



Appeal Decision

Site visit made on 30 June 2020

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2020

Appeal Ref: APP/H0724/C/19/3241624

11 Queen Street, 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 Gwynneth Margaret Fletcher 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)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

The appeal on ground (a)

1. The appeal on ground (a) is that planning permission should be granted. The main issue is the effect of the development on the character and appearance of the Headland Conservation Area (CA).
2. The CA covers a substantial part of the eastern extremities of this peninsula location. Centred on the imposing St Hilda's Church, it includes several short and densely developed, but quiet, streets of Victorian residential architecture.
3. Buildings are a mixture of two and three storeys in height, with many retaining traditional features, including vertical sliding sash timber windows, with painted heads and cills. Despite the inclusion of some more modern housing developments and evidence of modern replacement materials on several buildings, it seemed to me from my visit that original architectural features remain sufficiently represented to depict the building heritage and to ensure that this remains an important characteristic of the CA. I acknowledge that it is undisputed that the CA is recorded on Historic England's 'Heritage at Risk' register.
4. The appeal site consists of a two-storey dwelling in a prominent corner location at the junction of Queen Street and Victoria Place, the property forming the end of the terrace on the latter street. The development has resulted in the replacement of traditional timber framed windows with uPVC frames.
5. Whilst I acknowledge that the original window surrounds and cills appear to have been retained, it is evident from the information provided that the new

uPVC frames are thicker and heavier in appearance, when compared with the former timber, sliding sash counterparts¹. They also incorporate moulded horns which appear as a contrived feature. Besides this the original window sashes, each included vertical glazing bars. The effect of this was to give the individual panes a vertical emphasis complementing the vertical architecture of the door and its surround. By contrast, it appears to me that the single panes in the replacement units are somewhat detrimental to this harmonious characteristic.

6. Furthermore, their undisputed outward opening design would be at odds with a traditional vertical sliding sash arrangement, because of which the uPVC windows are also noticeably different in profile when considered in vertical section. In addition the use of uPVC, which tends to be a uniformly smooth material, would be a departure from the textured, traditional appearance of painted timber.
7. In combination these alterations mark a detrimental step away from the narrow, more elegant proportions associated with traditional timber framed, vertical opening windows and which would have better reflected the architectural detailing of the building. The changes draw the eye to a degree and constitute a harmful change to the appeal property.
8. In accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 I have a statutory duty under Section 72(1) to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. For the reasons set out above, I conclude that the development causes less than substantial harm to the character and appearance of the CA. However in terms of the guidance in the National Planning Policy Framework (the Framework), there is still real and serious harm which is a consideration of significant weight.
9. In such circumstances, where harm is identified to the significance of a designated heritage asset, in this case the CA, the Framework requires that this harm is weighed against the public benefits of the proposal. I acknowledge that it is likely that the replacement windows would bring benefits in terms of better insulation to the property and also that the requirements of the notice would result in financial loss for the appellant. However I have not been provided with a compelling argument that there are no other solutions available to improve insulation whilst allowing for satisfactory maintenance. A convincing case has not been made that there would be public benefits from the scheme sufficient to outweigh the harm I have identified.
10. For the aforementioned reasons the development would be in conflict with the Framework and also with Policies HE1 and HE3 of the Hartlepool Local Plan 2018 (LP), insofar as they seek to promote high quality design and conserve or enhance the appearance and character of Conservation Areas, including the retention of original features of special architectural interest. It would also be in conflict with Policy HE7 of the LP which states that the retention of heritage assets classified as 'at risk' is a priority for the Council.
11. Part of the appellant's case is that the replacement windows would be in keeping with a relaxation in Council policy towards the use of uPVC windows in

¹ Photographs of the original timber windows submitted as part of the appellant's evidence.

2009, which the appellant argues would have been in force at the time of the development.

12. However I concur with the Council's view that the adoption of the LP, and its policies towards heritage protection, would serve to supersede this previous guidance. The appellant claims that the windows were changed in 2015, however no evidence is provided to support this. Furthermore it appears to me that the LP would have been in force at the time the retrospective application for planning permission for the windows was considered in September 2019. As such it was appropriate to consider the development in the context of the LP then in force.
13. In any event, even when the more relaxed policy was in place, this indicated that when replacing a timber sliding sash window with a uPVC window it should nevertheless continue to be a sliding sash frame of the same design and detailing. For the reasons set out above I am not persuaded that the windows in this case would meet this requirement.
14. The appellant has also referred to the Council making inconsistent decisions in relation to the CA, having allowed the installation of uPVC windows on a listed property in nearby Regent Street in the past. I have been provided with very limited details of the case in question and the facts underlying this decision. However each case must be decided on its own merits, and the limited information that I have been given does not alter my assessment of this case. The ground (a) appeal therefore fails.

The appeal on ground (g)

15. The ground of appeal is that the time given to comply with the requirements is too short. The appellant requests an open-ended time frame on the basis that the time needed to plan the work cannot be accurately assessed and there would be a need to avoid winter weather conditions. The concerns raised are general in nature and are not compelling. Furthermore, I am mindful that the Framework states that effective enforcement is important to maintain public confidence in the planning system. I am not persuaded that the 3-month compliance period given would be unreasonable. The ground (g) appeal fails.

Conclusion

16. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

17. 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.

Roy Merrett

INSPECTOR