



Appeal Decision

Site visit made on 12 December 2024

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 3 January 2025

Appeal Ref: APP/V0510/D/24/3347292

16 Williams Close, Ely, CB7 4FQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Bailey against the decision of East Cambridgeshire District Council.
 - The application Ref is 24/00293/FUL.
 - The development proposed is replacement windows throughout dwelling – changing white uPVC to Anthracite grey uPVC
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Decision

1. The appeal is allowed and planning permission is granted for replacement windows throughout dwelling – changing white uPVC to Anthracite grey uPVC at 16 Williams Close, Ely, CB7 4FQ in accordance with the terms of the application, Ref 24/00293/FUL, and the plans submitted with it, subject to the condition that the development hereby permitted shall begin not later than 3 years from the date of this decision.

Main Issue

2. The main issue in this case is the effect of the proposed change in colour of the window frames on the streetscene.

Reasons

3. The appeal property, is a two-storey detached dwelling situated in the built-up area of Ely. Williams Close is a long spine road, running off Lynn Road. Number 16 is on an offshoot, adjacent to Lynn Road, so that it is side-on to that road and at an angle to the neighbouring houses. Nos.12 to 20 are all accessed from a private drive off the end of this short cul-de-sac. It is only the double garage of the appeal dwelling that is seen in the view from the approach along this part of Williams close. The house itself is very largely hidden by its neighbour at No.14. From Lynn Road, No.16 can only be glimpsed from the south at some distance, whilst in the immediate vicinity of the house, it is only the back of the garage and the blank side elevation that can be seen, as tall shrubs in the road-side verge hide what otherwise might be seen of the front elevation at an angle.
4. From this description it will be gathered that the fenestration of No.16 Williams Close makes little impact from the public domain. A single storey rear extension has been approved and built at the appeal dwelling which includes the use of anthracite grey aluminium windows and doors. This extension is contained within

the garden of 16 Williams Close and the fenestration does not have any impact on the street scene. There are some dwellings opposite Williams Close that have non-white windows, and within the immediate vicinity of No.16, there are a variety of colours for various elements of the houses, such as front doors, garage doors and garage door surrounds.

5. The dwelling is part of an estate built in the mid-1990s and the dwellings share a similar materials palette of brick, render, tiling and white fenestration. If the appeal dwelling had been situated in the middle of a run of these houses where the anthracite colour of the window frames would stand out in contrast, I consider that there would be considerable force in the council's objection and refusal. This would be backed by the Householder Technical Guidance that sets out that replacement windows must give a similar visual appearance to those in the existing house, with one of the examples listed being the colour of the frames. However, I am inclined to think that the lack of clear visibility of the windows on this particular appeal property means that some relaxation of the general rule could be acceptable.
6. However, a further point is raised in the appellants' appeal statement. This concerns a 'fallback position'. It is well established that a fallback position is capable of being a material consideration, and that the weight to be attached to it is a matter of planning judgement and rests on the question of whether the fallback has a 'real prospect' of coming forward as an alternative to the development. The courts have found that three questions are most pertinent: the availability of the fallback position, the similarity of the two developments, and the likelihood of the fallback being undertaken.
7. In this case the fallback is that, instead of replacing the existing white uPVC windows with anthracite grey versions, the appellants would employ a specialist local contractor to apply an anthracite grey colour to the existing windows. The application of an anthracite grey colour to the existing white uPVC windows can be achieved with a paint designed specifically for external uPVC windows, such as Kolorbond, mentioned by the appellants. The application of such an external uPVC paint would give the windows of the appeal dwelling a near identical appearance to replacement anthracite grey uPVC windows.
8. I am told that there are no conditions attached to any of the previous approvals at the appeal site that preclude, either explicitly or implicitly, the appellants' ability to exercise the permitted development rights set out under Class C of Part 2 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). There are also no article 4 directions covering the site. Class C allows for the exterior painting of any part of a building provided that it is not for the purposes of advertisement, announcement, or direction. Paragraph C2 of this Class clarifies that "painting" includes "any application of colour".
9. Thus the fallback for the appellants is the painting of the existing windows, achieving virtually the same appearance as would be achieved by the appeal proposal. The 2 outcomes would be very similar, and since the recent ground floor extension has been carried out with anthracite windows and doors, and the means of painting the windows appear to be readily available, I accept that this is highly likely to be carried out if the appeal is dismissed. It is a material consideration of some force.

Conclusion

10. The conclusion that I come to, in light of the above, is that no great visual harm would occur from the appeal proposal to the general streetscene of Williams Close, and that there is a clear fallback position that would achieve the same, or very similar result. I have no reason to doubt that the fallback would be carried out in the event of the appeal being dismissed. Therefore, the appeal will be allowed.

Conditions

11. The statutory condition that provides a time limit on the start of development must be imposed. In addition, the council has suggested 1 condition: that the development should be carried out in accordance with the plans. This can be achieved by incorporating wording into the permission itself, which would provide certainty and avoidance of doubt as to the development permitted.

Terrence Kemmann-Lane

INSPECTOR