
Appeal Decisions

Site visit made on 4 June 2017

by Sukie Tamplin DipTP Pg Dip Arch Cons IHBC MRTPI

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

Decision date: 08 June 2017

Appeal A: APP/M3835/C/16/3164128

21 & 21A Warwick Gardens, Worthing, West Sussex BN11 1PF

- 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 Dr Muttukumara Yogalingam against an enforcement notice issued by Worthing Borough Council¹.
- The enforcement notice was issued on 4 July 2016.
- The breach of planning control as alleged in the notice is without planning permission, the installation of replacement up windows.
- The requirements of the notice are: Either:
Remove all the upvc windows in the front and side elevations of the building in their entirety and replace with windows to match precisely those which were in situ previously. An example of previous windows is shown in photograph numbered 1 in the first floor building. (photograph attached to the Notice). Or
Replace all of the windows in the front and side elevations of the buildings in full accordance with the attached drawing number 2 (drawing attached to the Notice)
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed.

Appeal B: APP/M3835/C/16/3164137

21 & 21A Warwick Gardens, Worthing, West Sussex BN11 1PF

- 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 Stephen Duffield against an enforcement notice issued by Worthing Borough Council².
- The enforcement notice was issued on 4 July 2016.
- The breach of planning control as alleged in the notice is without planning permission, the installation of replacement upvc windows.
- The requirements of the notice are Either:
Remove all the upvc windows in the front and side elevations of the building in their entirety and replace with windows to match precisely those which were in situ previously. An example of previous windows is shown in photograph numbered 1 in the first floor building.(photograph attached to the Notice). Or
Replace all of the windows in the front and side elevations of the buildings in full accordance with the attached drawing number 2 (drawing attached to the Notice). .
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed.

¹ Now known as Adur and Worthing Council

² Now known as Adur and Worthing Council

Procedural matters

1. The 2 appeals both concern the same development but are made by different appellants. The appeals are both made only on Ground (a) and are supported by what appear to be similar statements. Consequently I shall consider both appeals together in my decision.
2. No 21 Warwick Gardens is subdivided into flats and the replacement windows have been inserted on the front and side elevation of the building and on both the ground and first floor. The appellants did not attend the site visit but I am satisfied that I was able to see all the windows subject of the allegation from the street.

Main issue

3. The main issue in these appeals is the effect of the replacement windows on the character and appearance of the host building and the Warwick Gardens Conservation Area (WGCA).
4. No 21 is the end house of a short group of 4 terraced houses. The road gently bends at this point, so that the windows on the side flank as well as those on the front elevation are prominent in street views. The appellants say that replacement windows were necessary to deal with "damp issues and excessive heating". Moreover they say the replaced windows are "virtually identical to the style of many houses" and in particular are not dissimilar to the fenestration in the adjacent houses, Nos. 23 and 25 which both have replacement windows that appear to have been in place for many years. They also say that the uPVC conservatory at No. 11 is not in keeping with the WGCA.
5. WGCA is described in the Conservation Area Appraisal (the Appraisal) as "a small area of Edwardian Dwellings which are of good quality and largely unspoilt. The buildings are not grand, but they exhibit numerous features of Edwardian house design in a consistent group." One such feature is the retention of sliding sash windows as the predominant fenestration. In 2001 an Article 4(2) Direction was confirmed so that most proposed minor alterations to the houses in the WGCA were brought within planning control including alterations to windows.
6. I saw that the description in the Appraisal remains an accurate description of the WGCA and consequently most houses in the WGCA retain sliding sash windows, many of which appear to have slender timber frames with horns.
7. The windows now in place are uPVC windows which are top hung, consequently when these are open the opening pane protrudes from the window opening which interrupts the composition of the main elevations. Moreover the proportions of the windows are unbalanced because the opening light has a smaller area of glazing than the corresponding fixed pane. The uPVC frames are also bulkier and compare unfavourably with the finer detailing and more subtle qualities of the original wooden window frames shown in the photograph of the upper flat which is attached to the Notice.
8. Notwithstanding this, I noted that the fenestration in the adjacent Nos 23 & 25 has been significantly altered. But I do not know whether those replacement windows had the benefit of an express planning permission and thus do not

give this much weight. Moreover, looking at the character of the WGCA as a whole, I saw there is good retention of sash windows. Consequently I do not agree that the windows subject of the Notice are similar to those in the houses hereabouts most of which retain the sash windows which are in turn an important element of the design of No 21 and the character and appearance of the conservation area. Although I noted the conservatory at No 11, its presence does not undermine my findings in terms of sash windows in the locality.

9. I acknowledge that, in the interests of the protection of the property and for health and environmental reasons, windows which may be failing on occasion require attention or remedial action. But there is no evidence before me that these windows needed total replacement nor that this design or specification was the only effective solution available.
10. In these circumstances there is little or no justification for the replacement of the windows previously in the building with uPVC windows that are poorly proportioned, top hung and have bulky, overly prominent frames. The unauthorised replacements subject of the notice fail to preserve or enhance the character and appearance of the WGCA and harm the appearance of the host building. Consequently the appeals on ground (a) fail.

Formal Decisions

Appeal A: APP/M3835/C/16/3164128

11. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused for the application deemed to have been made under S177(5) of the 1990 act as amended.

Appeal A: APP/M3835/C/16/3164137

12. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused for the application deemed to have been made under S177(5) of the 1990 act as amended.

Sukie Tamplin

INSPECTOR