



Appeal Decision

Site visit made on 6 December 2022

by Thomas Shields MA DipURP MRTPI

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

Decision date: 16 January 2023

Appeal Ref: APP/D0121/C/22/3299365

Flat 5, Hillcote Mansions, 2 Atlantic Road, Weston-super-Mare, BS23 2DG

- 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 Act").
 - The appeal is made by Miss Liane Warbutton against an enforcement notice issued by the North Somerset Council.
 - There is no date of issue on the enforcement notice. It was served on 11 January 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the installation of uPVC casement windows.
 - The requirements of the notice are:
 1. Remove the six uPVC windows on the north elevation of Flat 5.
 2. Remove all materials resulting from the removal from the land.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) and (f) of the Act.
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DECISION

1. The appeal is dismissed.

Appeal on ground (a)

Main Issue

2. Flat 5 is located on the middle floor of a three storey semi-detached Victorian villa. The villa sits within the Shrubbery/Atlantic Road sub-area of the Hillside character area of the Great Weston Conservation Area, a designated heritage asset¹.
3. On the north facing front (Atlantic Road) elevation of Flat 5, six timber single glazed windows have been removed and replaced with uPVC framed double glazed windows. The main issue therefore is whether this development preserves or enhances the character or appearance of the Conservation Area.

Reasons

4. Much of the architectural and historic interest of the villa as a whole derives from its relatively unaltered traditional design and detailing, together with its coherence with others in the road and elsewhere in the Hillside character area of the Conservation Area. As such, it contributes positively to the character and appearance of the Conservation Area.
5. Part of the traditional detailing and coherence with others, referred to above, is the original form and design of its windows which were of painted timber, having a slimmer profile, and of single glazed sliding-sash construction.

¹ As defined in the National Planning Policy Framework (2021) Annex 2: Glossary

6. In contrast, the white uPVC windows now in place are markedly different in design, construction and appearance from those they replaced.
7. Rather than vertical sliding sash form they have thicker and wider profile casement frames with hinged opening. They also have an obviously modern reflective shiny appearance, and in some external angled views the twin glass sheets exhibit the "double-register" effect typical of modern double glazing. All of these factors make their incongruity with the traditional sash windows they replaced, and with those that remain in situ elsewhere in the villa, all the more obvious. Consequently, I find overall that they detract from the traditional architectural and historic character of the host building. As such, they also thereby fail to preserve or enhance the character or appearance of the Conservation Area.
8. The appellant states that the replaced timber sash windows were old and rotten. However, while replacement may have been necessary, that would not justify the installation of windows of an unsuitable design and materials that inappropriately harm the character and appearance of the building and the Conservation Area.
9. The appellant also points comparatively to other properties in the area with uPVC glazing. However, the Council explain that several planning permissions for uPVC glazing were granted for the rear (southern) elevation of the villa where they are not prominent features, being hidden from the public realm by other buildings. The uPVC glazing to the front of Flat 2, granted permission in 2013, is at basement level and also less prominent. From my own observations of the appeal site and the surrounding area I agree with the Council's view. Moreover, only one of those permissions postdate the adoption of the Hillside Appraisal and Management Plan² for the Conservation Area and itself was for the rear (southern) elevation.
10. As to other developments in the wider area referred to by the appellant, each case must be considered on its relative merits. The use of uPVC glazing would not necessarily be inappropriate in the construction and form of new modern buildings. Also, while there may be other unauthorised developments in the area, that provides no justification for allowing further erosion of the character and appearance of the Conservation Area through further poor quality development.
11. To conclude, I find that the uPVC windows result in harm to the character and appearance of the host building, and thereby also fail to preserve or enhance the character or appearance of the Great Weston Conservation Area. As such, the development conflicts with the requirements of Policy DM3 of the Council's Sites and Policies Plan Part 1 (2016) and Policy CS5 of the North Somerset Core Strategy (2017). The harm I have identified is "less than substantial" in the terms of paragraph 202 of the National Planning Policy Framework (2021), and no public benefits are argued to outweigh such harm.
12. The appeal on ground (a) therefore fails.

Appeal on ground (f)

13. Section 173(3) of the Act requires an enforcement notice to specify the steps which the authority require to be taken for the purposes of remedying the

² Adopted 4 December 2018

breach of planning control under s.173(4)(a), or, as the case may be, to remedy any harm to amenity resulting from the breach; (s.173(4)(b)).

14. The notice requires the complete removal of the six uPVC windows. It is clear therefore that the purpose of the notice is to remedy the breach of planning control within s.173(4)(a). Hence, this appeal on ground (f) is that the notice requirements exceed what is necessary to remedy the breach of planning control.
15. However, the appellant has not suggested any lesser requirement. In any event it is clear to me that anything less than removal of all six uPVC windows would fail to fully remedy the breach. As such, the notice requirements are not excessive.
16. The appeal on ground (f) therefore fails.

Thomas Shields

INSPECTOR