

Appeal Decision

Site visit made on 6 March 2017

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 28 April 2017

Appeal Ref: APP/Q4625/C/16/3159916

Church of St John Baptist, St Anne and St Laurence, 1717 High Street, Knowle, Solihull B93 0LN

- 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 Knowle Parochial Church Council against an enforcement notice issued by Solihull Metropolitan Borough Council.
 - The enforcement notice was issued on 26 August 2016.
 - The breach of planning control as alleged in the notice is the installation of glass reinforced plastic guttering (GRP) and rainwater pipes to the north side of the church.
 - The requirements of the notice are (i) remove all of the unauthorised glass reinforced plastic guttering and rainwater downpipes together with their fixtures and fittings from the north side of the church, and (ii) make good any damage to the property following the taking of step (i) above using only suitable traditional materials in keeping with the property such as lime putty, lime mortar, and air dried oak.
 - The period for compliance with the requirements is twelve months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The appeal is allowed and the enforcement notice is quashed.

Reasons

2. The ground (c) appeal has been made because the Appellants maintain that the works that are the subject of the enforcement notice do not constitute a breach of planning control because they do not amount to 'development', as defined in Section 55 of the Town and Country Planning Act 1990 as amended (the Act). Section 55(2) states that development of land does not include the carrying out of operations that do not materially affect the external appearance of the building.

3. The church is a substantial historic building that originates from the 15th century. The fact that it is a listed building that is located in Knowle Conservation Area is not relevant to the ground (c) appeal. Nor is the fact that the manufacture and installation of the GRP rainwater goods that are the subject of the notice was almost certainly carried out by 'a person carrying on business as a builder', and nor is the nature, harmful, neutral or beneficial, of their effect on the building. The historic nature of the church is however relevant as is its location within a large churchyard that contributes to the context of the surrounding area.

4. The GRP guttering and rainwater pipes on the north side of the church replaced lead rainwater goods that were stolen in November 2011. The GRP gutter extends along the eaves of the north aisle and along the short east and west eaves

of the Soldier's Chapel that extends out from the aisle, and water discharges from the main gutter into three GRP downpipes. The rainwater goods are visible from within the churchyard to the north of the building and in particular from a footpath that extends through the churchyard to pass by the west front of the church, and from a footpath that is 'parallel' and close to its north elevation.

5. The church is monumental in scale and, apart from its stone walls, its many arched windows and its tower are its principal features. These features draw the eye and rainwater goods are, as they are intended, practical and necessary secondary elements. The GRP rainwater goods have appropriate profiles, the downpipes are square and the gutters are ogee, and are grey to reflect the colour of the lead goods that they replaced. The brackets that support the gutters and fix the downpipes to the walls have a sufficiently historic form. In themselves the GRP gutters, downpipes and brackets are unobjectionable in scale, design and form.

6. The GRP rainwater goods do not match the rainwater goods above the aisle but there is, all around the building, many different forms of rainwater goods in a variety of materials including cast iron and steel. In this context the material used, in itself, is not inappropriate. The principal difference between the GRP rainwater goods and the lead goods that were stolen, for instance, is their patina, which is largely uniform whereas the patina of metal goods tends to be varied, which increases over time. But in views from the footpath through the churchyard the uniform patina of the GRP rainwater goods is not apparent.

7. The uniform patina of the GRP rainwater goods is visible, though probably only to a trained eye, from the footpath that is parallel to the north elevation of the church and in other close views from nearby. But it is easy to concentrate on these recently added features of the building and it is necessary to consider their effect on the appearance of the building as a whole; this is a central determining factor for a case such as this that was identified in the judgement in the case of *Burroughs Day v Bristol City Council* [1996] 1 PLR 78, a case that has been referred to by both main parties.

8. When assessed against the building as a whole, given its monumental scale and its principal features and notwithstanding its listed status and its location within a conservation area, the GRP rainwater goods, given their limited extent and notwithstanding their patina, have affected the external appearance of the building but not, as a matter of planning judgement, to a material degree. The GRP rainwater goods do not therefore amount to 'development', as defined in Section 55 of the Act, and planning permission is not required for their retention. The ground (c) appeal thus succeeds and the ground (a), (f) and (g) appeals do not therefore need to be considered. The conclusion reached on the ground (c) appeal does not affect whether the works require any other approval or consent.

John Braithwaite

Inspector