



Appeal Decision

Site visit made on 9 November 2021

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd November 2021

Appeal Ref: APP/P4605/D/21/3283877

19 First Avenue, Selly Oak, Birmingham B29 7NS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr P Tracy (of Cocks Lloyd Solicitors) against the decision of Birmingham City Council.
 - The application Ref 2021/02528/PA dated 19 March 2021, was refused by notice dated 29 July 2021.
 - The development proposed is installation of Upvc (sic) windows.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application is retrospective and I saw on my visit that the windows have been installed. However, I have dealt with the appeal on its planning merits.
3. The Council has cited two reasons for refusal. The first refers to the design of the windows, and the second to the design of the front windows. The front windows would be covered by the first reason. The Officer Report does not help with any differentiation. The Council raises no objection in its report to the replacement windows at the rear stating that "The replacement windows on the other elevations are acceptable". I have no reason to take a different view. Both reasons also refer to the effect on the 'Selly Oak Avenues Conservation Area' (the CA). To avoid unnecessary duplication I have combined the Council's reasons for refusal into a single main issue.

Main Issue

4. It follows from above that the main issue is whether the uPVC windows at the front of the property preserve or enhance the character or appearance of the CA.

Reasons

5. The appeal property is a two-storey mid-terrace period dwelling located in a terrace of four similar styled properties, which in turn is set within a residential street of other terraced period properties of a similar scale. The appeal property and the other three in the terrace have the same window arrangement that comprises a projecting bay window and two first floor windows positioned close together with a central stone mullion. The terrace of four is further unified by the mono-pitch roof that extends across all of the projecting bay windows and front doors.

6. The appeal property and some of the surrounding streets lie within the CA. Planning permission is required by virtue of an Article 4 Direction being in place that withdraws normal permitted development rights for window alterations in the CA. This allows the Council to resist uncharacteristic alterations and manage change.
7. First Avenue contains a mix of building designs, which include some properties having decorative gabled roofs, ornate stone window surrounds, porches, and single and double height bay windows. There is also a variety of window styles. Despite these design and architectural differences, there is a relative uniformity of small-scale, traditional, period residential buildings that contribute to the historic character and appearance of the CA. As such the significance of the CA is derived from the age of its buildings and their architectural and historic interest, which reflects the economic and social development of this part of Birmingham. I understand from the appellant that the appeal property and the short terrace in which it sits were re-built after being bombed in the war. Nonetheless, it still forms an integral part of the terraced residential street scene and positively contributes to the character and appearance of the CA.
8. The proposal involves the installation of uPVC windows to replace the timber windows. The first floor front windows have been replaced with uPVC sliding sashes. When viewed from a distance the windows are better designed than some of the inappropriate first floor windows that have been installed elsewhere along First Avenue. However, I could see that the some decorative features, such as sash horns, were stuck-on rather than being 'run-through' and incorporated into the window's design. Also the frames are wider, reducing the size of the glass panes. The lack of detailing reduces the authentic appearance when compared to a timber sash window.
9. Three of the terraced properties have retained the four-light wide bay window. The adjacent and last property (no.21) has three lights with the central one being wider. Hence the four-property terrace has lost some of its bay window design uniformity. However, the bay window that has been installed accentuates the differences. The window has wider and flatter mullions that lack detail, profile and depth. The frames around the small top lights are overly wide and chunky in relation to the size of glass panes which are noticeably smaller than those on the adjacent properties. This serves to distort the proportions of the bay window unit. This is particularly conspicuous when viewing the terrace of four properties as a whole, and allowing for variances in other replacement windows.
10. The former painted windows and use of traditional construction materials would have been integral to the building's character and appearance. I find the uPVC windows, particularly the bay window, with its lack the design finesse and appearance of traditional timber windows. Whilst uPVC window design has improved over the years and detailing has become more refined and slimmer, I find that these particular uPVC units contrast incongruously with, and significantly diminish, the traditional character and appearance of the appeal property. As the appeal property is an integral part of the street scene and the CA, it follows that the replacement windows also result in harm to the character and appearance of the street scene and to this part of the CA.
11. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed buildings and Conservation Areas) Act 1990, I have paid special

attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The CA is a designated heritage asset. Paragraph 199 of the National Planning Policy Framework (the Framework) requires decision-makers to give great weight to the conservation of a designated heritage asset. In cases such as this, where the harm to the heritage asset is less than substantial, paragraph 202 of the Framework states that the harm should be weighed against the public benefits.

12. I understand that the previous timber windows were in a poor state of repair and rotting, and causing draughts and poor insulation. I accept there would be some thermal benefits to the property from the double-glazed windows, with knock-on benefits for a more comfortable home, energy-saving and climate change. However, double-glazed windows can be made of timber. I am therefore not satisfied it has been demonstrated that methods of accruing the same public benefit could not have been achieved by alternative timber windows without resulting in the harm I have identified. The weight I can attach to this public benefit is therefore limited and does not outweigh the harm I have identified.
13. On my visit I saw that a number of properties in First Avenue have installed inappropriate replacement windows, including both uPVC and timber. The Council has not provided any details of whether these predate the Article 4 Direction, but the appellant's extract from the CA consultation document shows the Council is aware of an inherited problem of inappropriate changes that have been undertaken without permission. From my observations, I find these have caused a noticeable erosion to the character and appearance of the CA. This reinforces my view of the threat inappropriately designed uPVC replacement windows pose to the significance of the CA. Despite the presence of some poor quality replacement windows elsewhere in the street, this does not justify or set a precedent for further erosion of this heritage asset.
14. For all the above reasons I conclude that the replacement uPVC windows to the front elevation have a negative impact on the character and appearance of the street scene and fail to preserve or enhance the character or appearance of the CA. The public benefits advanced in support of the appeal do not outweigh this harm. As such, the development conflicts with Policies PG3 and TP12 of the Birmingham Development Plan and saved paragraphs 3.14C and 3.14D of the Birmingham Unitary Development Plan. These collectively seek to ensure that new development reinforces local distinctiveness and responds to the local area, and that development that affects the significance of a heritage asset should provide sufficient information to demonstrate how the proposal would contribute to the asset's conservation.
15. It would also be contrary to the general design guidance in the Council's Supplementary Planning Document "Extending Your Home". Whilst this mostly relates to extensions, it expects development to respect the appearance of the local area and the property.

Conclusion

16. For the reasons given above I conclude that the appeal should be dismissed.

K Stephens
INSPECTOR