
Appeal Decision

Site visit made on 31 October 2016

by B.S.Rogers BA(Hons) DipTP MRTPI

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

Decision date: 8 November 2016

Appeal Ref: APP/J4423/C/16/3145779

16 Moor Oaks Road, Broomhill, Sheffield S10 1BX

- 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 Dr Ibrahim Faaid Ibrahim against an enforcement notice issued by Sheffield City Council.
- The enforcement notice was issued on 1 February 2016.
- The breach of planning control as alleged in the notice is without planning permission and in contravention of the direction issued pursuant to Article 4 (2) of the Town and Country Planning (General Permitted Development) Order 1995 in respect of the Broomhill Conservation Area, the unauthorised installation of replacement UPVC windows at the Land.
- The requirements of the notice are to remove the UPVC windows on the front elevation facing the highway at the Land and replace with timber double hung vertical sliding sashes with a one over one glazing pattern, the frame sizes and detailing of which should be substantially similar to those removed (as shown in the photographs included within the appendix attached to this notice).
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c) & (f) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the notice is upheld.

The appeal on ground (c)

1. The appeal property is a mid 19th Century stone built terraced house within the Broomhill Conservation Area. It is subject to a direction issued pursuant to Article 4 (2) of the Town and Country Planning (General Permitted Development) Order 1995. This direction, confirmed in April 2010, removes permitted development rights, including the alteration or replacement of windows.
2. The appellant bought the property in 1996 and has, since then, rented it out as student accommodation. He claims that he was not informed of the above direction as he lives elsewhere. However, the Council has confirmed that the statutory consultation and notification process was undertaken prior to the introduction of the direction and there is no suggestion from the appellant to the contrary. It is a matter for the appellant to ensure that he is made aware of relevant communications delivered to his property.
3. The appellant further claims that he installed the windows in compliance with the requirements of the regulatory body of the Council on private housing standards. However, that has no bearing on the question of whether planning permission is required. It is plain that, as the windows in question are

significantly different from the originals, they required planning permission as a result of the Article 4 Direction. The appeal on ground (c) fails.

The appeal on ground (a) and the deemed application

4. The main issue is the impact of the replacement windows on the character or appearance of the conservation area.
5. This is an attractive residential street which, although composed of a mix of detached, semi-detached and terraced houses, retains a coherence of design and materials. The original windows at the appeal property were of a traditional timber sliding sash type. The replacement windows do not reflect the glazing pattern, the fine detailing or the opening mechanism of the originals and the UPVC finish lacks the texture of the painted timber. Moreover, the original stone mullion of the first floor bedroom window has been removed, completely distorting the proportions and vertical emphasis of the original window. As a result, the replacement windows are out of character with the character and detailing of the host property.
6. There are a number of examples in this street of the traditional sliding sash timber windows having been replaced by UPVC windows, to the detriment of the character and appearance of the area. It seems that many of these pre-date the introduction of the Article 4 Direction, which seeks to address this problem. The direction will enable the loss of the remaining traditional sliding sash windows to be resisted and will provide for their re-introduction when windows of unsuitable design and material require replacement. I appreciate that this might be a long process but it appears a worthwhile one in terms of the Council's approach to the Conservation Area as a whole.
7. In my view, the windows at the appeal property harm the character and appearance of the host property and fail to preserve or enhance the character and appearance of the Broomhill Conservation Area. As a result, the appeal scheme conflicts with Policies BE15, BE16 and BE19 of the Sheffield UDP (adopted March 1998) and Policy CS74 of the Sheffield Development Framework Core Strategy (adopted March 2009), which seek to protect, conserve and enhance the heritage assets within the City.
8. The appellant points to the fact that he was quite content with the original timber windows but was required to change them by the regulatory body of the Council on private housing standards to meet Health and Safety Issues. Yet, looking at the relevant letters from the Council's Private Housing Standards Officer, I can see no requirement to alter the first floor bedroom window at all.
9. Regarding the ground floor bay window, the letters of October 2012 and September 2013 stipulate that the following works should be carried out:- *"Replace the front ground floor bay window with a double glazed UPVC unit"*. However, the letters go on to say *"All work to be carried out in line with current building regulations and all necessary planning and building control permissions should be in place. Alternatively secondary double glazing will be considered."* I appreciate that this could have been more clearly worded and that this is the subject of an ongoing complaint to the Council by the appellant. However, the appellant was notified of his obligation to obtain the required planning permission for new windows and was given the potential alternative of retaining the originals, using secondary double glazing.

10. Both letters require action to be taken over the bathroom window. That of 2013 states "*The bathroom window sill is badly rotted – replace window with UPVC double glazed unit ... Alternatively it would be acceptable to repair the sill so as to leave it in good conditions (sic) and weatherproof.*" There is no explicit indication of a requirement to obtain necessary planning permission but, as this closely follows the paragraph quoted in para.9 above, it was implicit. Moreover, the option of repairing the timber sill was given.
11. Accordingly, whilst they might have been more clearly worded, I do not regard the written requirements of the Council's Private Housing Standards Officer to provide justification for the replacing the windows in their present form. Accordingly, the appeal on ground (a) and the deemed application fail.

The appeal on ground (f)

12. The lesser steps suggested by the appellant amount to either accepting the Council's letters as mitigation, and retaining the status quo, or seeking the Council's financial contribution towards the reintroduction of timber sash windows as an acceptance of mistakes made. As stated above, I do not regard the letters as providing suitable mitigation. My role is to determine this appeal and not to comment on the merits of the appellant's complaint to the Council.
13. The requirements of the notice clearly address the breach and there are no lesser steps that will remedy the harm. The appeal on ground (f) fails.

Formal Decision

14. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

B.S. Rogers

Inspector