



Appeal Decision

Site visit made on 14 September 2021

by S A Hanson BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2021

Appeal Ref: APP/C3240/C/21/3274873

Land at Dale End Cafe, Dale End, Coalbrookdale, Telford TF8 7DS

- 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 William Timothy Eley against an enforcement notice issued by Telford and Wrekin Council.
 - The enforcement notice was issued on 5 May 2021.
 - The breach of planning control as alleged in the notice is: *Without planning permission, the unauthorised removal of 3no. existing timber windows and 1no. timber door and the subsequent installation of 3no. white UPVC windows and 1no. grey UPVC door with white UPVC side panelling.*
 - The requirements of the notice are:
 1. *Remove the white UPVC window from the ground floor of the eastern elevation of the property and replace with a timber window of the same colour, design, profiling and appearance as the previous windows, as shown in appendix 1.*
 2. *Remove the white UPVC window from the ground floor of the southern elevation of the property and replace with a timber window of the same colour, design, profiling and appearance as the previous window, as shown in appendix 2.*
 3. *Remove the white UPVC window from the first floor of the northern elevation of the property and replace with a timber window of the same colour, design, profiling and appearance as previous window, as shown in appendix 3.*
 4. *Remove the grey UPVC door and white side panelling from the ground floor of the southern elevation and replace with a timber door with side panelling of the same colour, design, profiling and appearance as the previous door and side panelling, as shown in appendix 2.*
 5. *Make good any damage caused by complying with steps 1, 2, 3 and 4 above.*
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) 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 1990 Act.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary matter

2. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas.

Ground (a) and the deemed planning application.

Main Issues

3. This is the effect of the windows, door and panelling on the character and appearance of the property and the street scene, and whether they would preserve or enhance the character or appearance of the Severn Gorge Conservation Area (CA) and the effect of the development on the significance of the UNESCO Ironbridge Gorge World Heritage Site (WHS).

Reasons

4. The National Planning Policy Framework (the Framework) at paragraph 189 advises that Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are defined as an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
5. The appeal property is located towards the commercial end of Dale Road, a spine road that runs north south down the valley of Coalbrookdale. The property, which was built in the early 1990's, comprises a café at ground floor level with a flat above. The brick building is of traditional design and appearance with a large shop window within the side gable end which fronts onto Dale Road. At ground floor level, the principal southern elevation, which is considered to be the property frontage, contains a window and a door into the café and a door which leads up to the first floor flat. At first floor level there are two dormer windows to the front and one dormer window to the rear.
6. From my observations, this part of the CA displays elements of 20th century development that has successfully integrated into the historic fabric of the surrounding environment. With the use of traditional design and materials, this complements the area's historic and architectural quality. Window and door openings, in particular, create an integral part of the design of the buildings in the locality. These factors contribute to the special architectural integrity and historic interest, and their visual presence adds positively and distinctively to the character and appearance of the street scene and thus the significance, of the CA.
7. An Article 4 Direction limiting Permitted Development Rights throughout the CA was confirmed in January 1999 and reconfirmed with additional development clauses in 2012. This Direction covers, among other things – front, rear and side extensions; chimneys; windows; external doors; gates, fences, and walls; alteration to roofs; porches; flues; satellite dishes; solar panels garden structures and the provision of hardstanding within any curtilage where it is visible from a highway, byway or open space. The purpose of such a Direction is to enable the Council to control works which would otherwise be permitted without the specific grant of planning permission, to protect the special character of the CA.
8. The Council considers that the UPVC windows and door with side panelling are inappropriate by virtue of their design, materials and appearance, and are neither traditional or well-proportioned. The development is considered not to

be of high quality and is neither compatible or complementary to the host building or the surrounding area.

