



Appeal Decision

Site visit made on 12 June 2019

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 08 July 2019

Appeal Ref: APP/V5570/W/19/3226787

Flats 1-29, Eagle Dwellings, 212 City Road, Islington, London EC1V 2PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Peabody against the decision of the Council of the London Borough of Islington.
 - The application Ref P2019/0341/FUL, dated 29 January 2019, was approved on 20 March 2019 and planning permission was granted subject to conditions.
 - The development permitted is replacement of existing single glazed windows and doors with new double glazed windows and doors.
 - The condition in dispute is No 3 which states that: *'SASH WINDOWS TO MATCH (COMPLIANCE): The new sash windows shall accurately replicate the surviving historic windows in terms of material, profile, reveal depth and detailing. The windows shall be painted timber, double-hung sash windows without horns, with a slim profile and narrow integral glazing bars with a putty finish'.*
 - The reason given for the condition is: *'In order to safeguard the special architectural or historic interest of the heritage asset'.*
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Decision

1. The appeal is allowed and planning permission Ref P2019/0341/FUL for replacement of existing single glazed windows and doors with new double glazed windows and doors granted on 20 March 2019 by the Council of the London Borough of Islington is varied by deleting condition 3 and substituting it for the following condition:
 - 1) The new sash windows shall be installed as per the details shown on drawing Ref: 269/101 Rev A, but incorporating structural glazing bars.

Main Issue

2. The main issue is whether the disputed condition is necessary and reasonable in respect of preserving or enhancing the architectural or historic interest of the Moorfields Conservation Area.

Reasons

3. The appeal site comprises two unlisted residential blocks located on the south side of City Road, and is located in the Moorfields Conservation Area (CA). Planning permission was granted for the replacement of existing single glazed windows and doors with new double glazed windows and doors, on the grounds that the new windows in particular would appear satisfactory when viewed from the street, thus preserving the character and appearance of the CA.

4. Three conditions were imposed, including the standard time limit and approved plans conditions. However, the appellant raises a number of issues with regard to condition No 3 and seeks its removal.
5. At paragraph 55, the National Planning Policy Framework (NPPF) sets out that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. I note the appellant's concern that the Council imposed condition No 3 without discussion. However, whilst the NPPF clearly states that agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making, this does not amount to a duty on the Council to do so.
6. Turning to the decision notice relating to this case, I note that drawing Ref: 269/101 Rev A, showing the proposed new sash windows at a scale of 1:5, appears on the list of approved plans. The notes to the side of this drawing confirm that it is proposed to use 'bonded astragal mouldings in existing glazing bar locations'. The drawings also show this form of visual division of the new windows, along with the interstitial spacer bars.
7. Having approved this drawing, the Council have added condition 3, which relates to the design of the new sash windows. A number of issues arise in respect of the detailed wording of the condition. Firstly, whereas the approved drawing shows applied glazing bars, the condition seeks the use of integral glazing bars. Although the appellant raises doubt as to what this means, in my experience, the term integral is generally accepted as referring to structural glazing bars which hold each unit of glazing in place, as opposed to applied glazing bars which serve a cosmetic purpose only. Nevertheless, the appellant's evidence indicates that they intend to use structural glazing bars, and in my view, this would be an appropriate construction method that would keep in with the character of the building.
8. Condition 3 states that the new windows 'shall accurately replicate the surviving historic windows'. The appellant contends that the existing windows are not historic. The Council's view is that there is no clear evidence that the windows in question are not from the late 19th century. Even if they are modern, however, the Council state that they are accurate replicas, and appropriate to this particular building. However, the term 'surviving historic windows' is imprecise as it is not clear which specific windows are being referred to, and so would make the condition difficult to enforce. The term 'narrow' is also imprecise and open to interpretation. Moreover, as a large-scale drawing of the new windows has already been approved, showing their proposed dimensions, the words in question are not necessary.
9. The condition also stipulates that the new windows should be without horns. The existing windows do have horns, and in terms of historical accuracy, horns are appropriate to the style of later sash windows comprising four larger panes. In their statement of case, the Council clarify that this wording was an error, and that the incorporation of horns is correct in this instance. From what I have seen, I have no basis on which to take a different view. Nevertheless, as the approved drawing shows horns, it is unnecessary to stipulate this detail in the condition.
10. Finally, condition 3 requires a 'putty finish'. The appellant argues that putty is not a finish, and that the paint coat on top of it would in fact constitute the

finish. However, in this context, such wording should be generally understandable to those familiar with window construction as meaning that the glazing should be held in with putty in the traditional manner, and painted over.

11. The appellant wishes to use timber beading, as is shown on drawing Ref: 269/101 Rev A. On my site visit, I saw that the main City Road façade is set back from the pavement, and that only the upper floor windows are widely visible. The rest of the facades, although visible, are in more secluded positions. The evidence suggests that the existing sash windows are modern in character, albeit reasonable replicas of older windows. On balance, therefore, I consider that the use of timber beading instead of putty in this particular instance would be acceptable, and would not be so harmful to the character or appearance of the CA as to warrant the withholding of planning permission. As this detail is already approved, there is no need for it to be referred to in condition 3.

Other Matters

12. I note the appellant's concern with regard to the need for planning permission for the proposed change to the windows at the appeal site. Nonetheless, a planning application was made and determined by the Council, and the appeal relates directly to it. Moreover, the appeal is before me, and so I am bound to determine it on the basis of the presented evidence.
13. I have been referred to other instances whereby the appellant has gained planning permission for new windows in conservation areas, for example, at Dibden Street. The appellant also refers to cases involving listed buildings. However, the lack of precise and detailed information relating to these case limits the weight I can afford them. I have also had regard to the appeal decision¹ relating to Flat C, 14 John Spencer Square, Islington. However, I cannot be certain that this case represents a direct parallel to the appeal scheme, and moreover, each case is to be determined in its individual merits.

Conclusion

14. Although the appellant seeks the removal of condition 3 altogether, this would permit the use of applied glazing bars and spacer bars in the new windows, as shown on the approved plan. I consider that such a design would be inappropriate in a historic building that makes a positive contribution to the CA.
15. The condition, as varied above, is therefore reasonable and necessary insofar as it ensures the use of structural glazing bars. I have removed the wording that I have found to be imprecise or unnecessary, and consequently, I consider that it meets all the tests set out in the NPPF. Without the condition, the development would conflict with Policy CS 9 of Islington's Core Strategy, which seeks to protect the built and historic environment.

Elaine Gray

INSPECTOR

¹ APP/V5570/W/16/3154509