
Appeal Decision

Site visit made on 8 October 2019

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2019

Appeal Ref: APP/C4235/C/19/3222210

Land at 21 Ogden Road, Bramhall, Stockport SK7 1HU

- 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 Mr Graham Walsh against an enforcement notice issued by Stockport Metropolitan Borough Council.
 - The enforcement notice was issued on 10 January 2019.
 - The breach of planning control as alleged in the notice is: Without the benefit of planning permission, the replacement of existing timber framed windows with white uPVC windows to the front elevation of the dwellinghouse.
 - The requirements of the notice are:
 1. Remove the uPVC windows fitted to the front elevation of the property, 21 Ogden Road, Bramhall, Stockport, which front onto the highway. These include the windows at both ground and first floor level, including all those which form part of the bay window.
 2. Fit all openings with timber fixed and side hinged casement windows set within a timber subframe that incorporates a projecting moulded cross member, replicating the original window design as shown in Photos A-F. The upper lights should incorporate leaded and stained glass to replicate the original design as shown in Photo C. No trickle vents should be fitted.
 3. Paint the exterior wooden surfaces of the window frames in white, using microporous paint formulated for exterior woodwork ensuring that a minimum of 2 coats are applied.
 4. Make good all damage caused by complying with 1,2 and 3.
 5. Remove all debris caused by complying with 1,2,3, and 4 above.
 - The period for compliance with the requirements is 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permissions is deemed to have been made under section 177 (5) of the Act.
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Decision

1. It is directed that:

- The enforcement notice be varied in the first sentence of paragraph 5. 2) by the deletion of the wording "side hinged" and the insertion of the word "frame" between the words "window" and "design".
- The enforcement notice be varied in the second sentence of paragraph 5. 2) by the deletion of the wording "to replicate the original design as shown in Photo C".

2. Subject to the variations above, the appeal is dismissed, the enforcement notice upheld and planning permission is refused on the application deemed to have been made under section 177 (5) of the 1990 Act as amended.

Procedural Matter

3. The appellant's statement of case expresses some misgivings about what development is the subject of control by the Article 4 (2) direction that operates within Syddal Park Conservation Area. Furthermore, reference is made to planning permission having been granted by the Council for new windows in the property. However, I have not been provided with any demonstrable evidence of a planning permission for new windows, and moreover, there does not appear to be any dispute between the parties that the windows that have been installed required planning permission. Indeed, the appeal is proceeding solely on grounds (a) and (f) and no grounds of appeal have been made on ground (c) (i.e. that those matters stated in the notice which give rise to the alleged breach of planning control, if they occurred, did not constitute a breach of planning control). I have therefore determined the appeal solely on the grounds on which the appeal has been made, namely grounds (a) and (f).

Appeal of ground (a), deemed planning permission

Main Issue

4. The main issue in this case is the effect on the character and appearance of the host property and Syddal Park Conservation Area.

Reasons

5. The appeal property is a substantial red brick semi-detached villa situated on a residential street within Syddal Park Conservation Area (CA). From my observations and the details available to me, including the Council's Conservation Area Character Appraisal for Syddal Park, updated 2011 (CACA), I consider that the significance of the CA as a heritage asset is mainly drawn from its character as a low-density residential suburb predominantly comprised of late 19/early 20 Century detached and semi-detached villas. The formal layout of the properties, their high-quality materials, craftsmanship and fine architectural details, produce a visual harmony throughout the verdant gridiron street layout, all of which contribute to the significance of this heritage asset.
6. Windows are often amongst the most prominent features and an integral part of the design of traditional buildings. In this case, the traditional timber joinery, including the hand-crafted stained-glass, are a predominant original detail which can be found on many of the villas within the CA, and make a positive contribution to the significance of the CA.
7. In contrast, the windows that have been installed are constructed from a non-traditional material and their sections are much bulkier, smoother and flatter than the timber windows that have been replaced. They have a more modern and less refined appearance, lacking the fine detailing and depth of the timber frames. In addition, the bulk and incongruity of the uPVC frames is heightened where the casements have storm seals. I appreciate that the leaded windows have sought to reproduce or represent the tulip design which formed part of the original windows. However, overall the design and materials of the uPVC

windows frames fail to preserve or enhance the character or appearance of the host property or CA.

