



Appeal Decisions

Site visit made on 20 October 2025

by **Robin Buchanan BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21st November 2025

Appeal A Ref: APP/D1590/C/24/3357092

Appeal B Ref: APP/D1590/C/24/3357147

151 Hamlet Court Road, Westcliff-on-Sea SS0 7EW

- The appeals are made under section 174 of the Town and Country Planning Act 1990, as amended (the Act).
- Appeal A is made by Mr James Lawrence and Appeal B is made by M & A Knightsbridge Properties Limited.
- Both appeals are against an enforcement notice issued by Southend-on-Sea Borough Council on 22 November 2024.
- The breach of planning control as alleged in the notice is:
 - a. Installation of uPVC windows to east and north elevations at first and second floor of building.
 - b. Installation of uPVC fascia on east and north elevations.
- The requirements of the notice are to:
 - a) Remove the unauthorised uPVC windows from the building's east and north elevations at first and second floor. AND
 - b) Remove the unauthorised fascia from the building's east and north elevations. AND
 - c) Remove from site all materials resulting from compliance with a) above.
- The period for compliance with the requirements is: Six (6) calendar months.
- Appeal A is proceeding on the ground set out in section 174(2)(b) of the Act and Appeal B is proceeding on the grounds set out in section 174(2)(f) and (g) of the Act.

Summary of Decisions: Appeal A – the appeal is dismissed. Appeal B – ground (g) succeeds in part but otherwise the appeal is dismissed. The enforcement notice is corrected and varied then upheld.

Preliminary Matters

1. As set out above there are two appeals on the land affected, currently occupied as The Craftsman Public House (the PH). Appeal A is made by the tenant (landlord) and relates to the fascia. Appeal B is made by the owner and relates to the windows.
2. I appreciate that the owner has carried out an exterior renovation of the PH. I am also informed that different departments of the Council took decisions to approve grant funding for these works, including the uPVC windows, then to take enforcement action, including against the uPVC windows. However, these are matters for the relevant main parties and not within my remit.

Enforcement Notice

3. It is important that the notice is in order.
4. In Appeal A, the appellant claims that the fascia is not a 'uPVC' fascia. From what I saw at my site visit, it may include aluminium composite parts, such as framing. The Council described it as having a high-sheen or shiny black plastic finish. These properties aptly describe the main flat surfaces of the fascia which appear to me

may be made of acrylic, a distinctly different type of plastic compared to uPVC. However, there is little objective evidence either way, such as a manufacturers specification. This means that I cannot correct the breach of planning control to refer to the actual material (if it is not uPVC), as the appellant asks me to.

5. There is, though, evidence a fascia has been installed and that it is what the notice pursues. It is also clear from the evidence that the appellant understands this regardless of its composition. Consequently, what the fascia is actually made of is of little practical consequence to the thrust of the notice.
6. I shall therefore correct the notice without injustice to the main parties by removing 'uPVC' from the alleged breach of planning control in section 3b and am satisfied that this does not make the notice null or invalid.

Appeal A on ground (b)

7. For ground (b) to succeed, the onus and burden of proof is firmly on the appellant to demonstrate, on the balance of probabilities, that the breach of planning control comprising installation of a fascia had not occurred as a matter of fact by the relevant date, when the notice was issued.
8. There is no dispute that the Council's nighttime photographs of the same, mainly black fascia as I saw were taken in November 2024. Other photographs before me were submitted in Appeal B. These include 'before and after' images of the PH contained in a December 2022 report¹, with the same mainly black fascia by then in situ. A similar sequence of two photographs includes one from June 2024 which also shows this same fascia².
9. In March 2023 the Council refused to grant retrospective planning permission for works to the PH³. The appellant claims the fascia was not part of that application but the application form is not before me, nor are the submitted plans. Whereas the relevant officer report, which also sought authority to take enforcement action, and the description of development in the refusal notice both include reference to a replacement fascia.
10. The appellant has not said when the fascia was installed. There is little else to persuade me that the fascia pursued by the notice did not exist by 22 November 2024 when the notice was issued. The precise date it was installed before then, including in relation to when the Hamlet Court Road Conservation Area was designated is of little relevance to ground (b).
11. Consequently, on the evidence before me and as a matter of fact and degree, there is little to counter that a fascia has been installed. The appellant has not, therefore, demonstrated on the balance of probabilities that the alleged breach of planning control had not occurred as a matter of fact. Accordingly, ground (b) fails.

