



Appeal Decision

Site visit made on 20 June 2017

by **B Bowker Mplan MRTPI**

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

Decision date: 3rd July 2017

Appeal Ref: APP/C3240/W/16/3162286

Brockton Leasows Manor, Wellington Road, Lillieshall, Newport TF10 9AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Miss Helen Marley against the decision of Telford and Wrekin Council.
 - The application Ref TWC/2016/0411, dated 18 April 2016, was refused by notice dated 4 July 2016.
 - The application sought planning permission for conversion of outbuilding into 3no. bed dwelling and creation of 2no parking spaces without complying with a condition attached to planning permission Ref TWC/2015/0971, dated 18 December 2015.
 - The condition in dispute is No 3 which states:
The development hereby approved shall be erected using the materials as detailed in the application forms
 - The reason given for the condition is: To ensure the satisfactory appearance of the building and the area.
-

Decision

1. The appeal is allowed and planning permission is granted for the conversion of outbuilding into 3no. bed dwelling and creation of 2no parking spaces, at Brockton Leasows Manor, Wellington Road, Lillieshall, Newport TF10 9AG, in accordance with the application Ref TWC/2016/0411, dated 18 April 2016, without compliance with condition No 3 previously imposed on planning permission Ref TWC/2015/0971, dated 18 December 2015, but subject to the attached schedule of conditions.

Background and Procedural Matters

2. The appeal seeks to retain UPVC window frames and aluminium doors inserted as part of the conversion permitted at the property. The condition in dispute requires the conversion to be undertaken using materials as detailed in the planning application form which of relevance specifies timber windows and timber doors.
3. As the condition relates to materials only, concerns regarding the detailed design and dimensions of the windows and doors are not matters to consider in my determination of the appeal. Nor are concerns regarding the dormer window and replacement of the sliding door with the south west ground floor window a consideration in my determination of the appeal. Similarly, concerns regarding the level of consultation undertaken by the Council fall outside my remit.

4. Based on all I have seen and read, I have no reason to disagree with the Council's acceptance of the proposed aluminium bi-fold doors. The Council's reason for refusal relates to the use of UPVC window frames and I have determined the appeal accordingly.

Main Issue

5. The main issue is whether the condition is necessary in the interests of the character and appearance of the host building and surrounding area.

Reasons

6. The appeal site comprises a two storey red brick building (unlisted) that is attached to Brocton Leasows Manor and adjacent to a number of converted residential properties. Brocton Leasows Manor is rendered and painted white with a number of slender designed white timber windows. The converted red brick residential properties to the north west contain traditionally designed timber windows. The design of windows at surrounding properties contributes to the rural character evident in the area. Based on the evidence before me, the appeal site is not in the vicinity of a listed building, within a conservation area or a non-designated heritage asset.
7. The north west elevation of the appeal building contains three ground floor and one first floor white UPVC framed windows. The south west elevation abuts the private access lane and contains one UPVC framed window at both ground and first floor level. During my site visit, I could see the UPVC windows from the adjoining private lane and parking and access area that serve residential properties to the immediate north west.
8. The north west elevation of Brocton Leasows Manor includes white UPVC windows and a white UPVC conservatory close to the appeal building. Although these alterations were undertaken outside the control of the Council, they unavoidably form part of the immediate site surroundings. That said Brocton Leasows Manor predominantly contains attractive slender designed timber framed windows.
9. The boundary wall to the north west of the site reduces the visibility of the three proposed ground floor UPVC windows from the surrounding area. However, the first floor UPVC window is visible from the surrounding area and has a contrasting bulky appearance when viewed alongside the slender designed timber windows at Brocton Leasows Manor.
10. When viewed from the private lane, the bulky proportions of UPVC windows at the south west elevation are also in stark contrast to the windows at properties to the north west. Whilst two first floor UPVC windows are at the south west elevation of Brocton Leasows Manor, these windows are set further back from the lane and therefore are less visible. Consequently, I conclude that the bulky proportions of the UPVC windows have a harmful effect on the rural character prevalent at the site and surrounding area.
11. The appellant notes that like for like timber equivalents of the UPVC windows could be installed at the property and be within the terms of condition No 3 which requires consideration of materials only. The fall-back position described by the appellant does not appear unrealistic and is not contested by the Council. Irrespective of this fall-back position, the Council consider that timber windows would be more in keeping with the character of the building which

originally contained timber windows. During the original application, the Council also considered the need to provide section drawings or finer window details as onerous.

12. As stated above, my determination of the appeal relates to construction materials only. Thus consideration of the detailed design of the windows is outside my remit in determining the appeal. In my view, the resultant visual effect of timber framed double glazed windows equivalent in design and dimension would be similar to that of the proposed UPVC windows. Consequently, notwithstanding the harm identified above, in this case I consider the harm is outweighed by the feasible fall-back position described by the appellant. It is on this basis that the appeal should succeed.
13. The condition in its current form also includes roof and wall materials. To preserve the appearance of the host building and surrounding area, it is necessary to ensure that other materials remain as approved in the original permission. Consequently I will vary the planning permission by replacing the disputed condition with an amended version.
14. Therefore I conclude that the condition in its current form is not reasonable or necessary in the interests of the character and appearance of the host building and surrounding area. Core Strategy Policy CS15, saved policies UD2 and H18 of the Wrekin Local Plan and Policy BE1 of the emerging Telford and Wrekin Local Plan are of most relevance to this matter. Combined these policies require development to strengthen local identity and be the highest possible standard of design in keeping with their surroundings. The replacement varied condition in the attached schedule would not conflict with these policies.

Conclusion

15. The Planning Practice Guidance makes it clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged or drawings amended, that is a matter which can be addressed by the parties.
16. For the reasons given above I conclude that the appeal should succeed. As a result I will vary the planning permission by amending the disputed condition.

B Bowker

INSPECTOR

Attached – schedule of conditions.

Schedule of Conditions

- 1) Prior to occupation of the dwelling hereby approved, a scheme of foul drainage and surface water drainage shall be submitted to, and approved in writing by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.
- 2) Notwithstanding window and door details, the development hereby approved shall be erected using the materials as detailed in the application forms.
- 3) Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's booklet *Bats and Lighting in the UK*.
- 4) Notwithstanding condition No 2, the development shall be carried out in accordance with the deposited plans and drawings as stated below, unless otherwise agreed in writing by the Local Planning Authority.
Plan Number: DWG_1003 Rev 0. Date Received: 22/10/2015
Plan Number: DWG_1004 Rev A. Date Received: 26/10/2015
Plan Number: DWG_1006 Rev A. Date Received: 14/12/2015
Plan Number: DWG_1005 Rev O. Date Received: 15/12/2015
- 5) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification), the following development shall not be undertaken without express planning permission first being obtained from the Local Planning Authority:
 - extension to the dwelling
 - free standing building within the curtilage of the dwelling
 - addition or alteration to the roof
 - erection of a porch
 - satellite antenna
 - fences, gates or walls
 - any windows or dormer windows.

- End of schedule -