



Appeal Decision

Site visit made on 15 September 2020

by Mrs H M Higenbottam BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2020

Appeal Ref: APP/V5570/C/20/3249503

48 St Peter's Street, London N1 8JT

- 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 Ms B J Bowen against an enforcement notice issued by the Council of the London Borough of Islington.
 - The enforcement notice was issued on 29 January 2020.
 - The breach of planning control as alleged in the notice is 'Without planning permission, the installation of inappropriate replacement windows to the principle elevation at second floor level.
 - The requirements of the notice are:
 - 1) Remove the two windows and frames from the second floor principle elevation of the property; and,
 - 2) Reinstate two six-over-six timber sash windows to match the originals in terms of their detailing and design, frame profile, glazing pattern and profile, as noted on the attached photograph.
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice be varied by the deletion of 'two (2)' and the insertion thereto of 'six (6)' at Schedule 5 of the Notice. Subject to these variations the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal on ground (a)

Main Issue

2. The main issue in this case is whether or not the replacement windows preserve or enhance the Duncan Terrace/Colebrooke Row Conservation Area (CA).

Reasons

3. The CA is predominantly residential with largely late Georgian and early Victorian terraces. There are also important commercial areas which contribute to the character of it. The surviving 18th and 19th century buildings are generally built of brick, render timber windows and doors with slate or tile roofing. There is a clear architectural consistency, homogeneity and historic interest to the area as a whole.
4. No 48 is a three storey with a basement terraced building containing four self-contained flats. There is one flat per floor. The building has two bays and the

terrace comprises Nos 30 -60 and there are varying but similar architectural styles within the terrace. No 48 is the widest unit with an access/through route known as St Peters Mews adjacent to its front door, with the first and second floors spanning over the access. Within the terrace there are a number of commercial units, including a public house at No 30 and a newsagent (No 38) and laundry (No 60). While the immediate area is predominantly residential of late Georgian and early Victorian residential terraces there are some 1930/40's blocks of flats and commercial uses nearby.

5. An Article 4 Direction, withdrawing certain permitted development rights was confirmed 26 July 2005. The direction included external alterations to all front elevations as well as a number of other forms of development. The replacement of the windows the subject of the Notice therefore required planning permission.
6. The appellant states that the windows were replaced to address condensation and mould issues in the interests of the health and wellbeing of the tenants and their young child. The flat was heated by storage heaters. The appellant has provided a document entitled 'Controlling Condensation and Mould' produced by Reading Council which shows trickle window vents assisting in reduction of condensation.
7. The appellant states that the first replacement windows were divided one over one and had trickle vents in the top of each window. The contractors were instructed to replace these inappropriate windows with six over six windows with trickle vents. The Council had begun an enforcement investigation when the first windows were installed.
8. The Council have produced a document entitled Islington's Conservation Area Design Guidelines (Revised version January 2002). This advises that in considering refurbishment of a building within the CA the use of traditional materials will normally be required.
9. The replacement windows the subject of the Notice are made of Upvc, with trickle vents and the appellant states the meeting rails are slightly larger than the original windows. I appreciate that Upvc window design has been refined over many years. The appeal windows seek to replicate the glazing bars, horns on the upper sash, box frame and sill form and size. However, while they seek to replicate original design details, they are different from those they replaced. The larger meeting rail and trickle vents appear clumsy and when viewed from ground level the overall impression is one of diminishing the historic and architectural character of the area by the loss of traditional timber framed windows.
10. While I understand the appellant's need to address the condensation issue in the flat, it seems to me that the issue is more complex than simply replacing the windows. The storage heating system was recommended to be replaced and there was concern in relation to moisture in the brickwork, with this remaining an issue. I am not satisfied, on the evidence provided, that the replacement of timber windows with the appeal windows was the only way in which the issues within the flat could be addressed. I also do not accept that Upvc windows seeking to replicate traditional timber frames and detailing is high quality contemporary design. The evolution of window design has not been progressed through the copying of detailing from traditional timber windows, it is simply seeking to replicate the traditional in a modern material.
11. The appellant has referred to a number of properties within the area which have replacement windows installed. The Council note that some of the examples of poor quality replacement windows have been in situ for a considerable length of time, even predating the confirmation of the Article 4

Direction. Others are immune from enforcement action having been installed over four years ago.

