

Appeal Decision

Site visit made on 18 March 2025

by **Chris Baxter BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28th March 2025

Appeal Ref: APP/W0734/C/24/3347633

24 Orchard Road, Middlesbrough TS5 5PL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act).
- The appeal is made by Mrs Nahid Akhter Ghafoor against an enforcement notice issued by Middlesbrough Council.
- The notice was issued on 19 June 2024.
- The breach of planning control as alleged in the notice is:
Without planning permission, UPVC windows have been installed to the front elevation, pedestrian gate pillars/cappings have been removed and hard standing created to the front,
 - *The works in question were substantially completed less than four years ago.*
 - *The works are contrary to the Linthorpe Conservation Area Article 4 Directive*
 - *The works are contrary to Urban Design guide SPD, Local Plan Policies CS4 (k) and CS5 (h)*
 - *The Council consider that planning-permission should not be given, because planning conditions could not overcome these-objections to the development.*
- The requirements of the notice are to:
 - (i) *Remove the UPVC windows from the front elevation and replace with timber sliding ass windows (to precisely match the design, proportions, style and sectional timbe thickness of the removed timber windows).*
 - (ii) *Replace the pedestrian Gate Pillars and cappings with ones which are of the same style, scale, proportions and materials as the previous pillars and cappings.*
 - (iii) *Remove the unauthorised hardstandings to the front of the property and return to gravel finish as per previous surface material.*
- The period for compliance with the requirements is 24 weeks.
- The appeal is proceeding on the ground set out in section 174(2) (f) of the Act.

Decision

1. It is directed that the enforcement notice is corrected by:

- The deletion of section 3 and substitute with:

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Without planning permission, UPVC windows have been installed to the front elevation, pedestrian gate pillars/cappings have been removed and hard standing created to the front.

4. REASONS FOR ISSUING THE NOTICE

- *The works in question were substantially completed less than four years ago.*
- *The works are contrary to the Linthorpe Conservation Area Article 4 Directive.*

- *The works are contrary to Urban Design guide SPD, Local Plan Policies CS4 (k) and CS5 (h).*
 - *The Council consider that planning permission should not be given, because planning conditions could not overcome these objections to the development.*
- The deletion of sentence “4. WHAT YOU ARE REQUIRED TO DO” and substitute with “5. WHAT YOU ARE REQUIRED TO DO”
 - The deletion of sentence “5. TIME FOR COMPLIANCE” and substitute with “6. TIME FOR COMPLIANCE”
 - The deletion of sentence “6. WHEN THIS NOTICE TAKES EFFECT” and substitute with “7. WHEN THIS NOTICE TAKES EFFECT”
2. Subject to the corrections, the appeal is dismissed, and the enforcement notice is upheld.

The Enforcement Notice

3. Section 176(1) of the Act provides a wide-ranging power to correct or vary the terms of an enforcement notice provided that it would not result in injustice to the parties.
4. For the sake of clarity, I have corrected the notice so the reasons for issuing the notice are under their own heading. Subsequently, each paragraph has been re-numbered accordingly.
5. Given the limited extent of the corrections, I am satisfied that no injustice to the appellant or the Council would arise by me correcting the notice in terms I have set out in paragraph one above. I have therefore done so using the powers available to me under Section 176(1) of the Act.

Appeal on ground (f)

6. An appeal on ground (f) is that the requirements of the notice exceed what is necessary in order to remedy the breach of planning control or, as the case may be, the injury to amenity that is caused by the breach.
7. In this regard the notice requires the removal of the UPVC windows and the hard standing, with reinstatement of previous materials, as well as the replacement of the gate pillars and cappings. It is therefore clear that the purpose of the notice requirements falls within section 173(4)(a) of the Act – to remedy the breach of planning control.
8. The appellant argues that the requirements are excessive, detailing that only damaged windows have been replaced with UPVC inserts, being the same as the property at 22 Orchard Road and other neighbouring properties. The appellant states that planning permission has been received in July 2022 for erection of two pillars, as the previous pillars and cappings were deteriorating and unsafe. Finally, the appellant indicates that the hard standing had to be replaced as the previous surface was in a seriously bad condition with numerous potholes making it unsafe.
9. There is minimal evidence before me, including the design of the approved pillars, with regards to the July 2022 planning permission. The Council have indicated that

the approved pillars in this 2022 permission do not match the pillars which have been erected at the site.

10. Given that in respect of the breach of planning control the notice requirements is to remove the UPVC windows, pillars and cappings, and hard standing, and then to replace with windows, pillars and cappings, and hard standing which is similar to what was previously at the appeal site, it is clear that the requirements go no further than remedying the breach. Anything less than this, would not fully remedy the breach.
11. Accordingly, I conclude that the notice requirements are not excessive and the appeal on ground (f) fails.

Chris Baxter

INSPECTOR