Decision

Site visit made on 15/06/22

**by A L McCooey BA (Hons) MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Date: **06.07.22**

**Appeal Ref: CAS-01411-G0K5L7**

**Site address: 44 Ninian Road, Roath, Cardiff, CF23 5EH**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- 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 Mr Seyed Ali Hosseini against an enforcement notice issued by Cardiff County Council.
- The enforcement notice, numbered EN/21/00009, was issued on 28 September 2021.
- The breach of planning control as alleged in the notice is: without planning permission, the replacement of the grassed front garden with a paved hard surface.
- The requirements of the notice (in part 5) are:  
Remove the unauthorised paved hard surface and return the front garden to its previous appearance (as shown in the photograph exhibited at Appendix 1 of the is Notice).
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the ground (c) as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.

## Decision

1. The appeal is dismissed, and the Enforcement Notice (EN) is upheld.

## Reasons

2. The dwelling is within the Roath Park Conservation Area. The front garden area has been surfaced with paving slabs. Planters have been placed on top of the paving along the shared boundary with the adjacent property. The front of the adjoining property has also been hard surfaced, and these works are the subject of a another current EN and appeal.
3. The reasons for issuing the EN refer to the development having an adverse effect on the character of the Conservation Area and being contrary to Built Heritage Policies EN9 and KP17 of the Cardiff Local Development Plan. The Conservation Area appraisal emphasises the importance of grassed and planted front gardens to the setting of the area. The guidance on development in the Conservation Area states that the need to preserve this character is likely to preclude the grant of permission to pave front gardens.

### *The Appeal on Ground (c)*

4. This ground is that the works do not require planning permission (because for example they are permitted development). Ordinarily this would be the case. However, there is an Article 4 Direction in place that prohibits the provision of a hard surface within the curtilage of any dwelling in the Conservation Area. This means that the provisions of Planning General Permitted Development Order Schedule 2 Part Class F do not apply, and planning permission is required for the hard surface. The grounds of appeal refer to the presence of stone chippings before the hard surface was constructed. This was not a hard surface, and the breach of planning control was not a like for like replacement. The appellant supplied photographs of other properties on Ninian Road with hard surfaces. The Local Planning Authority points out that this development pre-dates the Article 4 direction or is lawful. In any event, this evidence does not assist an appeal on ground (c). I conclude that the development required planning permission and the appeal on this ground must fail.

### *Other Matters*

5. Existing and proposed plans showing a central area of planting with wood chippings are supplied, but no explanation of the purpose of the plan is provided. There is no appeal on grounds (a) or (f), and no fee has been paid. Any lesser step that would not remedy the breach cannot be accepted in the absence of an appeal on ground (a).
6. The EN requires the removal of the hard surface and the return of the front garden to its previous appearance. The appellant argues that the stone chippings were not in keeping with the Conservation Area and no original features were lost as a result of the breach. This is not relevant to the ground (c) appeal. The appellant also refers to the unkempt appearance of the front garden as shown in the photograph attached to the EN. A return to this state as required by the EN would not be in keeping with the Conservation Area, it is claimed. This is a matter of proper maintenance of the area and is not relevant to this appeal on ground (c). I consider that the EN is clear and informs the recipient of the steps to be taken.

### **Conclusion**

7. Having taken all the submitted evidence and relevant matters into consideration, I conclude that the appeal must fail, and the Notice is upheld.
8. I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act"). In reaching this decision, I have taken into account the ways of working set out at section 5 of the WBFG Act and I consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.

*A L McCooey*

**Inspector**