



Appeal Decision

Site visit made on 25 September 2024

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 October 2024

Appeal Ref: APP/D1590/C/23/3319016

18 Parkgate, Westcliff-On-Sea, Essex SS0 7NY

- 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 appeal is made by Dr Alastair England against an enforcement notice issued by Southend-on-Sea Borough Council.
 - The enforcement notice was issued on 3 March 2023.
 - The breach of planning control as alleged in the notice is without planning permission, replacement of timber windows with UPVC windows in a Conservation Area.
 - The requirements of the notice are:
 - a) Remove the unauthorised UPVC windows; and
 - b) Remove from site all materials and debris resulting from compliance with a) above.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) 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. The appeal is dismissed, and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended

Application for costs

2. An application for costs was made by Southend-on-Sea Borough Council against Dr Alastair England. This application will be the subject of a separate Decision.

Main Issue

3. The main issue is whether the proposed development would preserve or enhance the character or appearance of the building and the Milton Conservation Area ('CA').

Reasons

4. The appeal relates to a first floor flat at the front of a traditional detached two storey property situated within the CA. The unauthorised works, the subject to this appeal relate to the replacement of the timber framed windows with UPVC framed windows, located at first floor level within the prominent turret feature.

5. With regards to the effect on designated heritage assets, Section 72(1) of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
6. The National Planning Policy Framework, 2023 (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. The Framework also states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
7. Southend on Sea Supplementary Planning Document 1, Design and Townscape Guide, 2009 (Design SPD) highlights that "traditional windows, especially timber sliding sashes, are vital for the character of Conservation Areas..... If replacement or re-instatement is necessary, purpose-made windows to match the original should normally be installed. For most buildings, double glazing within timber frames is acceptable if the external appearance is unaltered.... Non-traditional materials, especially plastic, cannot match traditional timber windows and are normally not acceptable."
8. The Milton Conservation Area Appraisal, 2014 (MCAA) highlights that the CA has a strong late Victorian and early Edwardian architectural quality. The Edwardian style properties, built between 1890 and 1920, are distinctly different than the earlier styles and are predominantly red brick, occasionally with yellow stock brick flanks, with one or two-storey bays with prominent timbered gables or Dutch gables. The roofs of these properties are usually clay tiles, and some properties have distinctive corner turrets and Dutch gables. Windows are either timber sliding sash or casement, usually with heavy surrounds and simple detailing. It is these traditional buildings that principally define the architectural quality of the CA. I observed during my site visit that the appeal building retains many of these Edwardian features and materials.
9. The MCCA states that the appeal building, built between 1897 to 1922, makes a positive contribution to the CA. Indeed, the MCCA specifically highlights a number of key features of this building which includes the corner turret feature with its steep roof which provides a mini landmark in the street and the timber casement windows with stained glass detail and fanlight. I consider that the traditional qualities of the building including its materials are fundamental to preserving the special character and appearance of the conservation area. Therefore, the proposed loss of traditional materials on this historic building should be resisted to preserve the character and appearance of the building and the special character of the CA.
10. This view is supported in the MCCA, which states that original materials are considered to be an important part of the historic character of Milton's buildings and therefore changes to most materials on the front of properties is now controlled by the Article 4 Direction. The MCCA also highlights the pressures and problems facing the CA and states that UPVC windows and doors, modern timber casements, picture windows and louvres are present in a number of

properties and where there is a concentration of these the impact on the historic character of the area is severe.

11. The form and layout of the properties within the CA have generally been well preserved. However, as highlighted by the appellant, a number of windows have been replaced with UPVC framed windows in the surrounding area. The Council advise that many of these windows are historic and are immune from enforcement action. I was able to view many of these during my site inspection. Indeed, the variations in style and appearance of these replacement windows contrast unfavourably with the simple, elegant and consistent nature of the timber framed windows. Both individually and cumulatively, I consider that these changes detract from the character and appearance of the CA.
12. With regard to the current appeal development, both the corner turret feature and the timber framed windows on the front elevation are specifically highlighted within the Council's MCCA, and contribute positively to the CA. My attention is drawn to a recent appeal decision, which was dismissed for the same replacement windows¹. In that case the Inspector stated that the replacement UPVC windows are "prominent in the turret feature, and stand out as incongruous because of the different character of plastic to painted timber, and the difference in profiling and detailing and the appearance of the glazing."
13. I agree with the previous Inspector's findings on this matter and consider that the smooth "plastic" finishes of the UPVC windows, given its prominent position at first floor level, and clearly visible from public vantage points on Park Road, materially detract from the original façade, its contribution to the quality of the host building, and add further detrimental variation to the character and appearance of the CA as a whole.
14. In support of the appeal, the appellant has referenced the installation of UPVC windows on several other buildings nearby. However, as outlined above, I do not consider that the harmful impact of these existing UPVC windows, justifies the further harm that would result from the appeal proposal. Reference is also made to permission granted for UPVC windows at 15 Parkgate. However, I observed on site that these are located towards the rear of the building and therefore are not as prominent as the windows located towards the front of the building at first floor level. As such, I do not consider that this lends support for the current appeal development which I have considered on its own merits.
15. In an attempt to demonstrate that a number of the windows within the turret, do not front a highway and therefore constitute 'permitted development', the appellant cites reference to the Government's Technical Guidance (TG)², which provides a guide to the rules on permitted development for householders, what these mean and how they should be applied in particular sets of circumstances. However, the property is a flat and not a dwellinghouse, and therefore regardless of the Article 4 direction, the property would not benefit from permitted development rights. Planning permission is therefore required for the replacement windows and the TG is not relevant to this appeal.
16. In the terms of the Framework, the harm that the development causes to the significance of the designated heritage asset, that is the CA, would amount to

¹ Appeal Ref: APP/D1590/W/20/3261209

² The Ministry of Housing, Communities and Local Government's publication 'Permitted Development Rights for Householders' Technical Guidance, September 2019.

less than substantial harm. Accordingly, this should be weighed against the public benefits of the development. The appellant states that these UPVC windows are less costly and easier to maintain, than the previous timber framed ones, and have improved damp issues caused by the former timber windows. It is further stated that they are double glazed and are more energy efficient. However, the harm to the character and appearance of the CA, to which I afford considerable importance and weight, would not be outweighed by these benefits. Furthermore, I also consider that there would be alternative measures, as outlined in Section 3.9 and 3.10 of the Council's Design SPD, which could be explored to provide these benefits without causing harm to the CA.

17. I therefore conclude that the development has a harmful effect on the character and appearance of the host building and would fail to preserve or enhance the character or appearance of the CA, as a whole, contrary to Policies KP2 and CP4 of the Southend on Sea Core Strategy, 2007 (CS), and Policies DM1, DM3 and DM5 of the Southend on Sea Borough Council Development Management Document, 2015 (DMD).
18. Amongst other things, these require all new development to respect the character and scale of the existing neighbourhood where appropriate and secure improvements to the urban environment through quality design; to make a positive contribution to the character of the original building and the surrounding area; and that development proposals that are demonstrated to result in less than substantial harm to a designated heritage asset will be weighed against the impact on the significance of the asset and the public benefits of the proposal, and will be resisted where there is no clear and convincing justification for this.
19. It would also conflict with the relevant requirement of the Framework which seeks to conserve and enhance the historic environment. Finally, it would not preserve or enhance the character or appearance of the conservation area as required by Section 72(1) of the Act. This carries considerable weight and importance to my decision.

Conclusion

20. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

R Satheesan

INSPECTOR