



Appeal Decision

Site visit made on 25 June 2025

by **R Hitchcock BSc DipCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14th July 2025

Appeal Ref: APP/N2345/C/24/3357190

98 Fishergate Hill, Preston, PR1 8JD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Ilyas Yusuf for Maystar Estates Ltd against an enforcement notice issued by Preston City Council.
- The notice was issued on 12 November 2024.
- The breach of planning control as alleged in the notice is Without planning permission, the unauthorised installation of 5no. UPVC windows comprising 3no. UPVC windows on the ground floor elevation of the Property fronting the Fishergate Hill highway shown marked "W1 ", "W2" and "W3" on Photograph 1 annexed to this Notice (Photograph 1) and 2no. UPVC windows on the first-floor elevation of the Property fronting the Fishergate Hill highway shown marked "W4" and "W5" on Photograph 1.
- The requirements of the notice are to: 5.1 (i) Remove the 3no. UPVC windows identified as "W1", "W2" and "W3" on Photograph 1 (attached) and replace with timber framed windows of the proportions and design replicating those that were previously installed at the Property as shown and marked as "OW1", "OW2" and "OW3" on Photograph 2 (attached). (ii) Remove the 2no. UPVC windows identified as "W4" and "W5" on Photograph 1(attached) and replace with timber framed windows of the proportions and design replicating those that were previously installed at the Property as shown and marked as "OW4 and "OWS" on Photograph 2 (attached).
5.2 Make good any damage caused in complying with the requirements in 5.1(i) - (ii) above.
5.3 Remove any rubble and waste material resulting from complying with the requirements in 5.1(i) — (ii) above from the Property.
- The period for compliance with the requirements 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.

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 s177(5) of the 1990 Act as amended.

The Ground (a) Appeal and the Deemed Application for Planning Permission

Main Issue

2. The main issue is whether or not the development preserves or enhances the character or appearance of the Fishergate Hill Conservation Area (the CA).

Reasons

3. The site consists of a two-storey terraced townhouse built over a basement level with additional accommodation in the roofspace. The building, estimated to be early nineteenth century by the Council, is finished in brick and slate. It incorporates a splayed stone bay at ground floor, which extends into a lightwell at the basement level; a pedimented stone door surround; stone headers and sills; and a stone eaves overhang.

4. The building lies close to the end of an historically evolved terrace of buildings extending along the north-western side of Fishergate Hill on a main approach to the city centre. The locality features 2 and 3 storey buildings of late Georgian/early Victorian domestic architecture primarily set behind modest frontages either side of the wide street. Together, the integrated townhouses and villas retain much of their original architectural detailing and materials. As a building identified by the Council as a non-designated heritage asset, the building contributes positively to the quality of this historic townscape.
5. As the site is located within the CA, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving or enhancing the character or appearance of the CA. Amongst other things, alterations to dwellinghouses in the CA are subject to additional control since the confirmation, in January 2000, of an Article (4) Direction restricting rights under the Town and Country (General Permitted Development) Order 1995.
6. The Notice includes images of the windows which were replaced at first floor. They include an 8-over-8 vertical timber sliding sash window over the bay and a 6-over-6 timber sash above the door. Both were likely multiple-pane, single-glazing originals with fine glazing bars. While the ground floor bay windows were potentially timber replacements - each simplified to be single glazed 1-over-1 sliding sash, they nevertheless utilised traditional materials, finishes, proportions and sliding mechanism.
7. The new windows seek to replicate the arrangement and vertical sliding mechanism of the former windows and are reasonably successful in doing so. However, their construction with uPVC framing introduces a modern material which has a different appearance and visual texture to painted timber. The side jambs, header and meeting rails appear thicker in proportion. The smooth glossy appearance of the frames with integrated stiles and varied mitred joints results in a patently modern and overtly angular appearance. This effect is exaggerated by the projecting outer meeting rail, a truncated channel in the side jamb and internal glazing bars (upper floor only). Together those elements give rise to a contemporary appearance.
8. Moreover, compared to the original first floor units, the modern appearance is exaggerated by the larger single surface of the glazing panes. They consequently appear highly reflective. The installed uPVC edging trim and beading exacerbates the enlarged framing and contrasts with the more elegant simplicity of the earlier windows. Accordingly, despite the additional cost in seeking faithful replication of the former windows, I find the development fails to respect the character of the building and that of the wider CA through high quality design and the use of materials appropriate to the building's age and architecture.
9. In support of the development, the appellant highlights that the new units consolidate with existing uPVC windows at basement and roof level. The appellant also highlights that these were installed with approval of the Council's Conservation Officer some 15 years ago thereby setting a precedent.
10. Precedent is rarely an argument that should carry great weight in planning decisions which should be made on their own merits in the context of the development plan and other material considerations. Furthermore, while I have

little basis to doubt the appellant's claim, there is little evidence before me to demonstrate the Council's support in the alteration of the basement bay and loft windows. Notwithstanding, none of those windows retain the probable proportions, mode of opening, materials or glazing detail of the originals. They are not features which preserve the architectural integrity of the building nor, therefore, a good reason to justify further departure from original detailing and traditional materials on the most prominent windows.

11. The appellant refers me to instances where appeals have been allowed; however, little detail of those cases has been provided. I am therefore unable to draw comparison, or otherwise, to the development before me.
12. In the context of the National Planning Policy Framework (the Framework), the extent of overall harm of the proposal is less than substantial given the nature of the development. However, less than substantial harm does not equate to a less than substantial planning objection. Paragraph 215 of the Framework advises that such harm should be weighed against the public benefits of the proposals.
13. I acknowledge that the units replaced former timeworn windows which provide some consolidation in terms of the use of uPVC across the building's frontage. The new windows may have provided a tidier appearance preventing the building from appearing in disrepair. The replacements could also be sustained through reduced maintenance requirements and give rise to environmental benefits through improved insulation of the property.
14. However, those benefits are not necessarily dependent on the specific design and materials used. They are therefore matters of limited weight in favour of the development, and they do not outweigh the less than substantial harm identified.
15. For the reasons set out above, I find the replacement windows cause an adverse effect on the appearance of the building and its contribution to the prominent group value of the terraced buildings in this part of the CA. The development fails to preserve or enhance the character or appearance of the CA. It conflicts with Policy 16 of the Central Lancashire Adopted Core Strategy [2012] and Policies EN8 and EN9 of the Preston Local Plan 2012-2026 Site Allocations and Development Management Policies [2015] and the advice in the Council's Residential Extensions & Alterations SPD [2013], which together seek to ensure that developments protect and enhance the borough's heritage assets, their settings and their significance through, amongst other things, the use of appropriate design and materials.

Other Matters

16. In the face of other examples of non-original windows to buildings in this part of the CA, the appellant highlights that the Council's action is disproportionate and inconsistent. However, there is little evidence to demonstrate the planning status of other buildings in the locality, or whether the Council is pursuing enforcement action against them. Furthermore, there is little before me to demonstrate that the steps in the Notice exceed what is necessary to remedy the breach of planning control such that a more proportionate action might exist. If such alternatives exist, they are neither apparent to me nor suggested by the appellant.

Conclusion

17. The development is contrary to the adopted development plan and there are no material considerations indicating a decision otherwise than in accordance with it. 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 Hitchcock

INSPECTOR