
Appeal Decision

Site visit made on 16 February 2022

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2022

Appeal Ref: APP/C3810/F/20/3257966

Valhalla, High Street, Bognor Regis, West Sussex PO21 1HA

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991 (the Act).
 - The appeal is made by Michael John May against a listed building enforcement notice issued by Arun District Council.
 - The enforcement notice was issued on 5 August 2020.
 - The contraventions of listed building control alleged in the notice are:
 - 3.1 Removing the Crittall single glazed window from the side elevation at rear (facing Lyon Street).
 - 3.2 Installation of one white PVCu window into the side elevation at rear (facing Lyon Street).
 - The requirements of the notice are:
 - 5.1 Remove the white PVCu window from the side elevation (facing Lyon Street) of the Building.
 - 5.2 Replace the window removed in compliance with 5.1 with a single glazed wooden flush mounted casement window to match those in the rear elevation of the Building.
 - The period for compliance with the requirements is three months.
 - The appeal is made on the grounds set out in section 39(1)(c) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Ground (c)

1. This appeal is made on the ground that the matters described in the listed building enforcement notice (if they occurred) do not constitute a contravention under sections 9(1) or 9(2) of the Act. The Act states that no person shall make an alteration that would affect the character of a building as one of special architectural or historic interest, unless the works are authorised. Therefore, the main issue in this case is whether, as a matter of fact and degree, the replacement PVCu window affects the character, special architectural or historic interest of the listed building.
2. Valhalla was constructed in the early nineteenth century and is Grade II listed along with the attached neighbouring dwelling of Manora. The houses front High Street and comprise two storey sections in the centre of the dwellings with three storey sections to the sides.
3. To the side of Valhalla is Lyon Street. Originally there would have been another building attached to this side known as Derby House, but I understand that was removed to widen the road. The side elevation of Valhalla is rendered and directly adjacent to the pavement. To the rear the building continues alongside the pavement with varying roof heights and the appellant suggests this part of the building dates to around 1780. The window subject of this listed building

enforcement notice is within the taller element facing toward the road. The window does not appear to be original to the building. Beyond that and attached to it is a brick shop building with flat above and archway access to the grounds of Valhalla, which replaced an earlier washhouse to the rear of Valhalla in 1955.

4. I understand the window serves a bathroom for the flat in the first floor of the brick building and it is likely that the window was inserted when that building was constructed. Prior to that it was the maid's room for Valhalla, above the wood shed and coal shed. Despite internally forming part of the attached brick building the external visual relationship with Valhalla means that, in terms of appearance and historic interest, it appears as part of that building.
5. The window is a very small and rectangular. It is the sole window within the rendered walls facing Lyon Street. Consequently, despite its size it is relatively prominent on the building. The PVCu window replaces a Crittal window. It comprises a simple frame around the glass. PVCu is a modern material that does not reflect the traditional appearance or historic development of the building. Consequently, although the design reflects the room it serves and its position on the building, PVCu is not a material that reflects the character, special architectural or historic interest of the listed building.
6. On that basis, I conclude that the replacement PVCu window affects the character, special architectural and historic interest of the building. The appeal under ground (c) therefore fails.

Other Matters

7. The enforcement notice does not specify under which part of section 38(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) the steps required to be taken by the notice are based. Section 38(2)(a) enables the Council to require works to restore the building to its former state. Section 38(2)(b) allows Councils to require further works they consider necessary, but only where restoration would not be reasonably practicable or would be undesirable.
8. In this case, the requirements of the enforcement notice seek to require the replacement of the window with a softwood frame. However, as the previous was a Crittal window, this would go further than requiring works to restore the building to its former state. It would be reasonably practicable to restore the Crittal window and, given it formed part of the historic development of the building, such a window would not be undesirable.
9. I note that section 38(2)(c) of the Act enables the requirements to bring the building to the state in which it would have been if the terms and conditions of any listed building consent which has been granted for the works had been complied with. Permission for alterations and additions was granted under reference BR/115/50/E, but it is unclear whether that included insertion of the window and, if it did, how it was expected to appear or what materials were proposed.
10. Taking all the above into account, I will use my powers under Section 41 of the Act to alter the requirements of the notice to require the installation of a Crittal window to match that replaced or to allow the replacement with a softwood window.

11. The appellant indicates that he may wish to remove the window and infill the space as it is overlooked by the flats on the opposite side of the road. However, this matter isn't before me to determine. Listed building consent would be required from the Council if he did wish to do that.

Decision

12. It is directed that the enforcement notice is corrected in the steps required to be taken by the deletion of the words "5.2 Replace the window removed in compliance with 5.1 with a single glazed wooden flush mounted casement window to match those in the rear elevation of the Building" and the substitution of the words:

- 5.2 Replace the window removed in compliance with 5.1 with either:
(a) a Crittal window to match that previously located in the Building; or
(b) a single glazed wooden flush mounted casement window to match those in the rear elevation of the Building.

13. Subject to the correction, the appeal is dismissed and the enforcement notice is upheld.

AJ Steen

INSPECTOR