
Appeal Decision

Site visit made on 27 January 2022

by Elizabeth Jones BSc (Hons) MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2022

Appeal Ref: APP/V2255/C/21/3273320

The land situated at 61 Newton Road, Faversham, Kent ME13 8DZ

- 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 Steven Avey against an enforcement notice issued by Swale Borough Council.
 - The enforcement notice was issued on 8 April 2021.
 - The breach of planning control as alleged in the notice is without planning permission the replacement of a timber framed window with UPVC frames and triple glazing to the front first floor elevation and the replacement of the timber front door with a composite door.
 - The requirements of the notice are:
 1. Remove the UPVC window situated to the front first floor elevation of the property.
 2. Remove the new composite front door to the property.
 3. Replace the UPVC window situated on to the front first floor elevation of the property with a traditional timber sliding sash window.
 4. Replace the composite front door with a door of traditional size and proportions using hard wood materials and close in design to the door that was removed from the property.
 - The period for compliance with the requirements is six 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 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.
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Decision

1. It is directed that the enforcement notice be corrected by: -
 - (i) deleting the words "a timber framed window" and inserting the words "two timber framed windows" in paragraph 3.
 - (ii) deleting the words "sash window with a UPVC window" and inserting the words "sash windows with upvc windows" in paragraph 4 (ii).
 - (iii) deleting the word "window" and inserting the words "windows" in paragraph 5.1.
 - (iv) deleting the words in paragraph 5.3 and inserting the words "Replace the UPVC windows situated to the front first floor elevation of the Property with traditional timber sliding sash windows."
 2. Subject to these corrections, the appeal is 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 as amended.
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Preliminary Matters

3. The enforcement notice refers to 'a window' in the singular whereas there are two first floor windows on the front elevation of the property, so the enforcement notice cannot be correct as drafted. Both parties in their submissions refer to first floor windows on the front elevation in plural. For precision, the notice should be amended accordingly. Given the nature of the submissions made, the appellant clearly understood that the notice was directed at both first floor windows on the front elevation. I am satisfied therefore, that I can amend the notice accordingly without injustice to either party.
4. A revised National Planning Policy Framework (the Framework) came into force in July 2021, after the appeal had been submitted. Other than a change to the relevant paragraph numbers, the revised Framework does not materially alter the approach in respect of the main issue raised in this appeal and therefore the main parties have not been prejudiced by its publication.

Appeal on ground (a)

Main Issue

5. The main issue is the effect of the development on the appeal property and whether the replacement windows and door preserve or enhance the character or appearance of the Conservation Area.

Reasons

6. The appeal property is an end of terrace traditionally designed single fronted Victorian property which fronts almost immediately onto the street. It is located along Newton Road which lies within the Faversham Conservation Area ('the FCA').
7. The FCA is characterised by roads that comprise rows of terrace Victorian housing. Although some houses have replaced their windows and doors in a variety of materials, a significant proportion retain the timber sash windows and timber doors which are a feature of and make an important contribution to the character and appearance of the FCA.
8. In 2007 the Council introduced an Article 4 Direction removing permitted development rights for the enlargement, improvement, or other alteration of a dwellinghouse where any part of the enlargement, improvement or alteration would front a highway under Class A of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). The Article 4 Direction advises that "original doors and windows contribute greatly to the character of the FCA, so should be retained. The removal of traditional timber windows and doors will normally be resisted, as will the installation of inappropriate replacements in aluminium or plastic".
9. Planning permission was refused and an appeal dismissed (APP/V2255/W/16/3145567 dated 14 June 2016) in relation to this property for the replacement of timber single glazed windows with triple glazed upvc windows and a wooden front door with a composite door. The previous Inspector considered that the replacement of the windows and door would harm the character and appearance of the property and would fail to preserve or enhance the character or appearance of the FCA. I can find nothing from the

evidence before me to indicate the case has changed since that appeal and I must give the previous Inspector's findings considerable weight.

10. During my site visit, I observed that despite examples of traditional timber sash windows having been replaced with a variety of modern upvc in Newton Road, those that remain make a positive contribution to the character of the FCA. The appellant has drawn my attention to some of these examples where the original windows have been replaced. I am not aware of the detailed circumstances of these developments. However, I consider that the impact of upvc windows and composite doors varies depending on the type of property and the specific detailing. Moreover, and in any event, I have determined the appeal before me on its own merits, with regard to the specific context of the appeal property in the street scene.
11. Whilst the replacement upvc windows closely resemble the design of the original sash windows, the thickness of the frames and glazing bars are more substantial than the original windows. The sash design with their thicker frames is not as delicate as their original timber counterparts. Thus, whilst the appellant has sought to keep the style authentic, the loss of the original timber sash with their thinner detailing has a negative impact upon the contribution the fenestration makes to the character and appearance of the property and the FCA. Although its style is wood effect and it has been in situ for almost four years, the composite door is unsympathetic to the traditional appearance and historic character of the property and terrace. In addition, upvc is not a traditional material and is generally heavier, more even, smoother, and glossier in finish than traditional windows and doors, giving the windows and door a modern and less refined appearance. As the original windows and door were an important part of the building's character, their upvc replacements are harmful to the appearance of the appeal property.
12. S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area to which I have attached considerable importance and weight. Given that the original windows and door were a key element of the street scene; the development has an adverse effect on the character and appearance of the FCA.
13. The harm I have identified falls within the category of "less than substantial harm" to the significance of the heritage asset. Paragraph 202 of the Framework states that where a development proposal will lead to less than substantial harm of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The appellant identifies benefits from reduced noise and that the use of upvc and double glazing is more economical, 'greener' and less polluting and that the sash styling of the previous windows and the wood effect of the previous door have been retained. These are predominantly benefits to the owners rather than to the wider public. Furthermore, there is nothing before me to demonstrate that the windows and door could not have been replaced with timber frames and a timber door similar to the originals. Thus, these matters, even if they were considered public benefits do not outweigh the harm caused to the character or appearance of the FCA, a consideration the courts have determined is a matter of considerable importance and weight.

14. I conclude that the replacement upvc windows and composite door harm the character and appearance of the appeal property. Moreover, they fail to preserve or enhance the character or appearance of the FCA. The development is therefore contrary to Policies CP4, DM14, DM16 and DM33 of the Swale Borough Local Plan (2017) and the guidance in the Council's Supplementary Planning Guidance 'Conservation Areas' which expect developments to preserve or enhance all features that contribute positively to the conservation area's special character or appearance. The development also conflicts with the aims of the Framework.
15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires development to be in accordance with the development plan unless there are material considerations which indicate otherwise. The benefits described do not outweigh the conflict with the development plan.

Conclusion

16. For the above reasons and with regard to all other matters raised, I conclude that the appeal on ground (a) should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Elizabeth Jones

INSPECTOR