



Appeal Decision

Site visit made on 22 June 2020

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 June 2020

Appeal Ref: APP/N4720/F/19/3234831

2 Princes Grove, Leeds LS6 2AW

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr David Baguley against a listed building enforcement notice issued by Leeds City Council.
 - The enforcement notice was issued on 12 July 2019.
 - The contravention of listed building control alleged in the notice is the installation of replacement upvc windows on the rear elevation and a satellite dish on the front elevation.
 - The requirements of the notice are Step 1 – Remove the unauthorised upvc windows and frames in the rear elevation; Step 2 – Replace the windows and frames removed with single glazed 16-pane (8 over 8) timber sash windows of the same design and appearance as those which existed prior to the installation of the unauthorised windows and frames; Step 3 – Make good the parts of the stonework of the building to which the windows and doors were attached with a mortar and finish to match the texture and colour of the original stonework; and Step 4 – Remove any detritus associated with compliance with Steps 1-3 from the land.
 - The period for compliance with the requirements is four months.
 - The appeal is made on the grounds set out in section 39(1)(b) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. The listed building enforcement notice is corrected by:
 1. The deletion of 'and a satellite dish on the front elevation' in the second schedule of the notice;
 2. The deletion of 'doors' in Step 3 in the third schedule of the notice and the substitution instead of 'frames'.
2. Subject to these corrections the appeal is dismissed and the listed building enforcement notice is upheld.

Corrections to the enforcement notice

3. Windows and frames are referred to in Steps 1 and 2 of the third schedule of the notice but 'windows and doors' are referred to in Step 3. The reference to 'doors' is clearly erroneous and Step 3 has been corrected to refer to 'windows and frames'. None of the requirements of the notice address, by requiring its removal, the installation of a satellite dish on the front elevation. The Appellant is not prejudiced by the necessary deletion, therefore, of reference to the satellite dish in the alleged breach of listed building control.

Reasons

4. 2 Princes Grove is a two-storey mid-terraced dwelling. It is part of a terrace that was listed on 7 September 1995. The two principal windows in the rear elevation of no. 2 are upvc windows. The Appellant has appealed under ground (b); that the alleged breach of listed building control has not occurred. The alleged breach has clearly occurred but ground (b) is often confused with ground (c); that the works carried out do not constitute a contravention of listed building control. This is what the Appellant is claiming by maintaining that the two upvc windows were installed prior to the date of listing of the terrace. The appeal will be considered as if it had been made under ground (c). The Council has considered the date of installation of the two upvc windows and is not therefore prejudiced by the appeal being so considered.

5. A photograph taken in 1992 shows the two principal windows in the rear elevation of 2 Princes Grove to be 16-pane timber sash windows. The Appellant claims that these were replaced by upvc windows before the terrace was listed in 1995. The listing description does not mention any upvc windows in the terrace but it does mention that a 16-pane sash window in no. 1 had been replaced, by a 2-pane sash window, and that no. 4 has '2-leaf vertical shutter to front ground-floor window'. It is common for a listing description to identify particular features of the listed building, especially when these features are changes to the original consistent appearance of the building. In this regard it is inconceivable that upvc windows at no. 2, if they were installed before the building was listed, would not be mentioned in the listing description of the terrace.

6. The Appellant has submitted a sworn affidavit, made by his sister and signed and dated in the presence of, and witnessed by, a Solicitor, which testifies to the installation of the two upvc windows after 1992 and before 7 September 1995. But there is no evidence to support this testimony, in the form of an invoice or any other form of documentary record of the date of installation of the upvc windows. Neither is there any testimony from the Appellant himself or from any other third party who has a recollection of the date of installation. Without any substantiating evidence, and given that it is inconceivable that the listing description of the terrace would not have mentioned the upvc windows if they had been in place at the time of listing, it must be concluded that the two upvc windows were installed after 7 September 1995.

7. The Appellant has discussed the upvc windows with Officers of the Council for about two years prior to the date of issue of the listed building enforcement notice. He has been afforded ample time to locate and submit evidence to substantiate his claim and the Officers have also been actively searching for such evidence. None has come to light and the Council was therefore entitled to take enforcement action against the unauthorised works.

8. The works that are the subject of the listed building enforcement notice have occurred and they constitute a breach of listed building control. The ground (b) appeal, and the intended ground (c) appeal, thus fail.

John Braithwaite

Inspector