



Appeal Decision

Site visit made on 27 June 2019

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 July 2019

Appeal Ref: APP/Y3615/C/18/3214591

First floor flat at 22 Haydon Place, Guildford GU1 4LL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mr A Al-Hassani against an enforcement notice issued by the Council of the Borough of Guildford.
 - The enforcement notice was issued on 18 September 2018 under ref. EN/16/00419.
 - The breach of planning control as alleged in the notice is: *Without planning permission the removal of 1 central timber framed sash window on the northern elevation at first floor level and its replacement with 2 smaller UPVC framed windows.*
 - The requirements of the notice are to:
 - i) *Remove the 2 unauthorised first floor windows on the northern elevation of the property*
 - ii) *Reinstate a centrally located "two-over-two" sash window to replicate the original window as shown in the attached photograph (Photograph A). The reinstated window must be recessed to the same depth as the first floor windows on the western elevation of the property with a cill of the same depth, and the retained brick header should be painted white to match those windows on the first floor of the western elevation. The width of the window frame, meeting rail, and glazing bars should match those of the windows on the first floor of the western elevation of the property*
 - iii) *Remove from the land all materials, rubble and waste resulting from Steps i and ii above.*
 - The period for compliance with these requirements is 2 months.
 - The appeal is proceeding on the ground set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Background and matters of clarification

2. This first floor flat is within a 2-storey terraced building at the junction of Haydon Place and Martyr Road. A computer repair shop occupies the ground floor. The site is within the Guildford Town Centre Conservation Area.
3. A retrospective planning application (ref. 17/P/00790) sought planning permission for various external alterations to the first floor flat, including the retention of the 2 uPVC-framed windows in the rear wall (north elevation) that the enforcement notice is directed at. The application was refused on 28 June 2017. A subsequent section 78 appeal was dismissed on 5 January 2018. The planning merits of the unauthorised operational development were effectively decided in that appeal and are not before me in this appeal.

The appeal on ground (g)

4. This ground of appeal is that the time given for compliance with the enforcement notice falls short of what should reasonably be allowed. The notice gives 2 months for the requirements to be carried out. The appellant requests a period of 12 months instead.
5. The gist of the appellant's case is that the time given by the notice would not be sufficient to organise, fund and carry out the works required by the notice. It is said that the occupiers of the flat would need to be moved out for the works to take place and that the works would be expensive, time-consuming and disruptive. Mention is made of the difficulty of finding reliable builders and gaining quotes and it is claimed that designing, commissioning and installing a bespoke timber sash window will not be straightforward.
6. The Council is opposed to any extension of time. The Council indicated that the appellant has been aware of the objections of the Council for some time and latterly of the Planning Inspectorate since the appeal decision dated 5 January 2018. The Council reports that no obvious efforts were made by the appellant to resolve the matter between that appeal decision and the issue of the enforcement notice several months later. It is stated that had the appellant begun the process of employing a building firm and a sash window specialist and organising temporary accommodation for the tenants in early 2018, it is highly likely that the issue would have been resolved without the need for formal enforcement action.
7. I consider that the Council is correct to be concerned about a compliance period of 12 months. It is desirable that the breach of planning control is remedied without unnecessary delay in order to address the harm that arises from it, as identified in the reasons for issuing the notice. Moreover, no financial details have been supplied concerning the availability of funds or the estimated cost of the works. I am inclined to the view that the physical works required by the notice are relatively straightforward. It should not take very long for a reputable builder to complete them. The costs of the works are unlikely to prevent compliance. No details have been supplied about what attempts have been made by the appellant to find and appoint a builder or about how long a window manufacturer would need to produce the timber sash window.
8. I am also mindful that over 8 months have elapsed since the appeal was first submitted with enforcement action being effectively suspended. As the compliance period will begin again from the date of this appeal decision, the appellant will therefore have had over 10 months in which to take the necessary steps to comply with the requirements of the notice.
9. In line with the advice at paragraph 58 of the National Planning Policy Framework, last updated in February 2019, effective enforcement is important to maintain public confidence in the planning system. The appellant's request would serve to merely frustrate the planning system as indicated by the Council.

10. The Council would still have the discretion to extend the compliance period, should any unforeseen difficulties arise, using its powers under section 173A (1) (b) of the 1990 Act as amended.
11. On all the available evidence before me, I find that the 2-month compliance period given in the notice was reasonable. I conclude that the appeal on ground (g) should not succeed. The enforcement notice is upheld without variation.

Andrew Dale

INSPECTOR