



Appeal Decision

Access required site visits made on 18 and 21 May 2020

by **P N Jarratt BA DipTP MRTPI**

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

Decision date: 8 July 2020

Appeal Ref: APP/D0840/F/19/3240418 15 Castle Street, Liskeard, PL14 3AU

- 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 Arron Hambly against a listed building enforcement notice issued by Cornwall Council.
 - The enforcement notice, numbered EN17/02307, was issued on 19 September 2019.
 - The contravention of listed building control alleged in the notice is inserting two uPVC windows to the rear (west) elevation and three UPVC windows and Edwardian style timber door to the front (east) elevation of the grade II listed building.
 - The requirements of the notice are:
 1. Remove the three uPVC windows from the front (east) elevation of the property.
 2. Replace the three windows on the front (east) elevation of the property with timber single-glazed horned sash, one over one windows to replicate those that existed immediately prior to the installation of the uPVC windows.
 3. Remove the Edwardian style door from the front (east) elevation of the property.
 4. Replace the front (east) elevation door with a painted timber four panel door to replicate the door that existed immediately prior to the installation of the Edwardian style replacement door.
 5. Remove the two uPVC windows from the rear (west) elevation of the property
 6. Replace the two windows on the rear (west) elevation with timber single-glazed horned sash one over one windows to replicate those that existed immediately prior to the installation of the uPVC windows.
 - The period for compliance with the requirements is four months.
 - The appeal is made on the grounds set out in section 39(1) (e) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
 - **Summary of decision: notice varied, appeal dismissed and notice upheld.**
-

This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 26 May 2020.

Procedural Matter

1. Although the appeal has been made only on ground (e), it was made prior to the Covid-19 pandemic and the Coronavirus Act 2020. The consequences of the pandemic on individuals and society is substantial such that it may reduce the ability of an appellant from meeting the compliance period if the appeal is unsuccessful. With this in mind, the parties have been invited to comment on whether the compliance period should be extended. I have the power to vary the terms of an enforcement notice under the planning acts.

Policy Background and Main Issue

2. Section 16 of the LBCA requires special regard to be paid to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses, before granting listed building consent. In addition to the duties under the Act referred to above, the policies of the Cornwall Local Plan Strategic Policies 2010-2030 and the Liskeard Neighbourhood Plan are also material considerations in these cases.
3. Strategic Policy 24 concerns the historic environment and Policy TC3 of the Neighbourhood Plan addresses the maintenance and improvement of buildings in the town centre and Conservation Area. It states that 'windows and doors in buildings in sensitive and highly visible locations should be of traditional materials and design. Historic windows and doors should be repaired where possible or replaced to match originals.'
4. These policies are also broadly in accordance with the aims of the National Planning Policy Framework (the Framework) which is also a material consideration in these cases. Paragraphs 193, 194 and 196 of the Framework note that great weight should be given to conserving the significance of heritage assets and that any harm must be outweighed by public benefits of the proposal, including securing the optimum viable use of the building, before listed building consent is granted.
5. The main issue in the ground (e) appeal is whether the works subject to the notice preserve the listed building or its setting or any features of special architectural or historic interest it possesses.

Appeal Site

6. The appeal property is a two storey with basement mid-terrace residential property, being one of seven properties protected under a group Grade II listing. The terrace is adjacent to the footway and the appeal property has a rear garden which leads to a rear access alleyway. It is within an area of mixed residential, commercial and civic buildings and is located on one of the main vehicular routes into the town centre. It lies within a Conservation Area.
7. The listing recognises the properties collectively as a good example of a modest terrace of nationally recognised neo-classical architectural style. It goes on to say that although there have been some late 19th century and mid-20th century alterations to the group, most particularly the loss of the door case of No.17, the otherwise complete principal facade with its range of fixtures and detailing, including door cases, later sash windows, lined off stucco and pilasters, compensate for this.

Planning History

8. The appeal property has been the subject of enforcement investigations regarding unauthorised internal and external works and protracted negotiations have been carried out. The Council acknowledges that a certain amount of the internal work has been completed reasonably sensibly and is not the subject of enforcement action, which relates to the replacement uPVC windows and front door. The Council also accepts that the previous windows that were replaced did not appear to be original/historic but they were nevertheless timber units that were far more appropriate than replacement uPVC windows.

