

Appeal Decision

Site visit made on 20 June 2022

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28TH July 2022

Appeal Ref: APP/A1530/W/21/3286331

26 Lexden Road, Lexden, Colchester CO3 3QD

- 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 Samarbakhsh against the decision of Colchester Borough Council.
 - The application Ref 210501, dated 24 February 2021, was refused by notice dated 16 July 2021.
 - The development proposed is 'resubmission of planning application 192398 for replacement windows. Resubmission to include window detailing'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The replacement windows have been installed and, therefore, I have dealt with this appeal as involving an application for retrospective planning permission.
3. The description of development refers to a previous unsuccessful application for the same replacement windows and that the current proposal is intended to respond to the reason for refusal in the earlier case. The appellant also contends that due to a misunderstanding the previous application was also made retrospectively. While I have noted this, the current appeal involves a separate proposal which I have considered on its own merits.

Main Issue

4. The main issue is whether the replacement windows preserve or enhance the character or appearance of the Colchester Conservation Area 2 in which the appeal property, a locally listed building, is located.

Reasons

5. The Colchester Conservation Area 2 covers predominantly residential properties and some institutional buildings either side of Lexden Road. No 26 is a large, three storey detached Jacobean style house dating from the late nineteenth century, which is currently in use as a kindergarten. It is located on a corner plot next to the junction of Lexden Road and The Avenue. Due to its position, size and largely unaltered appearance it is a prominent building that makes a
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positive contribution to the conservation area, which is also reflected by its designation as a locally listed building. The replacement windows require consent as the appeal building is within an area covered by an Article 4 Direction.

6. The appeal building retains most of its original detailing although I note that the timber windows that have been replaced were not original. Nonetheless, I have assessed the replacement windows on their own merits and particularly bearing in mind the statutory requirement that in exercising planning functions in conservation areas special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area¹.
7. The UPVC windows that have been installed are readily identifiable as modern, later additions. This is particularly apparent from the thickness of the frames and their reflective appearance, compared to timber framed windows or a more sympathetic modern alternative that would better respect the period character and appearance of the building. As such, they are prominent additions that detract from the original, period details and design of the host building and are incongruous and uncharacteristic in this regard. Despite the vegetation to the front boundary, the replacement windows are visible from the Lexden Road frontage and on the upper storeys on the side elevation in views from The Avenue. While the description of development refers to window detailing, I am not aware from the appeal submissions that there are any further proposals to add to or alter the existing windows that have been installed.
8. The appellant contends that many properties within the conservation area have replacement windows. While I acknowledge from the inspection that this is the case, many have been undertaken more sensitively than the replacement windows at the appeal property. Where similar modern additions have been made these have in my view failed to preserve the conservation area's character and appearance. Further similar changes, as has occurred in this case, add to the harm that has already resulted from the changes that have occurred over time. As such, any harmful replacement windows should not be seen as a positive precedent for the appeal proposal.
9. Therefore, for these reasons, I find that the proposal fails to preserve the character and appearance of the Colchester Conservation Area 2. The National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation². Based on the above findings, I consider the harm to be less than substantial in this instance, but nevertheless of considerable importance and weight.
10. Under such circumstances, the Framework advises that this harm should be weighed against the public benefits of the proposal³. The appellant indicates that the previous windows were draughty and unsafe. Other interested parties also contend that it is necessary to have double glazing for the kindergarten use and that UPVC is more durable and cost effective than timber. Moreover, replacing the existing windows would be disruptive and wasteful. While I acknowledge these matters, the existing form of the replacement windows is

¹ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

² Paragraph 199.

³ Paragraph 202.

not likely to be the only way of achieving environmental and safety benefits compared to single glazing. Furthermore, any costs associated with the work on the windows cannot be determinative where there is a finding of harm to the conservation area. As such, these matters do not outweigh the harm that has been found.

11. Therefore, for the above reasons, I conclude that the replacement windows do not preserve the character and appearance of the Colchester Conservation Area 2 or of the locally listed building, which is a non-designated heritage asset. Consequently, the proposal is contrary to Policy ENV1 of the Colchester Borough Core Strategy (2008, amended 2014) and to Policy DP14 of the Colchester Borough Development Policies document (2010, amended 2014), which require development to preserve or enhance the historic environment.

Other Matters

12. I have had regard to all the representations made by interested parties, including the petition in support of the proposal. However, these do not raise any matters in addition to those already addressed under the main issue that would lead me to reach a different overall conclusion.

Conclusion

13. For the reasons given above it is concluded that the appeal should not succeed.

J Bell-Williamson

INSPECTOR