
Appeal Decision

Site visit made on 7 November 2016

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 12 December 2016

Appeal Ref: APP/U1620/W/16/3154114
Flat 2, 5 Albion Street, Gloucester GL1 1UE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Miss Chloe Yorke against the decision of Gloucester City Council.
 - The application Ref 16/00223/FUL, dated 25 February 2016, was refused by notice dated 18 April 2016.
 - The development proposed is described as 'I have replaced the sash windows with PVC double glazed units to match the other windows in the house'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. It is apparent from the appeal documentation that the development, which is the replacement of two sash windows with double glazed uPVC units, has already taken place. Therefore, this appeal relates to a refusal for retrospective planning permission.

Main Issue

3. The main issue is whether the development preserves or enhances the character or appearance of the Southgate Street Conservation Area (CA).

Reasons

4. The appeal property is a first floor flat in a three storey brick building within the CA, where the majority of buildings date from the 19th century. The Council's Southgate Street Townscape Heritage Initiative Conservation Management Plan¹ describes the buildings on Albion Street as 'positive' buildings. They make a significant contribution to the built heritage and historic character of the area.
5. The loss of original architectural features and unsympathetic alterations is identified in the Southgate Street Conservation Area (Conservation Area 2) Appraisal and Management Proposals Document Review² (CA Appraisal SPD), a supplementary planning document, as a key issue. Alterations which, in many cases, may seem relatively small on an individual basis are said to have led to a cumulative negative impact on the character and coherence of the CA.

¹ September 2013

² January 2014

6. The CA Appraisal SPD coincidentally includes a photograph of Nos 1, 3 and 5 Albion Street as an apparent example of the effect of unsympathetic change. The windows on the ground and second floors of No 5 had already been changed to uPVC by that point, with only the first floor retaining its original wooden sash windows. The Council embarked upon the Townscape Heritage Initiative Grant Scheme (THI) in 2013 to help to restore such original features.
7. In support of that initiative, the Council implemented an Article 4 Direction within the CA which placed restrictions on permitted development rights to ensure that such proposals, including the replacement of windows, required planning permission. Whilst I note that the appellant was unaware of the Article 4 Direction, the Council advise that the relevant notices were issued on 14 February 2014. In any case, as No 5 had been converted into three flats it was already subject to such a requirement.
8. The steps taken by the Council seem to me to illustrate recognition of the incremental damage to the CA that had occurred over time and a determination to attempt to stem the tide. I give those actions significant weight. They also accord with the statutory duty placed on decision makers, by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
9. The appellant submits that the flats on the ground and second floors of the building already have uPVC windows, as do a number of other properties in the area. In that sense, I do understand the appellant's perspective that replacing the original windows, which were apparently in a poor state of repair, is arguably in keeping with change that has already occurred elsewhere. The significant fact is, however, that according to the Council all the other uPVC windows in Albion Street were installed under permitted development rights that existed prior to the introduction of the Article 4 Direction on 16 October 2013.
10. Furthermore, the uPVC windows installed on the first floor are of a quite different design, material and character to the traditional wooden sash windows that they replaced. Those windows in terms of design and material were more in keeping with the original appearance of the building. There are also many other properties in the CA which have retained such original features. Therefore, whilst it is accepted that a number of windows have been replaced by uPVC alternatives, they illustrate the gradual erosion of the historic character of built forms in the CA. It is that which led the Council to introduce its Article 4 Direction and associated programmes. I also agree with the Council that such changes have had a cumulative negative effect on the CA.
11. It also seems to me reasonable that rather than merely prohibiting change the Council have sought to ensure that alterations are sympathetic via the planning process and to restore windows and other features, which respect the age and original design of buildings, by introducing a grant scheme supported by the Heritage Lottery Fund.
12. For the reasons given above, I conclude the development has failed to preserve or enhance the character or appearance of the CA. It follows that it is also contrary to the objectives of Policy BE.29 of the Gloucester City Council Revised Deposit Local Plan August 2002 and Policy CA2/11 of the CA Appraisal SPD.

They, amongst other things, seek to ensure that proposals preserve or enhance the character or appearance of conservation areas.

13. In its reasons for refusal the Council also cites Policy SD9 of the Joint Core Strategy (Gloucester, Cheltenham, Tewkesbury) Submission Version November 2014 but this is yet to complete examination so I give it limited weight. In any event, in relation to heritage assets such as CAs its approach appears broadly similar to existing policy and statutory tests.
14. As the proposal concerns a limited number of windows on the first floor of one property, I consider that the harm caused to the character or appearance of the CA is less than substantial. In accord with Paragraph 134 of the National Planning Policy Framework, I must weigh that harm against the public benefits of the proposal.
15. The appellant refers to the poor state of repair of the original windows and maintains that the replacement has improved the appearance of the building and the area. Nevertheless it still involved the removal of the original sash windows which could have been more sympathetically restored or replaced with a similar design. Therefore, overall I do not consider it a public benefit. In any event, it does not outweigh the harm caused to the CA. Consequently, I conclude that the development does not preserve or enhance the character or appearance of the CA.

Other Matters

16. Whilst I understand that the appellant has concerns about the cost of replacing the windows and possible disruption for the tenant at the property, these issues do not outweigh the harm that I have identified and do not lead me to alter my decision.

Conclusion

17. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Tudor

INSPECTOR