



Appeal Decision

Site visit made on 29 October 2021

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 November 2021

Appeal Ref: APP/P3610/D/21/3278521

42 Longdown Lane North, Ewell, Surrey KT17 3JQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Jonathon Graham against the decision of Epsom & Ewell Borough Council.
 - The application, Ref. 21/00299, dated 22 February 2021, sought approval of details pursuant to condition No. 3 of a planning permission Ref. 18/00960/FLH, granted on 19 December 2018.
 - The application was refused by notice dated 20 April 2021.
 - The development proposed is the replacement of original single glazed windows with double glazed windows.
 - The details for which approval is sought are: 'Details and samples of the external materials'.
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Decision

1. The appeal is allowed and the reserved matters are approved, namely details and samples of the external materials submitted in pursuance of condition No. 3 attached to planning permission Ref.18/00960/FLH dated 19 December 2019.

Main Issue

2. The main issue is the effect of the proposed replacement windows on the character or appearance of the host dwelling and the Higher Green Conservation Area.

Reasons

3. The application for the approval of reserved matters explains that the replacement double glazed windows would replicate the appearance of the existing single glazed leaded pattern windows, in keeping with the character of the building and the area. The Council's objection is that because the dwelling is located within the conservation area, the proposed use of uPVC for the window frames would be unacceptable.
4. This view is consistent with the guidance in the Character Appraisal for the Conservation Area dated January 2009. This document also observes that the area was developed in the 1920's and 1930's '*in the Tudorbethan style*' and comprises two adjoining roads, Higher Green and Longdown Lane North. No. 42 is identified as a 'positive building' on the Townscape Appraisal Map.
5. However, the grounds of appeal refer to the Council's earlier decision to approve uPVC double glazed replacement windows at No. 51 Higher Green

- (application ref. 16/00243/FLH). The appellant says that this inconsistency with the decision on the current proposal was the subject of several conversations with both the Planning Officer and the Conservation Officer, but that he had not received any definitive answer as to why two almost identical applications were treated differently. For this reason the appellant considers that the permission at 51 Higher Green sets a precedent for approval of his application.
6. From the evidence in this appeal it is not clear whether these discussions with Council officers were before or after the refusal of the appeal application. Be that as it may, although the Character Appraisal is clear in its disapproval of uPVC, the absence of an explanation by the Council for the conflicting decisions does mean that approval ref. 16/00243/FLH is material to my appraisal and decision for the current proposal.
 7. In this regard, I note that a number of the documents relating to that approval remain on the Council's online application file. These include a Design and Access Statement in support of the application which refers to a survey of 53 dwellings in the conservation area – therefore the great majority of the 58 'positive' buildings identified on the Appraisal Map. I also note that these buildings comprise two thirds of all of the 87 properties in the conservation area.
 8. The survey finds that 45 of the 53 dwellings inspected had had their windows replaced with non-traditional materials (either uPVC or aluminium) and the remaining 8 still had the original windows. I am not in a position to verify the accuracy of the survey, but this was the evidence submitted to the Council as part of their decision process in granting permission for No. 51 Higher Green. The officer's report is not available on the Council's online application file but the application form is. This reports pre-application advice as including that uPVC window frames could be used if the majority of properties also have uPVC and that the general design and appearance (the lead pattern) is retained.
 9. In a situation where (i) the application plans already show that the leaded lights pattern would match the existing, and (ii) most of the positive buildings in the conservation area have aluminium or uPVC replacement window frames, I conclude that the appeal proposal would be in keeping with the existing character and appearance of the conservation area as a designated heritage asset. Furthermore, with the Council apparently already having accepted this point with the grant of permission ref. 16/00243/FLH, I consider that it would be wholly inequitable to withhold approval of the reserved matters for a very similar scheme.
 10. In these circumstances I can only reasonably conclude that the replacement windows would not have an unacceptably adverse effect on the character and appearance of the host dwelling and the Higher Green Conservation Area which would thereby be preserved. There would also be no harmful conflict with Policy CS5 of the Epsom & Ewell Core Strategy 2007 and Policies DM9 & DM10 of the Council's Development Management Policies Document 2015.
 11. For the reasons explained above, I allow the appeal.

Martin Andrews

INSPECTOR