The Planning Inspectorate

Appeal Decision

Site visit made on 7 February 2017

by Thomas Shields MA DipURP MRTPI

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

Decision date: 20 February 2017

Appeal Refs: APP/N1025/C/16/3161368, 3161369, 3161370, 3161371
61 Market Place, Long Eaton, NG10 1JQ

- 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 Mahmood Rahemtulla, Mrs Karen Rahemtulla, Miss Ayesha Rahemtulla, and Mr Lee Paul Mellor against an enforcement notice issued by Erewash Borough Council.
- The enforcement notice was issued on 20 September 2016.
- The breach of planning control as alleged in the notice is without planning permission, the installation of 5 uPVC windows on the first and second floor of the building.
- The requirements of the notice are:
  Remove the five uPVC windows and frames from the first and second floor and restore the land to its condition before the breach of planning control took place. As shown on the photograph attached to this notice ("Enforcement Photo 1").
- 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 (the Act).

Decision

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

The appeal on ground (c)

2. The ground of appeal is that the matters alleged in the notice do not constitute a breach of planning control.

3. The appeal site is a mature three storey building constructed in brick and tile located in the Long Eaton Town Centre Conservation Area, comprising a commercial unit at ground floor and flats to the upper floors. Five uPVC windows have been installed to the front elevation; three to the first floor and two to the second floor.

4. The meaning of "development" is set out in section 55(1) of the Act and includes the carrying out of building, engineering, mining or other operations in, on, over or under land[1]. A breach of planning control comprises the carrying out of development without the required planning permission.

5. The appellants make no substantive argument that the installation of the windows does not constitute development. Instead they say they were informed and had understood that planning permission was not required. That is unfortunate. However, I am required to determine the appeal on its individual merit taking account of relevant facts and law. As such the existence

[1] Section 336 of the Act defines "land" as including a building.

of replacement windows at other properties referred to by the appellants are not relevant to this appeal.

6. The installation of the windows is a building operation within the meaning of section 55(1) of the Act. The windows are markedly different in design, form and appearance from the original ones[2] which were timber, single glazed sliding sash construction. Given the significant change in appearance of the front elevation and its prominent visibility in the town centre, I consider that they materially affect the external appearance of the building as a whole. As such, they do not fall to be considered as an exemption from being development under Section 55(2) of the Act. Consequently, they are development for which planning permission is required.

7. The Town and Country Planning (General Permitted Development) Order 2015 (GPDO) grants planning permission for certain types of minor developments. However, the GPDO planning permission does not extend to flats or to shops within conservation areas.

8. Since the installation of the windows is development for which no planning permission exists, it constitutes a breach of planning control.

9. The appeal therefore fails.

Thomas Shields

INSPECTOR

[2] See photograph of original windows: Document 2 attached to Council's Statement of Case