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## Appeal Decision

Site visit made on 26 April 2018

**by A A Phillips BA (Hons) DipTP MTP MRTPI**

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

**Decision date: 2 May 2018**

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**Appeal Ref: APP/N2345/C/17/3181872**

**Land at 181 New Hall Lane, Preston PR1 5XB**

- 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 Mrs Mimi Williamson against an enforcement notice issued by Preston City Council.
- The enforcement notice was issued on 1 August 2017.
- The breach of planning control as alleged in the notice is without planning permission the installation of a window at first floor level and a roller shutter and shutter box on the front of the property.
- The requirements of the notice are
  - i. Either remove the unauthorised first floor window and make good the resultant opening in the brickwork with brickwork to match that of the existing property
  - OR
  - ii. Remove the existing glazing and install level 5 obscure glazing in the window which shall be retained thereafter;
  - iii. Remove the roller shutter and shutter box.
- The period for compliance with the requirements is four 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 and the enforcement notice upheld.**

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### Main Issues

1. Ground (a) of appeal is that planning permission should be granted. The main issues are the effect of the window on the living conditions of the occupants of the adjacent property with particular reference to overlooking and privacy and the effect of the roller shutter and shutter box on the character and appearance of the area.

### Reasons

#### *Living conditions*

2. A window has been installed in the side elevation of the property at first floor level. The window serves a kitchen / dining room and is situated very close to a rear facing window of the adjacent property at first floor level. The unauthorised window at the appeal site has direct views into the neighbouring window and causes significant overlooking and loss of privacy. I have noted that the appellant has agreed to glaze the window with level 5 obscure glazing in order to comply with the requirements of the enforcement notice and development plan policies.

3. I observed at my site visit that an obscure vinyl covering has been stuck to the inside of the window in order to mitigate the harm to the living conditions of the occupants of the neighbouring property. However, this falls short of the Council's requirements and the covering could quite easily be removed and is a far less permanent solution than is required by the notice. The requirements of the notice relating to the window to mitigate the harm caused to the living conditions of a neighbouring occupant are reasonable.
4. On this issue I conclude that the development has a harmful effect on the living conditions of the occupants of the adjacent property with particular reference to overlooking and privacy. It is therefore contrary to Policy AD1(a) of the adopted Preston Local Plan 2012-2016 (Site Allocations and Development Management Policies) (the SADMP), Policies D13 and H8 of the Preston Local Plan April 2004 and guidance within the Residential Extensions and Alterations Supplementary Planning Document Final Version for Cabinet April 2013. Among other objectives these seek to ensure that development including house extensions within existing residential areas have no adverse impact on residential amenity, particularly loss of privacy.

#### *Character and appearance*

5. The appeal site is a mid-terraced property which has a currently vacant commercial unit on the ground floor and residential accommodation at first floor. The site is situated within a residential area and opposite a defined local centre. Several properties in the immediate vicinity of the site have commercial uses at ground floor, including retail and hot food take-aways. Many of the commercial properties in the area have solid or other types of external roller shutter with external shutter boxes, which detract from the street scene and create an unattractive, stark and industrial appearance in the residential and commercial area along New Hall Lane.
6. The solid galvanised steel shutter and shutter box face onto New Hall Lane and given the materials and projection of the shutter box are highly visible and prominent features in the street scene. They detract from the visual appearance of the building and contribute to the poor quality of building frontages along the street scene which is one of the main road approaches into Preston.
7. I have noted that the appellant has offered to paint the roller shutter and shutter box to a colour that may be acceptable to the Council. However, this would fall short of the Council's requirement to bring the development in line with the development plan by removing the roller shutter and shutter box. In any case, painting would not satisfactorily mitigate the harm that is caused by the overall design of the unauthorised development on the property's frontage and its harmful effect on the wider street scene.
8. On this issue I conclude that the development is harmful to the character and appearance of the area. Therefore it is contrary to Policy AD1(a) of the SADMP which among other objectives requires the design of development within residential areas to be sensitive to and in keeping with, the character and appearance of the area. The Council has also cited the Inner East Preston Neighbourhood Plan 2014-2029 (April 2014) in its reasons for issuing the enforcement notice; however, the appeal site is outside the boundary of the New Hall Lane Local Centre where Policy L2 relating to retail frontages applies. As such I find there to be no conflict with Policy L2.

9. For the reasons given above and taking into account other matters raised I conclude that the development unacceptably conflicts with the development plan, so the appeal on ground (a) fails and the deemed planning application will be refused.

**Formal Decision**

10. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*Alastair Phillips*

INSPECTOR