
Appeal Decision

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 24 November 2025

Appeal Ref: APP/V2635/C/25/3359719

Land at Priory Wall Mews, 10 and 12 Tower Place, King's Lynn PE30 5DF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Peter Audus against an enforcement notice issued by King's Lynn and West Norfolk Borough Council.
 - The notice was issued on 14 January 2025.
 - The breach of planning control as alleged in the notice is: Without planning permission, the installation of Un-Plasticised Polyvinyl Chloride (UPVC) windows and two doors on the front and side elevations of Priory Wall Mews, 10 and 12 Tower Place King's Lynn.
 - The requirements of the notice are: The UPVC windows and doors on the front and side elevations are permanently removed and the land restored to its former condition involving replacement timber windows and doors as shown in Appendix A attached.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the ground set out in section 174(2)(f) 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.

Preliminary Matters

2. The appeal was submitted under s174(2)(f) of the 1990 Act only. However, in their statement letter, the appellant refers to the windows being in for over four years. In my view, this is a reference to what could have been an appeal under s174(2)(d) of the 1990 Act, which is at the date when the notice was issued, no enforcement action could be taken in respect of that breach of planning control. In other words, they were potentially immune from enforcement action. The relevant time limit being under s171B(1) of the 1990 Act which is after the end of four years beginning with the date on which the operations were substantially completed. The material date would therefore be 14 January 2021.
3. Although a ground (d) appeal has not been explicitly made, the Council has considered and responded to the assertion made by the appellant. Given this, there would be no injustice to either side, and indeed it would be fair to the evidence submitted, if I was to take the four year claim into account as a 'hidden' ground (d) appeal. I do so below.
4. Neither a ground (d) or a ground (f) appeal requires consideration of matters of planning merit, such as the effect of the windows and doors on the character or appearance of the St Margaret's Area of the King's Lynn Conservation Area. There is also no deemed planning application before me. Therefore, I am unable to take account of comments made such as the building having no historic value, there being other buildings with similar window materials in the area and matters of energy efficiency. Accordingly, a visual assessment of the appeal development

and its surroundings was not needed. I have thus determined the appeal without visiting the site. Neither side has been prejudiced by proceeding as such.

Hidden ground (d)

5. In legal grounds of appeal, such as (d), the burden of proof, based on the balance of probability, rests firmly with the appellant. The only claim made by the appellant about the time when they may have been installed states “I believe the Windows have been in for over four years”.
6. The Council has supplied a street image photograph of the front and side elevations of the building showing timber window frames and doors. The photograph is dated January 2021. I accept that it is possible the photograph may have been taken early on in January 2021, thus giving time for the window frames and doors to be changed after the photo date but before the 14 January 2021. However, given that there would at most have been only the first two weeks of January 2021 to undertake the works, on its face the photograph casts at least some doubt that the window frames and door installation had been substantially completed by the material date. Furthermore, a second photograph submitted by the Council dated July 2022 shows UPVC window frames and doors in place. It seems most likely that they were fitted between 14 January 2021 and July 2022.
7. In addition, on 27 November 2024 the appellant signed a completed Planning Contravention Notice (PCN) that answered questions asked by the Council about the works carried out. In response to the questions about when the timber windows and doors were replaced with UPVC versions, the answers given were “Not sure”. Also, the Council states that “the owner was written to on 21 October 2024 and responded by telephone on 8 November 2024 advising that some of the windows had already been replaced with UPVC and he had only replaced like for like”. However, there is nothing to back this up and the Council’s evidence has not been disputed.
8. Taking all the above in the round, the appellant has not shown on the balance of probability, that the UPVC window frames and doors were substantially in place by the material date. Consequently, the hidden ground (d) appeal fails.

Ground (f)

9. The notice requires the permanent removal of the windows and doors and for timber replacements to put the building back to the state it was in before the breach of planning control took place. It is, therefore, clear that the purpose of the notice falls under s173(4)(a) of the 1990 Act, which is to remedy the breach by restoring the land back to its condition before the breach took place. Given that the requirements do no more and no less than seek to achieve this purpose, they do not exceed what is reasonably necessary. The ground (f) appeal also fails.

Conclusion

10. The appeal should not succeed. I shall uphold the enforcement notice.

Gareth Symons

INSPECTOR