Appeal B on ground (f)

12. Albeit without any details, the appellant suggests an alternative scheme to apply a high-quality (matt white wood grain effect) vinyl wrap to the uPVC windows as a means to remedy injury to amenity. I accept that planning enforcement should be remedial, not punitive.

¹ Heritage Impact Assessment, HCUK Group

² Appellant's appeal statement

³ 22/02444/FUL

13. However, the amenity considerations in the Council's objections to the uPVC windows relate to its reasons for issuing the notice and why it considered it was expedient to take enforcement action. It is clear from the operational development set out in section 3a (installation of uPVC windows) and requirement 5a (to remove these windows) that the purpose of the notice is to remedy this breach of planning control and the Council does not seek to under enforce. Even if this alternative scheme was at less cost and disruption to the appellant, it is not in dispute that ground (a) is barred, so there is no deemed planning application for the uPVC windows.
14. In these circumstances, consistent with the submitted caselaw⁴, ground (f) cannot be used to consider planning merits or to vary the requirements of the notice as a means to effectively grant planning permission for this alternative scheme. The appellant submitted little else in respect of ground (f), including no other scheme or lesser steps.
15. Considering the above, I am satisfied that the steps required by the notice to be taken are consistent with remedying the breach of planning control, so they are proportionate and not excessive. Accordingly, ground (f) fails.

Appeal B on ground (g)

16. The relatively large number of uPVC windows ('over 10') are in an elevated part of the PH. There is, though, little evidence that obtaining a scaffolding permit would be anything other than a routine matter. While the scaffolding would be fairly extensive and oversail the pavement, there is no apparent reason why it could not be erected relatively quickly, as is generally the case.
17. The appellant does not contest the 6 calendar month period in the notice as long enough to remove the uPVC windows in order to comply with requirement 5a. This is the matter in hand in ground (g), not whether the notice should give time for the alternative scheme promoted in ground (f) to be agreed with the Council. There is, anyway, no mechanism for me to require that the appellant enters into discussion with the Council or, if necessary, submits a new planning application and timescales would be uncertain. There is also little evidence to substantiate that the cost of the works to comply with requirement 5a would otherwise be prohibitive or result in financial hardship or that carrying out these works would significantly undermine the viability of the PH.
18. However, so that the PH could remain open to patrons, I accept that replacement windows would most likely need to be installed concurrently or soon after removal of the uPVC windows. This would be the case even if the apertures were boarded up temporarily for security and weatherproofing reasons.
19. Since the notice was issued, planning permission has been granted for replacement windows in January 2025⁵. These would be made to the approved details by a particular specialist timber window company. Given the types, designs and number of bespoke windows in this case, I accept that the approximately 4 month lead-in time to produce them is more likely than not, and that this might be a minimum depending on how busy the company is.

⁴ *Miaris v SSCLG & Bath and NE Somerset Council* [2015] EWHC 1564 (Admin), [2016] EWCA Civ 75

⁵ 23/01171/FUL

20. It is therefore possible that the ordering and manufacturing process alone could consume much of the 6 calendar months, leaving significantly less time to remove and replace the windows. But having secured planning permission for the replacement windows and a specialist to supply them, there is no apparent reason why the appellant would need to find alternatives or therefore require additional time for that purpose.
21. In these circumstances, on the evidence before me, I consider that the 12 months and up to 15 months sought by the appellant is unjustified and a disproportionate extension of time. It would also unduly perpetuate the harm caused by the breach of planning control. This includes to the PH as a building in a designated Frontage of Townscape Merit within the Hamlet Court Road Conservation Area and facing a Grade II listed building. I am mindful that the Council has discretion under section 173A(1)(b) of the Act to extend the period for compliance but while this would be a matter for the main parties, the period in the notice must be sufficient to begin with.
22. Consequently, I consider that the 6 calendar months to take the step required by section 5a falls short of what should be reasonably allowed, namely 9 calendar months. Ground (g) therefore succeeds to this extent and I will vary the notice accordingly, including to distinguish the time period to take the step required in section 5b, which remains 6 calendar months.

Formal Decisions

23. In Appeal A, it is directed that the enforcement notice is corrected as follows:

- Section 3b, breach of planning control alleged – delete ‘uPVC’.

24. In Appeal B, it is directed that the enforcement notice is varied as follows:

- Section 6, time for compliance – delete wording and insert:

‘Requirement 5a – nine (9) calendar months after this Notice takes effect’.

‘Requirement 5b - six (6) calendar months after this Notice takes effect’.

25. Subject to this correction and these variations, both appeals are dismissed and the enforcement notice is upheld.

Robin Buchanan

INSPECTOR