8. The appellant has drawn my attention to a number of other examples of where uPVC windows have been installed within the CA, and I was able to observe some of those on my site visit. I appreciate that there are a number of properties within the CA with uPVC windows or a mixture of uPVC and wood. However, I do not know the precise circumstances or planning considerations surrounding those other examples, and the Council has advised that many of those windows were fitted prior to the operation of the Article 4(2) direction. Indeed, the Article 4(2) direction was imposed to provide some regulation and prevent the loss of traditional joinery, which I have identified as being integral to the design of traditional buildings and which make a positive contribution to the significance of the CA. In addition, the existence of those other uPVC windows detract from the character and appearance of the CA and therefore do not set a precedent that should be repeated. In any event, I have determined the appeal on its own merits.
9. I conclude that the uPVC windows do not preserve or enhance the character and appearance of Syddall Park CA and have a harmful effect on the character and appearance of the host property. They cause less than substantial harm to the significance of the CA as a heritage asset. This harm is not outweighed by any public benefit. The development is therefore contrary to policies in the National Planning Policy Framework which seek to conserve and enhance the historic environment. In addition, the development conflicts with the heritage aims of Development Management Policy SIE-3 of Stockport's Core Strategy DPD, adopted March 2011 and saved Policy HC1.3 of Stockport's Unitary Development Plan Review, 2006 which advises that development within conservation areas will not be permitted unless, amongst other criteria, the siting, scale, design, materials and landscaping of the development are sympathetic to the site and surroundings.

Other Matters

10. I appreciate that the appellant may not have been aware that the site is within a conservation area or that there is an Article 4 (2) direction in operation which relates to this property. I also note the appellant's concern over the manner in which the Council has dealt with this breach of planning control. However, these are not matters which are for my consideration in the deemed planning application, which I have determined solely on its planning merits.
11. The CACA was adopted in March 2006 and last updated in 2011. I recognise that ideally such documents should be reviewed every five years. However, this document is still a material consideration in this appeal and one to which I have afforded some weight when undertaking my own assessment of the significance of the CA.
12. I understand the reasons why the appellant wanted to change the windows, but there is not convincing evidence before me to demonstrate that the windows were beyond repair, nor that uPVC provides better thermal insulation or requires less maintenance in the longer term than timber. I therefore give this consideration limited weight.

Conclusion

13. For the reasons given above and taking into account all other matters raised, I conclude that the appeal on ground (a) must fail.

Appeal on ground (f)

14. The issue is whether the requirements are excessive to achieve the purpose(s) of the notice.
15. Section 173 of the Town and Country Planning Act 1990 (as amended) indicates that there are two purposes which the requirements of an enforcement notice can seek to address. The first is to remedy the breach of planning control that has occurred and the second to remedy any injury to amenity which has been caused by the breach. In this case the purpose behind the notice is to remedy the breach of planning control.
16. In summary the appellant's case is that to enforce the removal on the uPVC windows from the property, which he considers to be in sympathy and harmony with the original design, would be unduly restrictive, unreasonable and unjust. In particular, because there are many other examples of uPVC windows within the CA. With regard to lesser steps, the appellant requests that consideration be given to the retention of the uPVC windows and to allow them to be painted with a specialist paint which enables uPVC windows to be painted to make them appear like wood.
17. In this case the breach of planning control is the replacement of existing timber framed windows with white uPVC windows to the front elevation of the dwellinghouse. Whilst the painting of the existing windows may alter their appearance and finish, it would not remedy the breach.
18. However, I would agree with the appellant that not all the original casement windows were side hinged and indeed many were top hung casements. The photographs attached to the notice illustrate the original pattern of fenestration, and therefore the deletion of the wording "side hinged" would remove any ambiguity. In addition, the insertion of the word "frame" between the words "window" and "design" in this sentence would clarify to the requirements.
19. The new stained glass that has been installed, does not in itself have a harmful effect on the character or appearance of the CA. The property is a not a listed building and it is therefore unnecessary for the replacement windows frames to incorporate new stained glass that would completely replicate the original design. In the absence of the new stained glass causing any demonstrable harm to the character and appearance of the CA, I see no reason why the existing stained glass could not be re-used in the new frames, if possible. I shall therefore vary the notice in the second sentence of paragraph 5. 2), and delete the wording "to replicate the original design as shown in Photo C".
20. For the reasons given above, I conclude that the requirements of the notice are excessive to remedy the breach of planning control. I shall vary the enforcement notice prior to upholding it.

Overall Conclusion

21. For the reasons given above, and having taken into account all other matters raised, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the deemed application.

Elizabeth Pleasant

INSPECTOR