9. The Council's Supplementary Planning Document, The Local Development Framework Shop Fronts and Signage Design Guidance in Conservation Areas December 2011 (SPD), provides guidance for improving the appearance of prominent frontages citing that "windows are at the heart of the shop front, they serve to advertise the wares within" and that replacement with inappropriate modern styles or materials will be resisted. Although the appeal building is a relatively modern development, its traditional form reflects the historic character and appearance of the street scene and the settlement.
10. Due to its open setting and being positioned close to the highway, the building is readily visible and prominent in key views within the CA along Dale Road. The replacement windows and door appear discordant, being of a material that detracts from the traditional form of the building and the character and appearance of the CA. UPVC is a synthetic material whose smooth, shiny, modern appearance does not satisfactorily capture the character of traditional painted timber and window frames with slender structural glazing bars that are typical within the facades of the surrounding buildings. The chunky and relatively crude appearance of moulded uPVC sections are not in sympathy with the traditional architecture that largely defines the CA's distinctive character. The subtleties of such architecture are not reflected in modern uPVC components, the use of which in, my view, is harmful to character and appearance of both the subject building and the wider area.
11. I understand that the windows were installed as a 'quick fix' and to make the property more resilient to flood damage, as was experienced in early 2020. However, as the appellant clearly provides, the replacement door is not a flood door and no evidence has been provided to show that the replacement windows are flood resilient. It has also been drawn to my attention by the appellant that the original openings have had many repairs following numerous flooding events over the years and that they were no longer viable for repair. I am told that "the front windows following differing repairs were eventually in effect bastardize (2 different windows amalgamated to form 1)".
12. The Council provided screen shots from Google Maps which show the windows and door before they were replaced. I agree with the Council that whilst the previous timber windows and door were not of any particular architectural merit, their appearance was modest, and the traditional material was compatible with, and complemented the building and its immediate surroundings. In contrast, the replacement windows, door and panelling are considered to be unsympathetic and incongruous features.
13. The appellant provided examples of buildings within the area where UPVC fenestration has been used. Whilst there are no specific details of individual circumstances, the Council, in its statement, confirms that the use of UPVC did not benefit from planning permission and that some had been installed prior to the Council's Article 4 Direction. I concur with the Council that such examples of loss of traditional materials represents 'piecemeal' erosion. Moreover, these do not justify or set a precedent for the appeal development.
14. Paragraph 199 of the Framework requires that when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset,

the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm¹ to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Bearing in mind the scale of the CA and the WHS, the localised harm that would be caused by the proposal would be, in the parlance of the Framework, less than substantial.

15. Paragraph 202 of the Framework confirms 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. I appreciate that there may be a beneficial cost implication for the appellant regarding insurance, but this would be a personal rather than public benefit. In these circumstances the harm I have identified is not outweighed by any public benefits.
16. For the reasons set out above, the development does not protect and conserve the outstanding universal value of the WHS or preserve or enhance the character or appearance of the CA. The development fails to be compatible or complementary in texture or respond positively to its context. In that regard, I find conflict with the Council's SPD, Policies BE1, BE3, BE5 and EC10 of the Telford and Wrekin Local Plan 2011-2031 and the approach of the Framework to the protection of heritage assets.

Conclusion on ground (a)

17. The development is harmful to the character and appearance of the building and the wider historic environment and conflicts with the development plan taken as a whole. There are no material considerations that indicate the deemed application should be determined other than in accordance with the development plan. For the reasons given above I conclude that the appeal on ground (a) should not succeed and I shall refuse to grant planning permission on the deemed application.

The appeal on ground (f)

18. An appeal on ground (f) is that the requirements of the notice exceed what is necessary to remedy the breach of planning control. S173(3) of the 1990 Act requires that an enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, to remedy the alleged breach of planning control set out in section 3 of the notice.
19. The purpose of the notice is to remedy the breach of planning control². In these circumstances, the requirements of the notice are not excessive and there are no other lesser steps before me that would remedy the breach.
20. Therefore, the appeal under ground (f) fails.

S A Hanson

INSPECTOR

¹ National planning Policy Framework paragraph 200

² S173(4)(a) of the 1990 Act