



Appeal Decision

Site visit made on 9 March 2021

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2021

Appeal Ref: APP/L5810/C/20/3260229

Land at 51 Albert Road, Richmond TW10 6DJ

- 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 John Robert Joseph Golding against an enforcement notice issued by the Council of the London Borough of Richmond-upon-Thames.
- The enforcement notice was issued on 26 August 2020.
- The breach of planning control as alleged in the notice is: Without planning permission and within the past four years: the replacement of single-glazed, timber framed, casement windows on the front elevation at ground and first floor levels with uPVC framed, double glazed casement windows.
- The requirements of the notice are: Remove the unauthorised UPVC framed casement windows and install single glazed, timber framed, casement windows to match in facsimile those which existing [sic] previously.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with a correction in the terms set out in the Formal Decision.

Preliminary Matters

1. I have corrected a typographical error in the requirements of the notice.
2. As reflected by the appeal form and questionnaire, both main parties agreed that the relevant parts of the appeal site could be seen from public land and that it was not essential for me to enter the site to check measurements or other relevant facts. I have determined the appeal on this basis.

Main Issue

3. The main issue is whether the materials used for the replacement windows are of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.

Reasons

4. In a ground (c) appeal the onus is on the appellant to make out their case.
5. In general terms, the replacement of windows is a building operation for the purposes of section 55(1) of the 1990 Act and so it is development requiring planning permission. The Town and Country Planning (General Permitted Development) (England) Order 2015, (the Order), grants planning permission for specified forms of development. Schedule 2, Part 1, Class A of the Order concerns development within the curtilage of a dwellinghouse.

6. Subject to conditions and limitations, planning permission is granted by the Order for the enlargement, improvement or other alteration of a dwellinghouse. As such, this may include the replacement of windows. Condition A.3.(a) of Class A states that the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.
7. In my judgement, based on the information provided and my observations at my site visit, the materials used for the replacement windows are not of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. This is because the replacement window frames are significantly thicker than the previous slender-framed windows, giving a 'chunky' appearance which is quite unlike that of those which were existing.
8. My attention has been drawn to planning merits of the appeal development. These include the condition of the previous windows, energy efficiency, compliance with Building Regulations and other examples of windows in the area. But no appeal has been brought on ground (a) so I am unable to consider any planning merits of the appeal development. Moreover, I do not know all the circumstances of the other examples referred to. So I am not satisfied they are directly comparable to the case before me and they do not mean the appeal development is not a breach of planning control.
9. The appellant states no enforcement action has been taken by the Council in respect of replacement windows on any of the other properties referred to. But even if this is the case, it does not mean the Council cannot exercise its powers under section 172(1) of the 1990 Act in respect of the appeal property.
10. The appellant considers that the Council confirmed that planning permission would not be required for replacement windows, in response to an email from the appellant. But by his own admission, the appellant did not provide the Council with details of the proposal. So the Council could not have known at that time that the replacement windows would not comply with Condition A.3(a) of Schedule 2, Part 1, Class A of the Order, the essence of which the appellant was advised of in the Council's response.
11. The evidence indicates that changes have been made to the appeal development. But these make no difference to my overall conclusion.

Conclusion

12. For the reasons given above, I conclude that the appeal does not succeed and I uphold the enforcement notice with a correction.

Formal Decision

13. It is directed that the enforcement notice is corrected by the deletion of the word "existing" and its substitution with the word "existed" in the requirements. Subject to this correction, the appeal is dismissed and the enforcement notice is upheld.

L Perkins

INSPECTOR