



Appeal Decision

Site visit made on 18 May 2021

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2021

Appeal Ref: APP/Y2003/C/20/3264829

Land at 6 Ermine Street, Appleby DN15 0AD

- 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 Robert Waite against an enforcement notice issued by North Lincolnshire Council.
 - The enforcement notice was issued on 12 November 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission the installation of uPVC windows to the West and North facing elevations of a dwellinghouse in contravention of a planning control direction under Article 4 of the Town and Country Planning Act – this being The Glanford Borough Council (Appleby Conservation Area) Planning Control Direction (No.1) 1978. These comprise of
 - two uPVC windows to the ground floor West facing principal elevation,
 - one uPVC window to the first floor West facing principal elevation,
 - one uPVC window to the first floor North facing gable elevation.
 - The requirements of the notice are:
 - (i) Remove all the uPVC windows from the West facing principal elevation and North facing gable elevation, and
 - (ii) Supply and install single glazed 9-paned flush casement windows made to fit the existing window opening on the West facing first floor elevation and North facing gable elevation. The window Frames, Sills, Heads, Jambs, Rails, Stiles and Glazing Bars must be white painted natural timber and identical in dimension, proportion and form to that window in the west facing first floor elevation of number 4 Ermine Street, Appleby as shown on the photograph annotated PHOTO 1 annexed to this notice.
 - (iii) Supply and install single glazed 12-paned flush casement windows made to fit the existing window openings on the West facing ground floor elevation. The window Frames, Sills, Heads, Jambs, Rails, Stiles and Glazing Bars must be white painted natural timber and identical in dimension, proportion and form to that window in the west facing first floor elevation of number 4 Ermine Street, Appleby as shown on the photograph annotated PHOTO 1 annexed to this notice.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) (c) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. 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 (c)

2. The ground of appeal is that the matters alleged in the notice do not constitute a breach of planning control. The appellant submits that the windows are of a similar appearance to those replaced, albeit constructed in a different material, and do not therefore require planning permission.
3. Section 55(2)(a) of the Town and Country Planning Act 1990 (the Act) states that the carrying out for the maintenance, improvement or other alteration of any building of works which (i) affect only the interior of the building, or (ii) do not materially affect the external appearance of the building, shall not be taken to involve development of the land.
4. In this instance the use of uPVC double glazed units has resulted in a material change in the appearance of the building. The materials and detailing give the appearance of a manufactured product, lacking individuality, and evidence of craftsmanship inherent in traditional joinery. In particular, the casements have storm seals which is a significant alteration to the appearance of the building. I am satisfied that the change that has occurred to the external appearance of the building is material and is development, as defined by s55(1) of the Act, and for which planning permission is required.
5. In addition, The Glanford Borough Council (Appleby Conservation Area) Planning Control Direction (No.1) 1978 made under Article 4 of the Act has removed the grant of planning permission that exists for the alteration of a dwellinghouse, including changes to window types which would have been permitted by Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
6. My conclusion is that development took place for which no planning permission was granted by the local planning authority. A breach of planning control occurred and the appeal on ground (c) fails.

Appeal on ground (a), deemed planning permission

Main Issue

7. The main issue in this case is the effect on the character and appearance of the host property and Appleby Conservation Area.

Reasons

8. The appeal property forms one half of a traditional estate cottage situated on Ermine Street, within the village of Appleby and within its conservation area (CA). From my observations and the details available to me, including the Appleby Conservation Area Appraisal, adopted 2005, I consider that the significance of the CA as a heritage asset is mainly drawn from the buildings consistent use of materials, limestone, red brick dressing and pantile roofs. In addition, their sylvan surrounds provide a marked contrast to the openness of the surrounding countryside. The distinctive semi-detached estate cottages, with their traditional joinery, produce a visual harmony throughout the village.
9. Windows are often amongst the most prominent features and an integral part of the design of traditional buildings. In this case, the timber joinery is a predominant original detail which can be found on many of the estate cottages within the CA, and makes a positive contribution to the CA.

10. In contrast, the windows that have been installed are constructed from a non-traditional material and their sections appear much bulkier, smoother and flatter than the timber windows that have been replaced. I appreciate that the window pane arrangement and pattern is the same as the frames they replaced. However, the windows have a modern and less refined appearance, lacking the fine detailing and depth of the timber frames. In addition, the bulk and incongruity of the uPVC frames is heightened where the casements have storm seals. Overall, the design and materials of the uPVC frames fail to preserve or enhance the character or appearance of the host property or CA.
11. I understand the reasons why the appellant has changed the windows, but there is no convincing evidence before me to demonstrate that the original windows were beyond repair, nor that uPVC provides better thermal insulation or requires less maintenance in the longer term than timber. I therefore give this consideration little weight.
12. I conclude that the uPVC windows do not preserve or enhance the character and appearance of Appleby Conservation Area and have a harmful effect on the character and appearance of the host property. They cause less than substantial harm to the significance of the CA as a heritage asset. This harm is not outweighed by any public benefit. The development is therefore contrary to policies in the National Planning Policy Framework which seek to conserve and enhance the historic environment. In addition, the development conflicts with the design and heritage aims of saved Policy HE2 of the North Lincolnshire Local Plan, 2003 and Policy CS6 of the North Lincolnshire Core Strategy, 2011.
13. For the reasons given above and taking into account all other matters raised, I conclude that the appeal on ground (a) must fail.

Appeal on ground (g)

14. The issue is whether the compliance period of 6 months is reasonable. The appellant considers that a period of 12 months is more reasonable given the current COVID-19 restrictions.
15. Current Government guidance indicates that construction related works can safely continue and therefore there are no COVID-19 restrictions which would prevent the works from being carried out.
16. I consider that the period of 6 months set out in the notice is a reasonable time to comply with the requirements of the notice in full. The appeal on ground (g) fails.

Overall Conclusion

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

Elizabeth Pleasant

INSPECTOR