



Appeal Decision

Site visit made on 18 August 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: 28 August 2020

Appeal Ref: APP/T3725/F/20/3246886

20 Mollington Grove, Hatton Park, Hatton, Warwick CV35 7TU

- 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 Miss Melanie Timms (Stonewater Housing) against a listed building enforcement notice issued by Warwick District Council.
 - The enforcement notice was issued on 10 January 2020.
 - The contravention of listed building control alleged in the notice is the installation of UPVC French doors and windows above the French doors to the rear of 20 Mollington Grove as shown in Appendix 3 annexed to this Notice.
 - The requirements of the notice are a. Permanently remove the UPVC French doors and windows above the doors as identified on the Appendix 3; b. Permanently remove all waste and materials resulting from paragraph (a) from the land; c. Following steps (a) and (b) insert 1 x double door to comprise of hardwood and painted white. Each individual door to comprise of 10 single glazed panes of 4mm thickness (5-by-5) with structural steel Crittall glazing bars and painted white in accordance with Appendix 4 annexed to this Notice; d. Insert a row of 6 x steel Crittall panes with single glazing of 4mm thickness above the double doors in accordance with Appendix 4 annexed to this Notice; e. Install natural stone transom above row of steel Crittall framed panes in accordance with Appendix 4 annexed to this Notice; and f. Insert 2 x top hung steel Crittall windows above the stone transom divided by a natural stone mullion. Each window to comprise of 6 single panes of 4mm thickness (3-over-3) with structural Crittall glazing bars and painted white in accordance with Appendix 4 annexed to this Notice.
 - The period for compliance with the requirements is three calendar months.
 - The appeal is made on the grounds set out in section 39(1)(d) and (h) 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 the deletion of '(5-by-5)' in requirement c. in section 5 and the substitution instead of '(5-by-2)'.
2. The listed building enforcement notice is varied by the deletion of 'three calendar months' in section 6 and the substitution instead of 'six calendar months'.
3. Subject to the correction and the variation the appeal is dismissed and the listed building enforcement notice is upheld.

Correction of the listed building enforcement notice

4. Each door of the French doors referred to in the contravention of listed building control was subdivided into 10 single panes on a (5-by-2) basis, rather than on a (5-by-5) basis as mentioned in the contravention. This typographical error has been corrected.

Reasons

The ground (d) appeal

5. Under this ground of appeal the Appellant maintains that the works that are the subject of the notice were urgently necessary in the interests of safety or health or the preservation of the building. The Council maintains that "...the Appellant may have misunderstood the background to the ground of appeal which relates to the health and condition of the listed building rather than its occupants". The Council is incorrect. It is the health of the resident of the property that is relevant and not the health of the building; this factor being covered by the requirement to consider the preservation of the building.

6. The Appellant does maintain that the poor condition of the timber and metal doors and windows that have been replaced by UPVC doors and windows was affecting the health of the occupant of the property. They were clearly in poor condition and draughty resulting in a less than acceptable internal environment for the infirm occupant. The installation of replacement UPVC doors and windows have redressed this situation. However, properly specified, manufactured and installed timber and metal doors and windows to match those that were removed, with draught prevention measures, would have had the same effect. Though single rather than double glazed such fenestration would, possible with other measures, have resulted in providing an acceptable internal environment.

7. The UPVC doors and windows do not provide any greater level of safety than the doors and windows that were removed and do not contribute to the preservation of the listed building. The installation of replacement UPVC doors and windows, rather than timber and steel doors and windows to match those that were removed, was not urgently necessary in the interests of either health, safety or preservation of the building. The ground (d) appeal thus fails.

The ground (h) appeal

8. The Appellant has requested that the compliance period be extended to a date that would coincide with the current resident leaving the property. This would be the same as granting a personal consent for the UPVC doors and windows and would be unacceptable because a contravention of listed building control must be remedied as soon as is reasonably possible. In recognition of difficulties associated with the current COVID-19 pandemic the Council has suggested that the compliance period be extended to six calendar months. This is a reasonable period, notwithstanding the current health crisis, to specify the necessary works, to instruct a suitable contractor, and for that contractor to carry out the works. The ground (h) appeal, to this extent, thus succeeds.

Other matters

9. There is no reason to suppose that properly specified, manufactured and installed timber doors would compromise emergency exit from the property by the current occupant. Comments made by a Technical Officer of the Council's Community Resources Directorate in a letter to the Housing Association responsible for the property does not constitute any consent for the UPVC doors and windows.

John Braithwaite

Inspector