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## Appeal Decision

Site visit made on 2 April 2025

**by R Curnow MA(TCP), BSC(Hons), CMS MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 1 May 2025**

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**Appeal Ref: APP/P1133/C/24/3344821**

**Hawthorn House, 6A Forde Park, Newton Abbot, TQ12 1DF**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
  - The appeal is made by Mr David Wood against an enforcement notice issued by Teignbridge District Council ('the Notice').
  - The notice was issued on 16 April 2024.
  - The breach of planning control as alleged in the notice is Without planning permission, the replacement of timber windows with uPVC windows as marked 1 to 8 on the attached photographs.
  - The requirements of the notice are: Remove the unauthorised uPVC windows marked 1 to 8 on the attached photographs
  - The period for compliance with the requirement is six months.
  - The appeal is proceeding on the ground 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, 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.

### Main Issue

2. The Main Issue is the effect of the windows on the character and appearance of the Forde Park Conservation Area ('FPCA').

### Reasons

3. The FPCA is a designated heritage asset, for which section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the duty for those making decisions on development proposals to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. This 'statutory test' is largely reflected in the terms of Policies EN5 and S1(g) of the Teignbridge Local Plan 2013 - 2033, adopted May 2014 ('TLP').
4. The FPCA, which is described in the Forde Park Conservation Area Character Survey ('FPCACA'), is quite extensive in area. It is dominated by the large public open space that is Forde Park. Its built form is primarily of large, detached period 'villas' that sit within generous plots. Often, as is the case with the appeal site, these villas have been sub-divided into flats. The combination of the low density development, generous plots and the Park give the FPCA a spacious appearance, with a quiet and relaxed character. Overall, it is an area of high-quality townscape.

5. The appeal site is a flat within 6 Forde Park ('No 6'), a large semi-detached, two-storey building that is typical of the area. No 6 lies in a prominent position, at the southeast corner of the Park, adjacent to a junction of the road that encircles it. The FPCACA contains an 'Architectural Character Survey' that classifies buildings in the conservation area by way of their contribution to it. No 6 is classed as 'Category 2: Positive', which applies to buildings that "are important to the character and appearance of a conservation area. They will usually be unpretentious but attractive buildings of their type that do not necessarily demand individual attention but possess great group value. Some may have been altered or extended in uncomplimentary ways but the true character of these buildings could be restored".
6. The replacement windows, which are mostly on a conspicuous two-storey bay feature, are clearly seen from the public highway, including its footways, and the Park. They were brought to the Council's attention in April 2022, since when there have been two applications<sup>1</sup> to retain them. Both of these were refused on the grounds of harm to the character and appearance of the FPCA.
7. The evidence shows that the windows that were replaced were timber sliding sash windows that the Council describes as being traditional to the FPCA. A photograph within a Delegated Report submitted by the Council shows those windows. They had slender frames and glazing bars. The windows that have been installed are quite at odds with these. Their frames and, in particular, their glazing bars are far bulkier. Although none were open when I visited, the photograph shows that their means of opening is different, too. Now, portions of the windows tilt back into the property, rather than one sash sliding in front of, or behind, another as was the case with the earlier windows.
8. For these reasons, rather than maintaining the 'design language' of the property, I find the windows to be harmful to it and discordant in the street scene.
9. The windows in the adjacent part of No 6 fronting the road have not been altered, and the juxtaposition between the two forms of window is stark. The latter illustrate the relatively elegant and delicate windows that have been lost, as a result of the development.
10. The Appellant suggests that 50% of the buildings in the FPCA have uPVC windows, though I have not been told what portion of these have formally received planning permission, or are lawful by other means. The Appellant has, however, referred me to three cases where planning permission has been granted. In response, the Council acknowledges that some properties in the FPCA have uPVC windows and of the three cases referred to, two already had them installed.
11. At my site visit, it appeared to me that timber windows predominated over uPVC windows in the FPCA.
12. I find that the windows that have been installed cause harm to the character and appearance of the building and the FPCA, contrary to the terms of TLP Policies EN5 and S1(g). Furthermore, they are not of a high quality, as required under the terms of TLP Policy S2.

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<sup>1</sup> Council references 22/00897/HOU and 24/00773/HOU - refused on 22 June 2023 and 8 July 2024, respectively

13. Given the scale of the development, I find that the harm is less than substantial, as defined by the National Planning Policy Framework ('the Framework'). That document goes on to say that such harm should be weighed against the public benefits of the proposal, including, where appropriate, its optimum viable use. The Appellant has not put forward any public benefits arising from the installation of the windows.
14. I give the harm that I have identified considerable importance and weight and find that as the windows that have been installed in 6A Forde Park do not preserve or enhance the character or appearance of the FPCA. As this harm is not outweighed by any public benefits, they are contrary to the terms of the statutory test, TLP Policies EN5, S1(g) and S2 and the terms of the Framework.

### **Conclusion**

15. 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 Curnow*

INSPECTOR