



Appeal Decisions

Site visit made on 8 September 2020

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13TH OCTOBER 2020

Appeal A: APP/J4525/C/20/3252785

Wheeler House, Newbottle Street, Houghton-le-Spring DH4 4AL

- 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 Mr Peter Wright, Evolution Fitness against an enforcement notice issued by Sunderland City Council.
- The enforcement notice was issued on 23 April 2020.
- The breach of planning control as alleged in the notice is, without planning permission, the removal of timber-framed windows, the bricking up of window openings and the installation of plastic-framed windows to the front, rear and gable elevations.
- The requirements of the notice are: (1) Remove the brickwork and blockwork from the window openings indicated by horizontal hatching and remove the UPVC frames from the remainder of the window openings at ground floor level on the rear elevation and those at first and second floor levels at the front, gable and rear elevations; (2) Install timber-framed windows, replicating the design and proportions of those which were removed; (3) Following installation, glaze windows and undercoat and topcoat all new and any disturbed external woodwork white with a suitable external paint system; (4) Make good any damage to the external window reveals with brickwork and cement mortar to match the finish and colour of the remainder of the front, gable and rear elevations; and (5) Remove from the land all wastes arising from compliance with the notice.
- The period for compliance with the requirements is 6 calendar months after the notice takes effect.
- 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.

Summary of decision: The appeal succeeds in part on ground (g) and the enforcement notice is upheld as varied in the terms set out below in the Formal Decision. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B: APP/J4525/W/20/3252780

Wheeler House, Newbottle Street, Houghton-le-Spring DH4 4AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Peter Wright, Evolution Fitness against the decision of Sunderland City Council.
- The application Ref 20/00228/FUL, dated 7 February 2020, was refused by notice dated 13 April 2020.
- The development proposed is the installation of UPVC windows including blocking up of windows on front rear and side elevations.

Summary of decision: The appeal is dismissed.

Preliminary matter

1. Appeal B seeks planning permission for development already carried out and I have adopted the description of development from the Council's decision and the appeal form rather than the description given in the application form.

Appeals A and B – the appeal on ground (a) and the s78 appeal

2. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to pay special attention to the desirability of preserving and enhancing the character and appearance of the St Michael's Conservation Area (the CA). Accordingly, the main issue in these appeals is whether the development preserves or enhances the character or appearance of the CA and the appearance of the building.
3. The character of the CA derives in large part from the contribution of significant listed buildings set in spacious grounds, principally the church of St. Michael's and All Angels and the Old Rectory, and The Broadway between them.
4. Wheeler House is a substantial 3-storey brick building incorporating ornate features including attic gables, projecting bays and stone features. While the Houghton Conservation Areas Character Appraisal and Management Plan does not mention the windows in its description of Wheeler House, that does not alter their significance to its appearance. The new windows lack the detailing of the originals, some of which survive on the northern elevation, and lack articulation due to the shallower profile of glazing bars, and thereby diminish the ornate appearance of the building.
5. Furthermore, although the building stands in a densely developed part of the CA that is commercial in character, its scale and position make it visible from Rectory Park, such that it makes a substantial contribution to the wider character and appearance of the CA. The simplified pattern and profile of glazing bars diminishes the contribution Wheeler House makes to the character and appearance of the CA and the blocking up of openings in the rear elevation disturbs the informal symmetry of fenestration in views from Rectory Park. As a result, these works fail to preserve the quality of the building and cause less than substantial harm to the heritage asset of the CA.
6. The new fenestration is obscured by the Britannia public house in views from The Broadway. However, this does not alter its effect in other views and on the wider character and appearance of the CA. The previous addition of a mock chimney stack in glass reinforced plastic and alterations to shopfronts may have had negative effects on the appearance of the building and its contribution to the CA; however, they do not justify further diminution.
7. Paragraph 196 of the National Planning Policy Framework (the Framework) requires that any harm to a heritage asset must be weighed against any public benefits. The new windows have improved the building's thermal efficiency and therefore reduced its carbon footprint. However, evidence that would allow an informed comparison with the thermal efficiency of timber windows has not been provided. Accordingly, I can only afford limited weight to this consideration and the harm I have identified to the appearance of the building and to the heritage asset of the CA is not outweighed.

Appeals A and B – Conclusions

8. The development has a negative effect on the appearance of the building and causes less than substantial harm to the character and appearance of the CA. Great weight should be attached to the conservation of heritage assets and public benefits that would outweigh the harm to the CA have not been identified. The development is therefore contrary to policies BH1, BH7 and BH8 of the Sunderland City Council Core Strategy and Development Plan 2015 - 2033, which seek to achieve a high quality standard of design and to protect and enhance the built and historic environment, including the character or appearance of CAs, and Part 16 of the Framework.
9. For these reasons, the appeal on ground (a) and Appeal B should not succeed.

Appeal A – the appeal on ground (f)

10. To succeed on this ground, it must be demonstrated that the steps required by the notice are excessive and that lesser steps could overcome the breach of planning control constituted by bricking up window openings and the installation of new windows in the front, rear and gable elevations without planning permission.
11. The lesser steps of installing additional glazing bars in the windows in the front and gable elevations and installing windows to match in place of the bricked-up openings would only partially overcome the breach. Specifically, they would not alter the new windows installed in the rear elevation, which are the most significant in views from Rectory Park. Therefore, even if the suggested changes were made, new windows without planning permission would remain, in breach of the notice. The identified lesser steps would thus not achieve the purpose of the notice, which is to remedy the breach of planning control.
12. For these reasons the appeal on ground (f) should not succeed.

The appeal on ground (g)

13. For the appeal to succeed on this ground, it must be demonstrated that the 6-month period for compliance with the requirements of the notice after it takes effect falls short of what should reasonably be allowed.
14. Compliance with the notice would require a significant number of windows to be manufactured and fitted and a lead-in time for an order of this scale of up to 4 months, as suggested by the appellant, would leave little time for the installation works. In addition, it would prove less disruptive to the business if it was possible to spread the costs of this work over a longer period.
15. Accordingly, I am inclined to the view that a longer compliance period would be reasonable in view of the extent of work and the impact it would have on the business. However, the limited evidence submitted on this matter does not convince me that the alternative 12-month period suggested by the appellant would be reasonable when it would be equivalent in effect to a temporary planning permission. Such a period would allow the prolonged retention of an unauthorised development that has been found harmful and would thus be inconsistent with my findings in the appeal on ground (a) and Appeal B.

16. A 9-month period would acknowledge the practicalities faced by the appellant and also reflect the expediency of enforcement action. On that basis, the appeal on ground (g) succeeds and the notice should be varied accordingly.

Appeal A – Conclusion

17. For the reasons given above, I conclude that the appeals on grounds (a) and (f) should not succeed and the appeal on ground (g) should succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal A – Formal Decision

18. The appeal is allowed on ground (g) and it is directed that the enforcement notice be varied in section 6 by the deletion of “six calendar months” and the substitution of “nine calendar months”.
19. Subject to this variation the appeal is dismissed, 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 B – Formal Decision

20. The appeal is dismissed.

Mark Harbottle

INSPECTOR