
Appeal Decision

Site visit made on 18 March 2020

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 04 May 2020

Appeal Ref: APP/H0724/C/19/3241193

8 Queen Street, The Headland, Hartlepool TS24 0PR

- 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 Joseph Hansard against an enforcement notice issued by Hartlepool Borough Council.
 - The enforcement notice was issued on 22 October 2019.
 - The breach of planning control as alleged in the notice is: without planning permission, the installation of uPVC windows.
 - The requirements of the notice are: (i) remove the existing uPVC windows. (ii) restore the windows to their condition before the breach took place.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) 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.

Preliminary Matters

2. Although the appeal was made on ground (f), which relates to the requirements set out in the enforcement notice, the majority of the appellant's arguments relate more properly to ground (a). Ground (a) is that planning permission ought to be granted for any breach of planning control and allows the planning merits to be taken into account.
3. However, a fee is payable in respect of any planning application that is deemed to have been made under ground (a). Although this matter was brought to the appellant's attention, the fee has not been paid. As a result, I am unable to assess the planning merits of the case, including the third party representations, and the appeal proceeds on ground (f) only.

Ground (f)

4. The appeal on ground (f) is that the steps required to comply with the requirements of the notice are excessive, and that lesser steps would overcome the objections.
5. The development comprises new uPVC windows at the appeal site, which is a dwelling located in the Headland Conservation Area (CA). In this case, the appellant is required to remove the unauthorised uPVC replacements and restore the windows to their condition before the breach took place.

6. The Council's objections relate to the effect of the development on the character and appearance of the CA. The appellant's case is that the requirements are excessive because the new windows are sympathetic to the originals, but more energy efficient and easier to maintain. Furthermore, he argues that they are in keeping with the windows found in a number of other properties in the vicinity. However, these factors relate to the planning merits of the case which, as noted above, cannot be taken into account as it is only open to me to consider ground (f) matters.
7. As there is no injury to amenity in this case, the purpose of the notice is to remedy any breach of planning control. In the absence of any suggested lesser steps that might overcome the Council's objections, it seems to me that no measures short of the removal of the uPVC windows and their replacement with windows reflecting the previous design would remedy the breach.
8. The appeal on ground (f) therefore fails.

Conclusion

9. For the reasons above, the appeal is dismissed and the enforcement notice is upheld.

Elaine Gray

INSPECTOR