



Appeal Decision

Site visit made on 28 March 2023

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2023

Appeal Ref: APP/E3715/W/22/3309235

Carvells Of Rugby Ltd, 3-7 Bank Street, Rugby CV21 2QB

- 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 John Carvell against the decision of Rugby Borough Council.
 - The application Ref R22/0469, dated 16 May 2022, was refused by notice dated 18 August 2022.
 - The development proposed is 8 replacement windows to first floor with UPVC framed sliding sash windows.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the host building, a non-designated heritage asset (NDHA), and the Rugby Town Centre Conservation Area (the RCA).

Reasons

3. The appeal site is covered by the Rugby Town Centre Conservation Area (the RCA), this covers a broad area of Rugby's historic and commercial centre. I understand from the submissions before me, as well as my observations on site that this area is characterised primarily by Georgian to Edwardian development which is now largely in a commercial use, although there are examples of other uses such as residential.
4. The Rugby Town Centre Conservation Area Appraisal (the Appraisal, June 2010) divides the RCA into three areas with Bank Street falling within Area 1. This is described as an Edwardian Commercial area characterised by terraces of commercial buildings that, while individual in style, are based around a consistent theme. During my site visit I noted that buildings were primarily finished in red brick with detailing picked out in stone. Roofs were primarily of slate with fenestration framed in timber. The Appraisal also notes the rhythm of fenestration being a dominant feature within the Bank Street. I find that the significance of the RCA as a whole stems from the legibility of the historic buildings and the extent to which they are intact, including their historic materials and detailing.
5. Although the appellant calls in to question the RCA and suggests it lacks special value, this has not been justified and, moreover, it is not within the remit of this appeal to question the status of the conservation area.

6. The Council have identified the appeal building as an important unlisted building, or non-designated heritage asset (NDHA). It is a two-storey commercial building finished in red brick with some stonework, a timber shopfront along the ground floor and tall timber framed sash windows on the first floor. I find that it contributes to the significance of the RCA as a result of the extent to which its traditional and historic materials and commercial appearance, including the shop frontage and fenestration, is still legible. I note the submitted photo from 1906 which appears to show a different shop front and therefore it is likely that the current shop front is not original. Nevertheless, I do not know the circumstances of its replacement and its design and materials are nevertheless in keeping with the RCA.
7. During my site visit I noted a number of windows within the conservation area that made use of double glazing and frames finished in UPVC or metal. With particular regard to the metal windows, these were very limited and appeared to be original to the buildings they served. Given their limited presence the metal windows did not affect the overall character of the conservation area. By and large the UPVC present attempted to replicate the timber sash windows characteristic of the RCA. Whilst some did not succeed in this, it was clear that some had managed a facsimile which did not adversely affect the conservation area.
8. However, although the proposed windows would be sashes with nine lights over a single light on the lower sash, the details of the proposed fenestration are limited. In particular, I cannot be certain from the drawings that the mouldings of the frame and glazing bars would share the same detailing or be as fine as those on the existing windows. Moreover, the submitted drawings show that the division of the top sash in to nine is not equal, with the central column being much wider than the outside two. Even if the frame and glazing bars were otherwise acceptable, in this way the proposal would be noticeably different to the windows that it replaces where all nine of the top sash's panes are equal. Moreover, from the details submitted I cannot be certain that the frame would suitably replicate the appearance of timber windows with regards to the joinery and visual texture.
9. Whilst changing the material of a window may not always materially affect character or appearance, this is, and especially so for heritage assets, a matter of judgement for each case. Given my findings above, it is clear that the proposal would go beyond a like-for-like replacement in an alternative material, and that it would materially affect the host building and wider area. This impact would be further exacerbated by the double glazing which would be legible against the older single glazed windows from the street in public views.
10. I recognise that the relevant windows are at first floor level and that consequently there would be a degree of separation between them and any observers. Whilst this may go some way to mask some signs of a UPVC window, for the reasons given above, it would not be sufficient to make the proposal before me acceptable.
11. Although I was not able to reach all of the windows covered by this appeal, during my observation on site I was able to closely view a number of them from inside the building. It was clear that these were in a poor state of repair with paint peeling on both sides of the frames. I also noted that a few window-cills had rotted. However, no evidence has been submitted to

demonstrate that it would not be possible for some, or all, of the windows to be repaired. Consequently, the complete loss of the timber windows may be avoidable and given the importance of their materials, design and appearance to the NDHA and RCA, such a loss would be harmful to the significance of both assets.

12. Against this background, and given the scale of the development, I find that less than substantial harm to the significance of both the non-designated heritage asset and the conservation area would occur. Although it would be less than substantial to the RCA, the National Planning Policy Framework (the Framework) is clear that great weight should be given to any asset's conservation. Paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
13. The appellant has submitted that the proposed replacement windows would, by way of being double glazed and being made of modern materials, improve the energy efficiency of the building and therefore help with the challenge of climate change. I find it likely that the new windows would retain more heat and reduce the need for heating to be used within the offices and storerooms. However, given the scale of the site, I find its contribution to the prevention or reversal of climate change would be extremely limited. As such, I attribute this benefit only very modest weight, which in the circumstances of this case, do not outweigh the harm to the heritage assets. The proposal would therefore fail to satisfy the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990.
14. Given the proposal would not preserve or enhance the character or appearance of the RCA or the significance of the NDHA, and that there are no identified public benefits that would outweigh this harm, the proposal would conflict with Policies SDC1 and SDC3 of the Rugby Borough Council Local Plan 2011-2031 (the LP, June 2019). These collectively require, amongst other matters, that proposals are of a high-quality design that sustain or enhance the significance of heritage assets and respond to the character of their surroundings, with particular regard to materials. The proposal would also conflict with Chapter 16, and in particular Paragraphs 200, 202 and 203 of the Framework which seek to prevent harm to the significance designated and non-designated heritage assets.

Other Matters

15. My attention has been drawn to two permissions¹ granted by the Council for the replacement of traditional timber windows with alternative materials. The appellant suggests that the Council have, in refusing the appeal proposal, been inconsistent in its decision-making. However, the information before me relating to the two examples is limited and no information has been provided for permission R/18/1023. Regarding permission R21/0114 it appears that detailed drawings were provided of the proposed windows, but I do not know the circumstances behind the approval as I have only been proved with the decision notice. Consequently, I do not know the circumstances or context surrounding the decisions and nevertheless, proposals must be considered on their own merit, as I have done so in this case.

¹ Permissions: R18/1023 and R21/0115

16. The appellant has suggested that Council has not have taken enforcement action against the replacement of timber windows on some other buildings within the RCA. However, from the submissions before me I cannot be certain that this is the case or, if no action was taken, why the Council reached this decision.
17. The matters of the Court of Appeal case² submitted by the appellant turn on whether an acceptable scheme should be considered against other, potentially better, alternatives. Therefore, and whilst I have been mindful of this in my considerations, I do not find it to be directly relevant to the case before me where the scheme has been found to be harmful.

Conclusion

18. The proposal would result in harm to heritage assets and would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR

² Reference: C/2002/2027 [2003] EWCA Civ 1346