Reasons

9. The appeal has been made on ground (e) which is that listed building consent ought to be granted for the works.
10. The appellant does not consider that the products used in the restoration of the property detract or alter the overall look of the façade. He explains that a previous dry rot treatment failed in 2011 due to insufficient removal of wood in the vicinity of contaminated wood. In the more recent treatment the windows and door to the front aspect of the property were removed. To replace them with wooden windows could have potentially fuelled the dry rot. Consequently they were replaced with a historically sympathetic uPVC. The appellant was advised that two over two windows would have been the original style and not one over ones required by the notice. The rear elevation windows were not one over ones when the property was acquired. Windows across the terrace vary and there are many examples of grade II listed buildings in the area with uPVC windows to their rear elevation. The appellant fails to see how a double glazed window would be a noticeable visual difference to a single glazed one. The increase in noise and pollution influenced the choice of double glazing.
11. The properties in the listed terrace provide a unified appearance contributing considerably to the character and appearance of the Conservation Area, with the doorcases being particularly attractive features, although the doorcase to No 17 is missing. Closer inspection, however, shows a degree of variation in elevations of the properties. The terrace consists of two 3-bay and five 2-bay houses, with No 11 being a stretched two bay either side of the front door. Window openings are consistent in size but their designs vary, as do the front doors and the colourwash of the stucco. The window styles include one over one, two over two, six over six and eight over eight. The doors range from unglazed, two, 4, 6 and 9 glazed panels. The appeal property appears to be the only one in the group to have uPVC windows on the front elevation.
12. The two uPVC windows at the rear of the property are at ground and first floor level. There is also a basement window which appears to be of traditional construction, design and material. To the left of the windows is a traditional timber and glazed lobby with access to the rear of the property. There is some variety in the design of windows on the rear elevation of the terrace, including one that appears to be uPVC on a nearby dwelling and which is visible from the rear garden of the appeal property.
13. Although from a distance it is difficult to distinguish the nature of the materials of the windows at the front of the appeal property, at closer hand it is evident that the replacements are of a different design and material to the traditional wooden window. The patina of uPVC, the reflection through double glazing, the character of the glazing bars, and what I assume to be the external sliding mechanism, are inappropriate replacement windows alien in character to the majority of the others in the terrace. They fail to preserve the special features of the listed building and the integrity of the historic fabric of the terrace. Consequently they also harm the character and appearance of the Conservation Area.
14. The property had a 4-panel door consistent with the predominant door style in the group. prior to the installation of a highly decorated Edwardian style 5-panel door with Art Nouveau style coloured glazing. The design of the replacement door is exuberant and contrasts very significantly with others in

the terrace although its effect on the character of the listed building is moderated to some extent due to it appearing set back into the property as a consequence of the depth of the external walls and the doorcase. Despite this, the loss of the original period door is harmful to the context of the building and causes harm by failing to preserve the special features of listed building and to the character and appearance of the Conservation Area.

15. Whilst the appellant's concerns over the actual and potential impact of dry rot and his endeavour to install replacements that he considered suitable is acknowledged, listed building consent is nevertheless required and more sympathetic and historically appropriate replacements could have been used. The existence of uPVC windows on other properties does not justify their introduction on the appeal property as any additional uPVC windows and door would erode the integrity of the historic fabric which contributes to the group value of the listed buildings. Furthermore alternatives are available to double glazing that could assist in thermal efficiency as referred to in the advice of Historic England in their publication 'Traditional Windows'.
16. Although the harm that is caused by the installation of uPVC windows and the door is at a level of less than substantial harm in the context of paragraph 196 of the Framework, it is nevertheless at a level that is unacceptable and no public benefits arises from the installation of the windows or door to balance against this harm, although there could be minor sustainability benefits in terms of energy use.
17. Accordingly, the installation of the replacement uPVC windows and door fail to preserve the listed building or its setting or any features of special architectural or historic interest it possesses. Consequently, the works fail to accord with the Framework or with Policy 24 of the Cornwall Local Plan Strategic Policies and Policy TC3 of the Liskeard Neighbourhood Plan.

Compliance Period

18. Although no appeal has been made under ground (h), current circumstances relating to the pandemic suggest that the compliance period of 4 months could be difficult to achieve. In view of this the Council raises no objection to an increased compliance period. The appellant has not responded on this point but nevertheless I will vary the compliance period to 6 months.

Conclusions

19. For the reasons given above I conclude that the appeal should fail.

Decision

20. It is directed that the listed building enforcement notice be varied by the deletion of four months from the period for compliance and its replacement with six months. Subject to these variations, the appeal is dismissed and the listed building enforcement notice is upheld, and listed building consent is refused for the retention of the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

P N Jarratt

Inspector