
Appeal Decisions

Site visit made on 20 July 2021

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th August 2021

Appeal A: APP/P0240/C/3272031

Appeal B: APP/P0240/C/3272032

26A High Street, Biggleswade, SG18 0JL

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Narendrakumar Rambhai Patel (Appeal A) and Mrs Pravina Narendrakumar Patel (Appeal B) against an enforcement notice issued by Central Bedfordshire Council.
- The enforcement notice, numbered CB/EN/20/0509, was issued on 25 February 2021.
- The breach of planning control as alleged in the notice is, without planning permission, the replacement of single glazed timber framed windows from the first floor and the dormer roof of the building with double-glazed plastic-coated uPVC windows, the replacement of timber dormer cheeks with uPVC and the removal of a chimney stack.
- The requirements of the notice are (1) Remove the double-glazed uPVC windows that have been installed in the first-floor elevations and the roof dormers; (2) Install casement timber windows on the first-floor elevations and the roof dormers of a design to match those that have been removed; (3) Remove the uPVC cladding on the roof dormer cheeks and replace with timber cladding to match that removed; and (4) Rebuild the chimney stack using materials and design to match the one that was removed.
- The period for compliance with the requirements is 6 months.
- Appeal A is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended (the Act). 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.
- Appeal B is proceeding on the ground set out in section 174(2)(f) of the Act. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act have lapsed.

Summary of Decisions: The appeals are dismissed and the enforcement notice is upheld with a correction in the terms set out below in the Formal Decision.

Preliminary Matters

1. The Council adopted the Central Bedfordshire Local Plan 2015 – 2035 (the Local Plan) during the appeal. Policies HQ1 and HE3 of that plan supersede the policies of the Central Bedfordshire Core Strategy and Development Management Policy Document 2009 referred to in the notice.
2. The period of 6 months for compliance with the requirements of the notice cannot commence until the notice takes effect. Under section 175(4) of the Act, a notice is of no effect pending the final determination or the withdrawal of an

appeal. While no appeal has been brought on ground (g)¹, it would provide greater clarity, and would not give rise to injustice, for the notice to be corrected to reflect the provisions of section 175(4).

The appeal on ground (a)

3. The main issues in this appeal are:

- Whether the replacement windows and dormer cheeks and the removal of the chimney preserve, sustain and enhance the character or appearance of the Biggleswade Conservation Area (the CA).
- The effect of the replacement windows and dormer cheeks and the removal of the chimney on the significance of 29 Market Place as a heritage asset, including its setting.

The character or appearance of the CA

4. The CA is centred on the historic core of Biggleswade. Near the appeal premises, its character is influenced by the dominance of retailing and other town centre activities. Freestanding buildings with frontages on High Street and the Market Square contribute to this character and to the CA's appearance. The appeal premises form part of one such building, also comprising 24, 24A and 26 High Street and 29 Market Place.
5. Windows in nearby buildings vary in design and materials, largely according to the age of the building in question. Non-traditional materials such as aluminium and uPVC may be seen on modern buildings at 20-22, 27 and 29 High Street. Pre-C20th buildings, of which the appeal premises are an example, tend to incorporate timber framed windows.
6. While I am advised that replacement uPVC windows have been approved at 24A High Street adjacent, their details, and how they were justified, have not been explained. Viewed on their merits, the replacement windows and dormer cheeks at the appeal premises are in discordant contrast with the age and design of the building and the appearance of the CA. This is by reason of their materials, the glazing pattern, and the lack of articulation through the absence of sash openings. Accordingly, they do not represent development of the highest quality, do not respond positively to their context, and they fail to preserve, sustain or enhance the character or appearance of the CA.
7. While the chimney was removed following a structural collapse, that does not alter the effect on the appearance of the CA. I do not agree that the chimney's contribution to the CA could only be appreciated at close quarters. I saw that it would have featured in views along High Street from the east. The chimney was a feature of interest that provided an indication of the historic form of the building and its removal does not represent development of the highest quality, does not respond positively to its context, and has failed to preserve, sustain or enhance the character or appearance of the CA.

The significance of 29 Market Place

8. No. 29 is a grade II listed building. The opportunities to see it and the works the subject of the notice in the same view are limited. However, a dormer

¹ That any period specified in the notice in accordance with s173(9) falls short of what should reasonably be allowed.

window and one of its cheeks and the replacement window in the bay beneath now form part of the setting of No. 29 in views from the Market Square. The materials, the glazing pattern, and the lack of articulation do not preserve the setting of the listed building. This has resulted in less than substantial harm to the significance of the heritage asset.

Conclusion on ground (a)

9. The development causes less than substantial harm to the significance of the CA and the setting of 29 Market Place. No public benefits that would outweigh this harm have been identified and great weight should be attached to the conservation of heritage assets. The development is therefore contrary to policies HQ1 and HE3 of the Local Plan and Part 16 of the National Planning Policy Framework.
10. For these reasons, the appeal on ground (a) should not succeed.

The appeals on ground (f)

11. For the appeals to succeed on this ground, the appellants need to demonstrate that the steps required by the notice exceed what is necessary to remedy the breach of planning control it alleges. The appellants suggest 3 alternative lesser steps. These are installing Georgian bars in the dormer windows; replacing the first-floor windows with uPVC sash style windows with wood grain effect and Georgian bars with horns; and re-cladding the dormer cheeks with timber to match the original design.
12. The last of these is a requirement of the notice and is therefore not a lesser step. As described, the other suggested steps would improve the appearance of the building and thereby reduce the less than substantial harm the development has caused to the significance of the CA and the setting of 29 Market Place. However, they would not remedy the breach of planning control because uPVC windows would remain at first floor and dormer level and the chimney would not be reinstated.
13. Furthermore, details of the design of the suggested Georgian bars and the replacement first-floor windows have not been provided. It is therefore not clear what the building would look like if the suggested lesser steps were carried out, so any variation of the notice to allow for them would cause it to be imprecise. This is unacceptable because it would not be certain how to achieve compliance. In contrast, there is photographic evidence showing what the original windows, dormers and chimney stack looked like, so the requirements of the notice are clear.
14. While I am sure the suggested lesser steps reflect a genuine desire to find an acceptable alternative, the lack of detail means they cannot be secured by means of the appeals on ground (f), which should therefore not succeed.

Conclusions

15. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a correction and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

Formal Decisions

16. It is directed that the enforcement notice is corrected by the addition of the words "from the date this notice takes effect" in section 6.
17. Subject to that correction, the appeals are 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 Act.

Mark Harbottle

INSPECTOR