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# Appeal Decision

Site visit made on 6 October 2020

**by K A Taylor MSC URP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 08 December 2020**

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**Appeal Ref: APP/R0660/W/20/3255582**

**Heald Court Apartment Building, 34 Hawthorne Lane, Wilmslow SK9 5DG**

- 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 Ford Residential Management against the decision of Cheshire East Council.
  - The application Ref 19/3147M, dated 26 June 2019, was refused by notice dated 19 May 2020.
  - The development proposed is replacement of windows in apartment building.
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## Decision

1. The appeal is dismissed.

## Procedural Issues

2. The windows have been erected along the lower floor and I am therefore considering the appeal as part retrospective.
3. The Council have confirmed that Policy SE1 of the Cheshire East Local Plan, Local Plan Strategy 2010-2030, 2017 (LP) referred to on the decision notice should be Policy SE7, as set out in the Officer's report relating to the historic environment. In the interests, of fairness the appellant was given the opportunity to make any representation. As such, I have considered Policy SE7 in reaching my decision.

## Main Issue

4. The main issue is whether the development would preserve or enhance the character or appearance of the Hawthorn Lane Conservation Area.

## Reasons

5. The appeal site is a 20<sup>th</sup> Century four-storey building in use as apartments located within the Hawthorn Lane Conservation Area (CA). The area is predominantly residential and is generally characterised with a mix of large detached, semi-detached dwellings in long rectangular plots with the exception of some larger buildings being converted or replaced.
6. The Conservation Area Appraisal<sup>1</sup> (CAA), identifies Heald Court as a modern, over-scaled apartment block and it is not considered to be a significant or key building within the CA. It identifies that it replaced one of the original late 19<sup>th</sup>

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<sup>1</sup> Macclesfield Borough Council, Hawthorn Lane, Wilmslow – Conservation Area Appraisal, 2008

- century houses just prior to the designation of the CA. As such, the building itself makes a neutral impact on the CA.
7. The CAA sets out that the special interest that justifies the designation of the CA derives from the features including timber windows. It identifies building conditions being generally good along Hawthorn Lane with negatives being the loss of original architectural details including timber windows.
  8. From my observations of Hawthorn Lane, I found some of the nearby historic properties had UPVC windows, these were both significant and noticeable. To this extent the appellant's assessment of window frame materials seems to accurately summarise from what I saw. However, I would disagree that these have become part of the character and appearance of the CA as predominantly most windows still remained as timber, being original or not.
  9. The appeal building was granted permission in 1998<sup>2</sup>, for the demolition of existing dwelling and erection of 1 block of 6 flats. Restrictive conditions were placed on the permission, including materials were agreed and in accordance with approved plans, that being, timber for the windows to ensure that the external appearance of the building/structure is acceptable. Permitted development rights were also removed for any external alterations and additional windows/dormer windows.
  10. The replacement UPVC windows have been fitted to the lower floor of the building and from the evidence before me it would appear that the appellants' intention would be to replace all others, and this is a starting point being one apartment. The reveals, lintels and sash configuration which appear to be bottom-opening units would not be altered. However, the white painted timber frames are replaced with white UPVC frames. As a consequence, the frames are chunky and the lower portion of the window is excessively thick, giving it a cumbersome, bottom top heavy appearance. Thus, I find that the style and appearance of the UPVC windows are incongruous, harmful and are an unwelcome addition to the building, wider Hawthorn Lane and its setting within the CA.
  11. Such incremental changes to each window replaced, incorporating windows along the front, rear and side elevations of the building cumulatively and appreciably alter and further modernise the buildings overall appearance. Furthermore, the substantial height, width of the building, proximity to the highway and that those windows currently replaced are on the lower levels they are seen from public views along the pedestrian highway along Hawthorn Lane and from those significant views of the CA as set out in the CAA, of which the difference between the existing timber and UPVC windows is noticeable. These matters would be further exacerbated by any future/additional replacement UPVC windows within the building.
  12. Moreover, my findings on this matter are reinforced having observed the replacement windows which have already been installed, consequently, the replacement windows would not preserve or enhance the historic character and appearance of the CA. Whilst the harm would be less than substantial, I must nonetheless give this considerable importance and weight in the context of a duty to favour preservation or enhancement.

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<sup>2</sup> 98/0020P 14/03/1998

13. I have a duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the Hawthorn Lane Conservation Area (CA).
14. Paragraph 196 of the National Planning Policy Framework (the Framework) states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. There would be little public benefit to outweigh the harm found to the significance of the CA.
15. Consequently, the appeal proposal fails to preserve or enhance the character and appearance of the conservation area and conflicts with Policy SD2 and SE7 of the LP. These policies require development proposals to be high quality design including the use of materials and proposals will not be supported that cause harm to, or loss of, a designated heritage asset and its significance, including its setting without convincing justification.
16. It would also be at odds with the guidance contained within the Framework, particularly at Chapter 16, Conserving and enhancing the historic environment.

### **Other Matters**

17. I appreciate that the appellant is frustrated following confusing dialogues with the Council, in regard to permitted development. However, I have not been provided with any substantive evidence to the contrary that the replacement windows were acceptable to the Council. Moreover, if a person wishes to ascertain whether an existing or proposed use or development is or would be lawful, the correct approach would be to make an application under section 191 or 192 of the 1990 Act for a certificate of lawful use or development. In this case, it appears that the original permission for the building had restricted conditions placed on it, and, in any event, the appeal is determined on the basis of the evidence before me.

### **Conclusion**

18. For the reasons given above I conclude that the appeal should be dismissed.

*K A Taylor*

INSPECTOR