



Appeal Decision

Site visit made on 1 March 2022

by Peter Willows BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2022

Appeal Ref: APP/W2465/C/21/3281387

8 Ratcliffe Road, Leicester LE2 3TB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mrs Surekha Chauhan against an enforcement notice issued by Leicester City Council.
 - The notice, Ref Legal/114183, was issued on 20 July 2021.
 - The breach of planning control as alleged in the notice is 'Without planning permission, the unauthorised porch and replacement upvc windows to the front of the Property in a conservation area'.
 - The requirements of the notice are:
 - Remove the UPVC window from the front elevation of the property and remove all associated waste materials.
 - Install timber/UPVC framed windows to the front elevation of the property of a design and style to match the previous windows at the property as shown in the attached photograph.
 - Remove the porch to the front of the property and remove all associated waste materials.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (c) 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 'Section 172(1)' from Paragraph 1 and replacing it with 'Section 171A(1)(a)'.
 - ii) Deleting the wording at Paragraph 3 (The breach of planning control alleged) and replacing it with the following: 'Without planning permission, the erection of a porch and the installation of replacement uPVC windows to the front elevation of the property'.
2. Subject to the corrections above, the appeal is allowed insofar as it relates to the windows and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the installation of replacement uPVC windows to the front elevation of the property at 8 Ratcliffe Road, Leicester LE2 3TB.
3. The appeal is dismissed and the enforcement notice is upheld as corrected insofar as it relates to the erection of a porch and planning permission is refused in respect of the erection of a porch at 8 Ratcliffe Road, Leicester

LE2 3TB, on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

4. The appeal form gives the address as 8 Radcliffe Road, but the enforcement notice is correct in referring to Ratcliffe Road.
5. The enforcement notice says that there has been a breach of planning control under section 172(1) of the Town and Country Planning Act 1990. Section 172 sets out the planning authority's powers to issue an enforcement notice. However, section 173(1)(b) requires the notice to state the paragraph of section 171A(1) within which, in the opinion of the authority, the breach of planning control falls. The breach in this instance is carrying out development without the required planning permission, as described in section 171A(1)(a). I can correct the notice by making reference to that part of the Act without altering the practical effect or meaning of the notice or causing injustice to either party.
6. The Enforcement Report implies in places that it is directed only at a single window (the one over the front entrance). Additionally, the requirements of the notice refer to the removal of 'the UPVC window' (singular). However, the allegation in the notice refers to 'replacement upvc windows to the front of the property'. This is consistent with other statements made in the Enforcement Report and the fact that all of the windows on the front elevation were apparently replaced at the same time. Overall, I am satisfied that the notice adequately identifies the windows it targets, which is all the windows on the front elevation.
7. The breach of planning control is expressed awkwardly and appears to have some words missing. Additionally, the reference to the conservation area is unnecessary. However, the meaning is clear and it can be corrected without causing injustice. Although, as noted above, requirement 5.1 refers to removing a single window only, it is not necessary to correct this in view of my decision to allow the appeal on ground (a) in respect of the windows.

The appeal on ground (c)

8. Ground (c) is concerned with whether or not the matters alleged in the notice amount to a breach of planning control. The burden of proof falls on the appellant in such cases and the standard of proof is the balance of probability.
9. While works including porches and replacement windows are often development permitted by *The Town and Country Planning (General Permitted Development) (England) Order 2015* (the GPDO), in this instance a direction made under article 4 of the GPDO disapplies some of those provisions. These include the enlargement, improvement or other alteration of a dwellinghouse where any part of the enlargement, improvement or alteration would front a highway (Schedule 2, Part 1, Class A of the GPDO), and the erection or construction of a porch outside any external door of a dwellinghouse where the external door fronts a highway (Class D). Consequently, it appears to me that planning permission would have been required for the works targeted by the notice. The appellant has not provided any information to lead me to any different view.

10. I conclude that, on the balance of probability, the matters alleged in the notice amounted to a breach of planning control. Accordingly, the appeal on ground (c) fails.

The appeal on ground (a)

Main Issue

11. The porch has now been removed and the appellant does not make any case that it should be permitted. Consequently, the dispute relates only to the planning merits of the windows. The main issue is the effect of the replacement uPVC windows on the character and appearance of the Stoneygate Conservation Area, within which the appeal property lies.

Reasons

12. The Stoneygate Conservation Area Character Appraisal describes Stoneygate as 'Leicester's best-surviving Victorian suburb, containing a large number of late Victorian and Edwardian houses in the fashionable Domestic Revival styles of that period'. Ratcliffe Road contains large houses of individual design set in large grounds. Number 8 is one such property and adds positively to the character and appearance of the Conservation Area and its significance. The building is constructed of brick and the Council advises that it dates from the 1930s.
13. The character appraisal notes that 'Some properties have suffered from the installation of uPVC windows and doors. Modern uPVC components do not reproduce the detailed visual quality of wooden windows'. It adds that 'The continuing infiltration of uPVC and other substitute materials such as aluminium will increasingly erode the overall character of the area'. This is an entirely understandable concern - uPVC is a fairly modern material and has noticeably different characteristics to wood.
14. However, the appeal property already had uPVC windows fitted prior to the installation of the windows the notice is directed at. The Council says that the new windows have thicker frames, increased projection and include plastic lintel detailing of a poor design. Nevertheless, judging by the photographs attached to the notice, the detailing of the new and old windows are similar. Although there have been changes to the arrangements of the glazing bars and the panes that open, the overall character of the windows has not changed significantly due to these design details.
15. There is one more obvious difference, which is the first floor window above the entrance to the property. This has been widened, so that it now has a slight horizontal emphasis rather than the previous vertical emphasis, together with a different arrangement of the glazing bars. Yet I do not regard this as a harmful change. The front elevation is not of a design which relies on regularity or symmetry, and already had windows which varied in their size and proportions. Indeed, the Council notes its 'asymmetrical architecture' as a characteristic of the building. Moreover, the new window is not excessive in scale and so does not appear uncharacteristic or dominant. Consequently, the changed window does not harm the appearance of the property.
16. I conclude that the differences between the previously-installed uPVC windows and the new ones do not cause visual harm. Accordingly, the character and appearance of both the dwelling and the Conservation Area have been

preserved. Consequently, there is no conflict with the aims for design and the historic environment within policies CS3 and CS18 of the Leicester City Core Strategy, or with the National Planning Policy Framework (the Framework).

Conclusion

17. As I have already said, no case is put to me regarding the porch, and I will therefore refuse to grant planning permission in respect of that. The enforcement notice will therefore be upheld with corrections.
18. For the reasons given above I conclude that the appeal should succeed in respect of the windows, and I will grant planning permission for them. It is not necessary for me to make any changes to the requirements of the notice as a result of this, since the provisions of section 180 of the Act mean that the requirements of the notice will cease to have effect so far as inconsistent with the planning permission I have granted. No planning conditions have been suggested and none are necessary in my view.

Peter Willows

INSPECTOR