



Appeal Decision

Site Visit made on 8 April 2025

by **J Whitfield BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1st May 2025

Appeal Ref: APP/G2625/C/24/3356682

126 Magdalen Street, Norwich NR3 1JD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act). The appeal is made by Trivedi Property Development Ltd against an enforcement notice issued by Norwich City Council.
 - The notice was issued on 19 November 2024.
 - The breach of planning control as alleged in the notice is, without planning permission, the replacement of first-floor windows on the front elevation.
 - The requirements of the notice are, to do one of the following actions:
 1. To reinstate the first-floor windows on the front elevation as shown in the image in Appendix 1; or
 2. To replace the first-floor windows on the front elevation with new single-glazed venetian timber frames matching the original units to be installed in a like-for-like manner (following the original dimensions, materials, profiles, details and finishes) replicating the window units shown in Appendix 1. Further references and details are included in Appendix 3.
 - The period[s] for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

Procedural Matters

2. The appeal was made solely on ground (c) of S174(2) of the Act. The appellant indicates in their final comments of 3 April 2025, that if the Planning Inspectorate feels that the facts of the appeal would be more suited to an appeal on ground (a) of S174(2) of the Act, then that ground should be considered as well.
3. However, a ground (a) appeal and the deemed application for planning permission under S177(5) of the Act can only be considered where the ground was pleaded, and the appropriate fee has been paid within the respective period. That is not the case here. The appeal proceeds solely on ground (c) of S174(2) of the Act.

Appeal on ground (c)

4. An appeal on ground (c) is brought on the basis that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, that those matters do not constitute a breach of planning control. The planning merits of the development are not relevant.
5. S171A(1) of the Act states that, for the purposes of the Act (a) carrying out development without the required planning permission; or (b) failing to comply with any condition or limitation subject to which planning permission has been granted, constitutes a breach of planning control.

6. S55(1) of the Act defines 'development' as including the carrying out of building, operations in, on, over or under land. Case law has established that building operations comprise activities which result in some physical alteration to the land which has some degree of permanence. In this case, the removal of the previous windows and their replacement with the new windows constitutes a physical alteration to the building. Moreover, there is no reason to suggest the windows are anything other than permanent.
7. Section 55(2)(a) of the 1990 Act is clear that the carrying out of the alteration of any building which does not materially affect the external appearance of the building does not amount to development.
8. The photograph attached to the enforcement notice shows that the previous windows were brown, timber framed, venetian sashes. In contrast, the windows which have been installed are UPVC, white framed windows with double glazing. The windows are widely visible within Magdalen Street and Magdalen Close. The prominence is augmented by their location at first floor level.
9. I therefore conclude that the windows which have been installed materially affect the external appearance of the building. Consequently, they are not exempt under S55(2)(a) of the Act. As a result, the replacement of first-floor windows on the front elevation constitutes development under S55(1) of the Act.
10. S57(1) of the Act is clear that planning permission is required for the carrying out of development. Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) grants planning permission for those classes of development deemed to be 'permitted development' within Schedule 2 of the Order.
11. Class A of Part 1 of Schedule 2 sets out the enlargement, improvement or other alteration of a dwellinghouse is permitted development. The GPDO is clear that the term dwellinghouse does not include a building containing one or more flats, or a flat contained within such a building. The Land comprises a first floor flat and thus the windows are not permitted development under Class A, Part 1 of Schedule 2.
12. There are no other classes of permitted development in the GPDO which apply. As such, permission is not granted for the replacement windows by Article 3 of the GPDO. Moreover, there is no evidence of any planning permission having been granted by S58 of the Act.
13. Consequently, the replacement of first-floor windows on the front elevation constitutes development without planning permission. It therefore amounts to a breach of planning control under S171A(1)(a).
14. The appeal on ground (c) therefore fails.

J Whitfield

INSPECTOR