
Appeal Decision

Site visit made on 12 November 2016

by Paul Dignan MSc PhD

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

Decision date: 1 December 2016

Appeal Ref: APP/L5810/C/16/3152687

Land at First Floor Flat, 132 London Road, Twickenham, TW1 1HD

- 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 Paul Marsh (Grantglen Ltd) against an enforcement notice issued by the Council of the London Borough of Richmond-upon-Thames.
 - The enforcement notice, Ref. 15/0280/EN/NAP, was issued on 12 May 2016.
 - The breach of planning control as alleged in the notice is without the grant of planning permission, the replacement of first floor windows on the front elevation of the Land ("the Windows").
 - The requirements of the notice are: Reinstate the front elevation and Windows to their original form prior to the breach of Planning Control.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Reasons

2. The appeal property is the upper floor of a semi-detached bay-fronted 2-storey house that is one of a short row of 3 pairs of semi-detached houses of similar design on the eastern side of London Road. UPVC casement windows have been inserted in the upper floor façade, replacing timber windows of a similar style to those on the ground floor. The new windows are now of a markedly different appearance to those on the ground floor. The corner pillars of the upper bay have been removed and the pattern of fenestration has been significantly altered.
 3. The basis of an appeal on ground (c) is that the matters alleged do not constitute a breach of planning control. A breach of planning control comprises the carrying out of development without the required planning permission.
 4. The meaning of development is set out in s55(1) of the 1990 Act and includes the carrying out of building operations. The replacement of the windows is a building operation as so defined. Section 55(2) of the Act, however, goes on to clarify at subsection (a)(ii) that the carrying out of works which do not materially affect the external appearance of the building shall not be taken to involve development of the land. In this case the appellant's argument is that the replacement windows are of similar design, and there is no uniformity of design in the street as a whole. The argument regarding any lack of uniformity
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- of design in the street concerns the planning merits of the development and cannot be raised on ground (c).
5. The sole matter for consideration on this ground is whether the replacement of the windows has materially affected the external appearance of the building itself. The case of *Burroughs Day v Bristol City Council* [1996] 1 PLR 78 has established that the effect on the external appearance must be judged in relation to the building as a whole and not by reference to a part of the building taken in isolation.
 6. In this case the uniformity of window design on both the ground and upper floors would have been a significant and distinctive architectural feature of the building, as can still be seen in the neighbouring houses. The replacement windows bear little resemblance to the remaining ground floor bay windows, in terms of materials and pattern along with the loss of the corner pillars, with the result that the external appearance of the building has materially changed, and this change can be seen clearly from the street. The works are not therefore exempted from the definition of development by s(55)(2)(a)(ii). Accordingly the works are development for which planning permission is required, by reference to s57(1) of the 1990 Act. For this reason the appeal on ground (c) cannot succeed.

Paul Dignan

INSPECTOR