The Planning Inspectorate

Appeal Decision

Hearing held on 20 June 2018

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

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

Decision date: 05 July 2018

Appeal Ref: APP/E2734/C/17/3179842

1 Franklin Mount, Harrogate HG1 5EJ

- 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 Hanover Properties Ltd against an enforcement notice issued by Harrogate Borough Council.
- The enforcement notice was issued on 6 June 2017.
- The breach of planning control as alleged in the notice is 'It appears to the Council that the original window frames and panes have been removed and replaced with UPVC windows. It is considered that the installation of UPVC frames causes harm to the appearance of the building and the Conservation Area'.
- The requirements of the notice are 'i) The UPVC windows on the front elevation should be replaced with purpose-made timber vertical sliding sash windows which incorporate integral horns. Each window should have a total of 2 panes (1 over 1 arrangement). Windows should be single glazed and neatly puttied rather than beaded. Frames should be constructed from pre-formed, planed sections. Mouldings formed by router after assembly are not acceptable. All parts of joinery should be primed and painted both internally and externally with two coats undercoat and one coat eggshell, which is similar in finish and appearance to that of a traditional distemper; the paint colour should be an 'off-white'. Windows are to be hung on sash cords over bronze or brass pulleys and fitted with correctly balanced iron weights. Windows should be recessed in the reveal by not less than 30mm; and ii) Please note that counterbalancing springs should not be used in vertical sliding sash windows as a substitute for pulleys and weights as this significantly alters the detailing and appearance of the window'.
- The period for compliance with the requirements is nine months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Decision

1. It is directed that the enforcement notice be corrected by:

   1. The deletion of text in Section 3 of the notice and the substitution instead of 'The installation of UPVC windows';

   2. The deletion of text in the first requirement in Section 5 of the notice and the substitution instead of 'The UPVC windows on the front elevation shall be replaced with purpose-made timber vertical sliding sash windows which incorporate integral horns. Each window shall have a total of 2 panes (1 over 1 arrangement). Windows shall be single glazed and neatly puttied rather than beaded. Frames shall be constructed from pre-formed, planed sections. All parts of joinery shall be primed and painted both internally and externally with two coats undercoat and one coat of off-white eggshell. Windows are to be hung on sash cords over bronze or brass pulleys and

fitted with correctly balanced iron weights. Windows shall be recessed in reveals by not less than 30mm';

3. The deletion of the second requirement in Section 5 of the notice.

2. Subject to these corrections the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the installation of UPVC windows at 1 Franklin Mount, Harrogate HG1 5EJ.

Corrections to the enforcement notice

3. At the Hearing Officers representing the Council agreed that the alleged breach of planning control and the requirements specified to remedy the breach, set out in the enforcement notice, require correction. No prejudice would be caused to the Appellant and the notice has been corrected accordingly.

Reasons

The ground (a) appeal

4. The main issue is the effect of the installation of UPVC windows at 1 Franklin Mount on the character and appearance of the building and the Harrogate Conservation Area (HCA), within which the appeal property is situated.

5. 1 Franklin Mount is a three storey mid-terraced property that has been converted into six flats from its original use as a dwelling. On its frontage there is a two-storey mullioned bay either side of a central doorway. There are five windows at each level of each bay. Above each bay is a dormer window and above the doorway are two windows one at each floor level. There are twenty-four two pane UPVC windows on the frontage and the upper pane in each window, except for side windows in the bays, has an outward opening top hung casement.

6. The appeal property is a stone building of the Victorian period and originally had timber sliding sash windows in its frontage. It is in a terrace of many properties of the same period that also originally had the same type of windows in their frontages, as did properties on the opposite side of Franklin Mount and in the wider residential area to the north-east of the town centre. This area is Character Area B in the HCA and the Character Appraisal for this area states that "The majority of houses have (or originally had) two pane vertical sliding sashes….Unfortunately, many original windows have been replaced with modern windows of various types and materials, usually top hung, though many of these are at least vertically symmetrical with panes of equal height".

7. The Character Appraisal goes on to state that "Replacement windows detract considerably from the character of the area". But this concern has not resulted in an Article 4 Direction being made to prevent the installation of UPVC windows in the frontages of dwellings in the area under rights afforded by The Town and Country Planning (General Permitted Development) Order 2015. Consequently, many dwellings in the area have UPVC windows in their frontages of varying patterns and styles. Properties that have been converted to flats, such as the appeal property, do not benefit from the same permitted development rights and the Council considers it necessary to prevent the replacement of original timber sash windows with UPVC windows in such properties and thus to prevent the further erosion of the character and appearance of the HCA.

8. The Council has carried out a survey of windows in the area around the appeal property. About 53% of windows are timber, of which 51.5% are of sliding sash design, and about 47% are UPVC. So timber sliding sash windows are in the majority, but only just. Furthermore, Council Officers accepted at the Hearing that the Council has, in recent years, granted planning permission for UPVC windows of sliding sash design. This reflects the demand for the use of this modern material, which is inexpensive compared to timber, for windows in building projects including those that are for the refurbishment of traditional buildings. The installation of UPVC windows in the appeal property, setting aside their pattern and in the interests of consistency, cannot therefore be considered to be unacceptable.

9. In early 2017 the Council granted planning permission for the conversion and extension of a property at the corner of Mayfield Grove and Franklin Road to four flats. The permitted scheme includes the installation of UPVC windows and the property is only about 80 metres from the appeal property. The scheme is nearing completion and was observed at the site visit. The property has a similar two storey bay to those at the appeal property and the large openings in the bay have fixed UPVC window frames with a single prominent opening light. Other UPVC windows in the property are of inconsistent pattern. Council Officers at the Hearing maintained that UPVC windows were accepted in this instance to secure the refurbishment of the property but the Council did not require the windows to be "…at least vertically symmetrical with panes of equal height".

10. One of the characteristics of properties in the area that retain original timber sash windows is the consistency of the pattern and detailing of the windows. This consistency of pattern and detailing is missing in the windows of the nearby converted property which is in a prominent location in the HCA. The appeal property is not prominent in the HCA, it is a mid-terraced rather than corner property, is set back from the road and is screened by trees, and the windows on its frontage are consistent in pattern and detailing. The UPVC frames are not as 'chunky' as some of the same material in the area, each window has two panes of equal height, and each window is vertically symmetrical. Furthermore, except for the narrow windows in the side elevations of the bays, each window has a top hung, albeit outward opening, casement.

11. The UPVC windows at the appeal property are consistent in pattern and detailing and are, in this regard, sympathetic to the restrained and robust architecture of the building. Taking into account the context of its surroundings, in particularly the variety of styles and number of UPVC windows in the immediate area, the UPVC windows at the appeal property do not materially detract from, or cause anything more than negligible harm to, the character and appearance of the building and the HCA. The windows do not thus conflict with saved policies HD3 and HD20 of the Harrogate and District Local Plan or with policy SG4 of the Core Strategy of the Harrogate District Local Development Framework, and paragraphs 133 and 134 of the National Planning Policy Framework are not engaged.

12. The UPVC windows at the appeal property do not cause material harm to the character and appearance of the building or to the Harrogate Conservation Area. The ground (a) appeal thus succeeds and the ground (f) and (g) appeals do not therefore need to be considered

John Braithwaite

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr G Lupton	Garry Lupton Associates

FOR THE LOCAL PLANNING AUTHORITY:

Mr A Lancashire	Planning Enforcement Officer
Mrs N Kempton	Principle Conservation Officer

DOCUMENTS

1 Character Area B of the Harrogate Conservation Area Character Appraisal.