



Appeal Decision

Site visit made on 21 February 2020

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 02 March 2020

Appeal Ref: APP/C2741/C/19/3238862

7 Wenlock Terrace, York YO10 4DU

- 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 Mrs Janice Taylor against an enforcement notice issued by City of York Council.
 - The enforcement notice was issued on 14 August 2019.
 - The breach of planning control as alleged in the notice is *Without planning permission, the removal of timber windows and the installation of 15 replacement UPVC windows in the front elevation of 7 Wenlock Terrace together with the removal of a timber door and the installation of a replacement UPVC door in the rear of the said premises.*
 - The requirements of the notice are that the following steps be undertaken:
 - (1) The removal of the 15 UPVC windows which have been installed in the front elevation of 7 Wenlock Terrace and the reinstatement of timber framed replacements of a design to match the originals which were removed in order to facilitate the installation of the said UPVC windows. The replacement windows shall be of an exact like for like design to the originals removed including construction materials, horns, fine detailing and profile and shall be inserted in the same reveal as the previous windows.
 - (2) The removal of the UPVC door which has been installed in the rears of 7 Wenlock Terrace and the reinstatement of a timber door of a design to exactly match the original which was removed in order to facilitate the installation of the said UPVC door.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Summary Decision

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

Main Issue

2. The appeal is made on ground (a) which is to say that planning permission is sought for the development alleged in the notice. The Council's reasons for issuing the notice relate to the effects of the development on the character and appearance of the Fulford Conservation Area. Whether the development preserves or enhances the character or appearance of the Fulford Conservation Area is thus the main issue in the appeal.

Reasons

3. Wenlock Terrace consists mostly of grand Victorian terraced houses appearing to be of 4 storeys with turreted and balustraded bays. 7 Wenlock Terrace lies near the centre of the south side of the terrace. Each bay in the 4 storeys

contains three windows, with three further ones above and below the main front door to the raised ground floor.

4. The window treatment in the front of the terrace consists of Victorian sash windows in each opening, most of which have been retained in the traditional style. The upper sashes, with horns to the base of the wooden top sash stiles, protrude beyond the lower sashes in traditional form.
5. The windows that have been installed at the appeal property have made some attempt to replicate the sash windows, with glazing bars across the middle of the window openings in positions to match the sash rails of the adjoining properties. However, they differ significantly in the materials used and in the way the detailed profiling of the windows has been formed. Save for the middle openings of the bay, which appear not to be opening windows, the opening windows are in the lower half of each opening. This has the effect of reversing the order of prominence of each half of the window compared with its neighbours, with the wider glazing surrounds found in the lower half of each window at the appeal property rather than the more prominent (because further forward) upper half of the neighbouring sash windows.
6. These lower opening window lights are top-hung, opening outwards rather than by a sliding sash, with the metal opening hinges evident on the outside. The different material, in the form of the smooth and shiny uPVC, rather than the more natural grain and patina of timber frames, looks incongruous in the historic elevations of the property, and the flatness of depth of the glazing bars in the new windows further detracts from the property's appearance.
7. The appellant considers that the windows do not detract from the character of the Conservation Area as they reflect others which are widely used in the area and therefore form part of the area's character. Although there are some other examples of uPVC windows in the area, the prevailing character and appearance is of these historic properties in their traditional proportions and materials, and the loss of these characteristics harms the significance of the Conservation Area.
8. A greater number of openings in the rear of the terrace have been replaced with uPVC but there remains a significant amount of traditional wooden-framed openings including in the properties to either side of No 7. The rear of the terrace is prominent in views from the main Fulford Road as well as from Ordnance Lane which runs behind the terrace to the south. Although secondary entrances to the properties, the principal rear doors are again raised above short flights of steps, each pair in the centre of 3-storey outriggers. They are mostly 4-panelled (or with 2 lower panels with a pane or panes above) doors, shaped at the top to match the inverted 'V' pattern that is typical of the terrace's openings. At the appeal property, a white rectangular 6-panelled uPVC door has been fitted into the opening, with the frame filling in to form the 'V' part above and appears to have reduced the reveal. Again I find that the loss of the historic characteristics of the opening together with the loss of traditional materials to be unsympathetic and harmful to the significance of the Conservation Area.
9. A number of draft planning policies for the local area are relevant, but none are adopted. Policies GP1 and policies HE2 and HE3 of the April 2005 York Local Plan (4th set of changes), approved for development management purposes, seek design that is appropriate for the area and consistent with preserving the

character and appearance of conservation areas. Policies SP3, D4 and D11 of the 2018 submission Draft Local Plan have similar requirements. National policy in the form of the National Planning Policy Framework ('the Framework') sets out that any harm to designated heritage assets requires clear and convincing justification. The appellant states that the top-hung bottom panes of the smaller windows to the front of the property assist with ventilation and offer a means of escape in case of fire.

10. In the language of the Framework I find that 'less than substantial harm' to the significance of the Conservation Area has resulted from the development alleged in the notice. The Framework sets out that such harm should be weighed against the public benefits of the development. It is not said that the benefits as fire escapes of the top-hung windows, rather than by the retention of (or replacement by) sash windows, could not be achieved in another less (or not) harmful way. Consequently I do not consider that the benefits of the development outweigh the 'less than substantial harm' caused by it.

Conclusion

11. For the reasons given above I find that the development alleged in the notice conflicts with the planning policies in use in the area, and with national policy in the Framework, and that the character and appearance of the Conservation Area are not preserved or enhanced. I have had regard to all matters raised in the appeal but none is sufficient to overcome this harm. For these reasons I conclude that the appeal should not succeed. I shall uphold the enforcement notice and decline to grant planning permission on the deemed application.

Formal Decision

12. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Laura Renaudon

INSPECTOR