

Appeal Decision

Site visit made on 3 January 2017

by Thomas Shields MA DipURP MRTPI

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

Decision date: 9 January 2017

Appeal Ref: APP/A2470/C/16/3155253

14A Queen Street, Uppingham, Rutland, LE5 9QR

- 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 Clive Giles against an enforcement notice issued by Rutland Council.
 - The enforcement notice was issued on 19 July 2016.
 - The breach of planning control as alleged in the notice is, without planning permission the carrying out of the following unauthorised works on the Land:
 - 3.1 The installation of 13 roof lights
 - 3.2 The insertion of a window (1metre x 0.5 metre) to the first floor of the east side elevation
 - 3.3 The erection of a 1.9m high brick boundary wall and double timber vehicular access gates, the construction of an external metal staircase and 4.7m x3.5 platform with brick storage building underneath to the southern elevation creating an access at first floor level
 - 3.4 The replacement and enlargement of the window opening at first floor level of the southern elevation, the replacement and enlargement of the window opening and fitment of a Juliet balcony on the second floor of the southern elevation
 - 3.5 The insertion of double UPVC patio style doors on the first floor of the southern elevation and the removal of the chimney stack from the apex of the rear southern gable.
 - The requirements of the notice are:
 - (i) Remove from the southern elevation the metal staircase, 4.7 metre x 3.5 metre platform and brick storage building below it
 - (ii) Remove the UPVC windows shown as C and E and the Juliet balcony on the attached plan (Plan B)
 - (iii) Reinstall the openings to their original dimensions using brickwork to match the existing and refit timber framed windows of the style and dimensions shown on the attached plan (Plan C)
 - (iv) Remove the UPVC patio style doors shown as A on the attached plan (Plan B) from the southern elevation and reinstall the opening to its original dimensions using brickwork to match the existing. Refit a timber framed sash window of the style and dimensions shown on the attached plan (Plan C)
 - (v) Reinstall the chimney that has been removed from the apex on southern elevation gable to its original form using brickwork to match the existing and a clay pot to match the original chimney as shown in the photograph attached
 - (vi) Remove from the Land all building materials and rubble arising from compliance with the requirements at (i) to (v) above
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fee has not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.
-

Decision

1. The appeal succeeds on ground (g) and the enforcement notice in section 6 is varied by deleting "three (3) months" and replacing it with "4 months".
2. Subject to the variation the appeal is dismissed and the enforcement notice is upheld.

Appeal site and background

3. 14A Queen Street comprises a first and second floor flat and lies within the Uppingham Conservation Area.
4. A related appeal (APP/A2470/W/16/3154473) against the Council's refusal to grant planning permission for the development carried out was determined on 4 November 2016. The appeal decision was split, thereby dismissing the appeal in respect of some elements of the development, but granting planning permission for others (13 roof lights, the first floor east elevation window, and the brick boundary wall and double timber access gates).

The appeal on ground (f)

5. The ground of appeal is that the requirements of the notice exceed what is necessary.
6. When a ground (f) appeal is made it is essential to understand the purpose of the notice. Section 173(4) of the Act provides that the purpose is to (a) remedy the breach of planning control that has occurred or (b) to remedy any injury to amenity which has been caused by the breach.
7. Each of the requirements at (i) to (vi) of the notice require the complete removal of the relevant unauthorised alteration. Hence the purpose of the notice requirements fall within section 173(4)(a).
8. The appellant's suggested alternative remedies of screening and retaining openings and materials for windows C and E and the Juliet balcony were matters considered in the section 78 appeal. I have no reason to disagree with the Inspector's conclusions on those matters, but in any event I cannot take the merit of the appellant's suggested remedies into account in this appeal since there is no ground (a)/deemed planning application before me to consider.
9. Given that the purpose of the notice requirements fall within section 173(4)(a), any lesser steps than complete removal and restoration would not remedy the breach of planning control. Therefore the requirements are not excessive.
10. The appeal on ground (f) fails.

The appeal on ground (g)

11. The ground of appeal is that the period for compliance with the notice requirements falls short of what should reasonably be allowed. The appellant seeks a period of 9 months.
12. The appellant argues that 3 months is inadequate to allow the works to be carried out given that tenants would need to find alternative accommodation.

13. The physical works required to be carried out would not take very long, and a period of 9 months for compliance has not been justified. However, I accept that there may be a need for occupiers to vacate the property while the remedial works are completed. In these circumstances I consider that 4 months is a more reasonable period of time.
14. To this limited extent the appeal succeeds and I have varied the notice accordingly.

Thomas Shields

INSPECTOR