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# Appeal Decision

Site visit made on 18 June 2019

**by E Griffin LLB Hons**

**an Inspector appointed by the Secretary of State**

**Decision date: 01 October 2019**

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**Appeal Ref: APP/W2465/W/19/3224193**  
**220-248 St Saviours Road, Leicester LE5 3SH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Fahad Rangila against the decision of Leicester City Council.
  - The appellant requested to vary the planning permission dated the 10 June 2016 by letter dated the 20 July 2018.
  - The application sought planning permission for replacement doors and windows at front; boundary gates and walls at front of houses (Class C3) without complying with conditions 2 and 4 attached to planning permission reference 20160656 dated the 10 June 2016.
  - The conditions in dispute are Nos 2 and 4.
  - Condition 2 states that " Before the development is begun, horizontal & vertical cross-section drawings at 1:5 or 1:10 scale showing the joinery details of the proposed replacement doors and windows shall be submitted to and approved by the City Council as local planning authority."
  - Condition 4 states that " This consent shall relate solely to the submitted plans received by the City Council as local planning authority on 31/03/2016, unless otherwise submitted to and approved by the City Council as local planning authority."
  - The reasons given for the conditions are:
  - Condition 2: " in the interest of visual amenity, and in accordance with Core Strategy policy CS3."
  - Condition 4: "For the avoidance of doubt."
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## Decision

1. The appeal is dismissed.

## Procedural Matters and Main Issue

2. Planning permission Reference 20160656 was granted by Leicester City Council on the 10 June 2016 (the planning permission) for replacement doors and windows at front; boundary gates and walls at front of houses (Class C3) at houses numbered 220-248 St Saviours Road, Leicester.
3. The conditions attached to the planning permission included a plans condition and the plan numbered L002 provided details of what was proposed. The proposed plan referred to bespoke windows and doors made from European softwood with double glazing fitted. A further condition referred to submission of drawings of joinery details prior to work being carried out. Details have not been submitted to the Council.

4. In a letter dated the 20 July of 2018, the appellant asked the Council for the planning permission to be amended to allow for UPVC bay windows and first floor windows to be installed. In the absence of a reply to that letter from the Council, the appellant lodged an appeal against both non-determination following that letter and against the original planning permission.
5. The appellant is unable to appeal against the original planning permission as the appeal was not made within six months of the grant of the planning permission. The Council is unable to confirm if the letter of the 20 July 2018 was received by the planning department and only had sight of it through the appeal process. In effect, the appellant seeks the variation or removal of Conditions 2 and 4 of planning permission 20160656 to allow for the proposed UPVC replacement windows shown in the quote information provided with the appeal.
6. However, the Council's view is that UPVC windows and the loss of original timber framed windows would cause harm to the character and appearance of the Spinney Hill Park Conservation Area (the Conservation Area).
7. The main issue is therefore whether Conditions 2 and 4 are reasonable and necessary to preserve or enhance the character or appearance of the Conservation Area.

## **Reasons**

8. The appeal proposal relates to a row of largely symmetrical terraced dwellings to the end of St Saviours Road where it meets East Park Road. Spinney Hill Park is on the opposite side of the road to the appeal dwellings and extends for the majority of the length of St Saviours Road. There are a number of mature trees along the boundary of the park. The documentation submitted by the appellant includes an email from the Mayor which refers to the Conservation Area "remaining one of the most attractive and historically important parts of the city and its maintenance is a priority in our plans for the city's heritage."
9. The individual dwellings have curved bay windows at ground floor level with decorative glass elements in the smaller windows at the top of the bay. Each dwelling then has a single window at first floor level which is flush with the dwelling and is curved along the top. The curve is then replicated at roof level with a dormer window feature. The presence of chimneys at largely symmetrical gaps adds to the overall visual impact. The uniformity of materials and features creates a striking and attractive frontage which enhances the Conservation Area.
10. No proposed plans were submitted with the letter to the Council. However, details of a quotation of works dated the 29 April 2018 relating to 236 St Saviours Road has been provided. The diagram shown on the quotation for the first floor window shows the top window as being smaller than the lower window within the window frame. This contrasts with the existing windows where the proportions are similar between top and bottom as illustrated on Plan reference L002.
11. The differences in design with existing houses would mean that unless all the houses proceed with any change, the symmetrical appearance of the terrace would be lost. It would not be possible, in any event, with any grant of

- planning permission to ensure that all of the houses that are in different ownerships would carry out the proposed changes.
12. Whilst UPVC window design has improved over the years, the technical finish is still different to wood. There is limited evidence as to how the finish would compare to the existing wooden windows and a mix of designs and materials would fail to preserve or enhance the character of the Conservation Area.
  13. The statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is of considerable weight and importance. This is reflected in the National Planning Policy Framework (the Framework) at paragraph 193 which states that great weight should be given to the asset's conservation irrespective of the degree of harm.
  14. The harm caused to the significant of the Conservation Area is less than substantial. In such cases, paragraph 196 of the Framework states that the harm should be weighed against the public benefits.
  15. The appellant indicates that the appeal proposal would have a number of benefits which include cheaper installation costs than wooden windows, reduced noise, better insulation, higher security, durability, easier to maintain, energy efficient and reducing the carbon footprint. Any increase in value to the dwellings is not a material planning consideration. However, these benefits do not amount to a public benefit sufficient to outweigh the harm that would be caused to the Conservation Area.
  16. I conclude that based upon the limited information before me, conditions 2 and 4 remain reasonable and necessary appeal proposal would fail to preserve or enhance the character and appearance of the Conservation Area. The proposal would therefore be contrary to Paragraphs 192 and 196 of the Framework which seek to conserve and enhance historic assets.

### **Other Matters**

17. The appellant has referred to an email relating to 134 Mere Road which indicates that UPVC sash windows were approved by the Council. However, limited information is provided and in the email provided by the appellant, the Council is quoted as referring to the particular context of the site. Each application has to be assessed on its own merits. Similarly, reference has been made to other non-original windows in the area although limited information has been provided. The Council has indicated that there are instances where windows have been changed without planning permission but the time period within which enforcement action can be taken has expired.
18. Copies of emails and correspondence with the Council have been included and it is noted that the appellant has had a number of discussions with the Council about the use of UPVC. I have based my decision on all the evidence available to me and for the reasons stated, I am not persuaded that the proposal would preserve or enhance the Conservation Area.

### **Conclusion**

19. For the reasons given, the appeal is dismissed.

*E Griffin* INSPECTOR