12. I appreciate that there are other unsympathetic replacement windows in the area. However, within the CA there are also significant numbers of properties that retain architecturally appropriate timber windows and some original windows. Whilst there are properties with unsympathetic replacement windows, such as at Nos 56 and 58 on the first and second floors, within the CA the numbers of such windows have not so diminished the importance of these details that it is not worth preserving those that remain. The retention or the replacement of original timber framed windows with appropriately detailed windows using traditional materials is important in preserving the character and appearance of the CA. I consider that the use of Upvc diminishes the use of traditional materials in the CA.
13. While the harm I have identified would be less than substantial in the conservation area as a whole, it would nevertheless fail to preserve it and is in conflict with the requirements of section 72 of the Act. It also conflicts with Policies DM.2.1 and DM2.3 of Islington's Local Plan: Development Management (DM) which requires all forms of development to be of high quality and make a positive contribution to the local character and distinctiveness of an area and conserve or enhance the significance of a conservation area. It is also in conflict with Policies 7.4 and 7.8 of the London Plan (2016) (LP) which requires a high quality design response and where development affects a heritage asset and its setting it should conserve their significance by being sympathetic to their form, scale, materials and architectural detail.

Planning Balance

14. In accordance with the guidance in the National Planning Policy Framework (the Framework) it is for the decision maker having identified harm to the designated heritage assets, to consider the magnitude of that harm. In this case I have concluded this should be considered as less than substantial when considered in the context of the asset. In such circumstances the Framework requires that any identified harm is weighed against any public benefits the works might secure.
15. The appellant considers that the replacement windows and inclusion of a trickle vent in each window is necessary to address condensation problems in the flat and improve the health of the occupiers within the unit. I am not satisfied on the evidence available that the replacement Upvc windows are the only way to address the issues with the damp within the flat. Although I accept that improving the housing stock is a public benefit, in the circumstances I attach only modest weight to this benefit.
16. The public benefits of the replacement windows are modest and do not outweigh the harm I have identified to the heritage asset.

Other Matters

17. The appellant under ground (f) has suggested that the windows could be modified. I am not satisfied on the evidence before me that this would overcome the harm I have identified.

Conclusion on ground (a)

18. I conclude that the replacement windows fail to preserve the character and appearance of the Duncan Terrace/Colebrook Row Conservation Area. In the absence of sufficient benefits to outweigh this harm I conclude the development is contrary to DM Policies DM.2.1 and DM2.3 and LP Policies 7.4 and 7.8. It also conflicts with the Framework.

19. For these reasons, having considered all matters raised, I conclude that the appeal on ground (a) fails.

Appeal on ground (f)

20. This ground of appeal is that the requirements of the notice are excessive and that lesser steps would overcome the objections. In appealing on ground (f) the appellants must specify specific lesser steps which, in their view, would overcome the objections to the appeal development. The appellant considers the requirements excessive as she considers the windows could be modified by removing the horns, reduction in the size of the middle bar and removal of the trickle vents.
21. The Notice states that enforcement action is taken to remedy the breach of planning control. The removal of the windows and reinstatement of two six over six timber sash windows to match the original in terms of their detailing and design as set out in the requirements at Schedule 4 of the Notice would remedy the breach of planning control.
22. I therefore find that the requirements of the Notice would not exceed what is necessary to remedy the breach of planning control that has occurred. The appeal on ground (f) fails.

Appeal on ground (g)

23. This ground of appeal is that the time given to comply with the notice is too short. The Council have given two months for compliance. The appellant considers that a period of six months would be required to manufacture, remove the existing windows, and fit the new windows.
24. The Council consider that the two month period is adequate to instruct a contractor to measure, order and manufacture appropriate windows and frames and install the finished items. It states that removal of the appeal windows and their replacement would not ordinarily take longer than one working day on site and as such there would be minimal impact on the tenants.
25. While it may be possible to do the works within 2 months I am not satisfied that this would give adequate time to find a contractor, particularly in the light of the pandemic, who could manufacture and supply bespoke timber windows. As such, I consider the period of six months sought by the appellant is reasonable. I will vary the compliance period to six months. The appeal on ground (g) succeeds to that extent.

Hilda Higenbottam

Inspector