



Appeal Decision

Site visit made on 3 August 2021

by M Madge DipTP, MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25TH AUGUST 2021

Appeal Ref: APP/Y2003/C/21/3274944

10 Papist Hall Mews, High Street, Barrow Upon Humber DN19 7AA

- 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 Miss Hazel Newton against an enforcement notice issued by North Lincolnshire Council.
 - The enforcement notice, numbered EN194, was issued on 30 April 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the installation of uPVC windows in the front and rear elevations of a dwellinghouse. These comprise of windows annotated A, B, C respectively on the photo montages annexed to this notice as Plan 2 and Plan 3.
 - The requirements of the notice are:
 - i) Remove the uPVC windows annotated A, B and C respectively on the photo montages annexed to this notice as plan 2 and Plan 3
 - ii) For those windows annotated A on plan 2, supply and install single glazed, 4-pane timber sliding sash windows made to fit the existing window openings. The window frames, sills, heads, jambs, rails, stiles and glazing bars must be natural timber and identical in dimension, proportion, form and colour to the window annotated as "Window type 1" on plan 4 annexed to this Notice.
 - iii) For those windows annotated B on plan 2, supply and install single glazed, 9-pane timber sliding sash windows made to fit the existing window openings. The window frames, sills, heads, jambs, rails, stiles and glazing bars must be natural timber and identical in dimension, proportion, form and colour to the window annotated as "Window type 2" on plan 4 annexed to this Notice.
 - iv) For those windows annotated C on plan 2, supply and install single glazed, 16-pane timber sliding sash windows made to fit the existing window openings. The window frames, sills, heads, jambs, rails, stiles and glazing bars must be natural timber and identical in dimension, proportion, form and colour to the window annotated as "Window type 3" on plan 4 annexed to this Notice.
 - The period for compliance with the requirements is 18 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fee has been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act also falls to be considered.
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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 s177(5) of the 1990 Act as amended.

Preliminary matters

2. The installation of replacement windows would normally fall to be permitted development, even in Conservation Areas. However, the property lies within the Glanford Borough Council (Barrow-upon-Humber Conservation Area)

Planning Control Direction (No.1) 1978 made under Article 4 of the GPDO (the Direction). The Direction removes permitted development rights for a number of development types, including 'changes in window types'¹, unless planning permission is granted on application.

3. No application for planning permission was made and there is no dispute that the former single glazed timber windows have been replaced with double glazed uPVC windows.

Appeal on ground (a)

4. The appeal property is within the Barrow Upon Humber Conservation Area, and I am conscious of my statutory duty arising from s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Council has also supplied development plan policies and supplementary guidance relating to appearance, character, design and heritage. Taking these matters together with my observations on site, the **main issue** is whether the development preserves or enhances the character and appearance of the property and the Barrow Upon Humber Conservation Area.
5. The appeal property is a mid-terraced dwelling, which forms part of a larger residential complex, located in a backland position to the west of High Street. The complex is formed by a series of buildings associated with the Papist Hall, which consists of converted and refurbished buildings and purpose built dwellinghouses.
6. Windows of other properties in the complex are showing signs of decay and I do not doubt that those within the appeal property needed essential maintenance. Nevertheless, the appropriateness of window type is not solely related to the visual appearance of the window, it also relates to the authenticity of the building materials and the local vernacular. The widespread presence of single glazed, timber sliding sash windows prevails throughout the Conservation Area. This situation is uncommon and is, undoubtedly, a result of a consistent approach being taken to the determination of replacement window proposals.
7. The appeal property is part of the purpose-built element of the complex and is of brick construction, with little or no architectural flourishes. There are however a variety of window sizes within the appeal property, and these are replicated in adjacent dwellings. Three window sizes prevail: 4 pane, 9 pane and 16 pane². These window sizes coupled with their single glazed painted timber, sliding sash construction contribute to the character of each dwelling and the wider area. Given this context, the windows are an important historic and aesthetic element of the dwelling.
8. I saw that there is some similarity between the 4 pane and 16 pane uPVC double-glazed, sliding sash units and the single glazed painted timber, sliding sash windows that they replaced in terms of their overall appearance. The glazing bars are however internal to the double-glazed units, rather than being external features that would add to the profile of the windows. In addition to losing the glazing bar profiles, the 6 pane uPVC double-glazed units have changed the proportions of the window divisions. The reduction from 9 panes

¹ 1.(i) of the First Schedule to the Glanford Borough Council (Barrow-upon-Humber Conservation Area) Planning Control Direction (No.1) 1978

² Enforcement Notice – attached Plan 4

to 6 panes has also changed the proportion of each sash. The replacement windows therefore harm the character and appearance of the appeal property and wider area, and do not represent good design.

9. Given that the development is relatively small-scale in an extensive Conservation Area, the harm to its significance as a designated heritage asset would be less than substantial in terms of paragraph 202 of the *National Planning Policy Framework*. The Framework requires that this harm should be weighed against the public benefits of the development. In this regard the appellant refers to energy inefficiency and the rotten nature of the former timber windows contributing to damp within the dwelling.
10. General improvements to the housing stock are considered a public benefit. However, the small public benefit associated with the development would not outweigh the harm to the Conservation Area. Furthermore, there is no evidence before me to show that some other form of timber windows could not have addressed the concerns raised by the appellant.
11. The development does not therefore accord with policies CS5 and CS6 of the Core Strategy (2011), saved policies DS1 and HE2 of the North Lincolnshire Local Plan (2003) or guidance within the Barrow Upon Humber Conservation Area Supplementary Planning Guidance (2005) which seek, amongst other things, to preserve or enhance character and appearance through high quality design, which takes account of built heritage.

Other matter

12. The appellant claims that the 9 pane windows have been changed to 6 pane windows for fire safety reasons, under the building control regime. There is however no evidence before me to support that claim.

Conclusion

13. For the reasons set out above the appeal is dismissed, planning permission is refused, and the enforcement notice upheld.

M Madge

Inspector