



Appeal Decision

Site visit made on 7 April 2026

by **A Berry MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 April 2026

Appeal Ref: APP/P4605/C/25/3360592

656 Pershore Road, Selly Park, Birmingham B29 7NX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act").
 - The appeal is made by Mr Mohamed Nahim against an enforcement notice ("EN") issued by Birmingham City Council.
 - The EN was issued on 22 January 2025.
 - The breach of planning control as alleged in the EN is: Without planning permission, the removal of original timber sash windows from the ground, first and second floors of the front elevation of the Premises and their replacement with unauthorised uPVC windows at the Premises in the approximate position marked in green on the attached plan.
 - The requirements of the EN are:
 - i. Remove all the unauthorised installed windows to the front elevation of the Premises; and
 - ii. Install windows that match in design, form, materials, glazing and details of the previous original windows; and
 - iii. Remove all materials from the Premises arising from compliance with requirements (i) & (ii) above).
 - The period for compliance with the requirements is: 3 months after this enforcement notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the 1990 Act. 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 1990 Act.
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Decision

1. It is directed that the EN is varied by:
 - *the deletion of the words: "i. Remove all the unauthorised installed windows to the front elevation of the Premises; and ii. install windows that match in design, form, materials, glazing and details of the previous original windows; and...";*
and their substitution with the words: "i. Remove all the unauthorised uPVC windows to the ground, first and second floors of the front elevation of the Premises; and ii. Install windows that match in design, form, materials, glazing and details of the previous original timber sash windows; and..." in section 5.
2. Subject to the variation, the appeal is dismissed, the EN is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

Appeal on Ground (a) and the Deemed Planning Permission

3. An appeal under ground (a) is that planning permission should be granted for the matters alleged. The **main issue** is the effect of the development on the character

and appearance of the surrounding area, including the significance of the Selly Park Avenues Conservation Area ("CA").

Reasons

4. The appeal site is within the CA. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The National Planning Policy Framework ("the Framework") sets out at paragraph 212 that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to that asset's conservation.
5. The CA comprises predominantly residential roads that extend from, and include, the eastern side of Pershore Road. The CA largely consists of rows of circa early 20th century 2-3 storey red brick terraced properties that are set back from the roads by a small front garden bounded by a low wall. The design of the terraced properties' front elevations is mixed throughout the CA. However, they include common original features such as bay and box windows, one-over-one timber sash windows, open-sided porches and door canopies, decorative window surrounds, and gables to the roofs which create a consistent appearance. Furthermore, the roads within the CA, except for Pershore Road, are tree lined.
6. Although there are examples of unsympathetic alterations to the front elevations of some properties within the CA, its overall character and appearance is attractive and verdant. Consequently, the significance of the CA derives from its historic and aesthetic values.
7. The appeal site comprises a mid-terrace, three-storey property located on the eastern side of Pershore Road. It is set back from the road by a small front garden bounded by a low wall. The front elevation of the property has a decorative bay window to the ground and first floors, an open-sided porch with decorative columns and a tiled roof, and a steeply pitched roof gable with timber detailing.
8. On 15 January 2010, the Council issued an Article 4(2) Direction which removed permitted development rights for various alterations to the front elevations and front gardens of the properties within the CA. The breach of planning control is the replacement of original timber sash windows to the ground and first floor bay windows and the third floor front gable of the appeal property with uPVC windows. Consequently, planning permission was required.
9. The replacement uPVC windows each comprise one-over-one glazing set within a grey uPVC frame. The bottom panel is top hung and therefore, opens outwards. Although I am not aware of what the original sash windows looked like, there are examples of timber sash windows within the terrace. Compared to these examples, the uPVC windows have a bulkier frame, particularly the horizontal meeting rail and have a different opening mechanism. Accordingly, the uPVC windows are incongruous and detract from the character and appearance of the existing property and the significance of the CA.
10. The appellant has directed me to other examples of uPVC windows within the terrace, which I saw during my site visit. However, I have not been provided with details regarding the planning history of these windows and therefore I am unaware whether they were installed prior to the Article 4(2) Direction coming into

force, or if planning permission was obtained. Furthermore, I must determine the appeal on its own merits.

11. For the reasons detailed above, the uPVC windows harm the significance of the CA and do not preserve or enhance its character or appearance. Consequently, it causes less than substantial harm. Paragraph 212 of the Framework states that great weight should be given to the conservation of a designated heritage asset, and in accordance with paragraph 215 of the Framework, I must weigh the less than substantial harm against the public benefits of the proposal.
12. The appellant asserts that the occupiers of the property experienced drafts and water ingress with the original timber sash windows and that the replacement uPVC windows have addressed these issues. However, these are private benefits to the occupiers of the property rather than public benefits. Consequently, there are no public benefits that would outweigh the harm I have identified to the significance of the CA.
13. The proposal would harm the character and appearance of the surrounding area, including the CA. It would conflict with Policies PG3 and TP12 of the Birmingham Development Plan, adopted 2017 which, amongst other things, seek to ensure new development reinforces or creates a positive place and local distinctiveness, with design that responds to site conditions and the local area context; and manage new development in ways which will make a positive contribution to the character of the historic environment.
14. The Council's reasons for issuing the EN include Policy DM2 of the Development Management in Birmingham Development Plan Document, adopted 2021. However, this policy concerns the effect of development on the living conditions of occupiers and neighbours and therefore, is not applicable to the main issue.

Other Matters

15. As previously stated, there are private benefits associated with the replacement of the original timber sash windows with uPVC. However, I am not persuaded that these benefits could not have been achieved with the installation of replacement timber sash windows.

Conclusion on Ground (a) and the Deemed Planning Permission

16. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal on ground (a) should be dismissed, and the deemed planning permission should be refused.

Appeal on Ground (f)

17. An appeal under ground (f) is that the steps required by the EN to be taken, or the activities required by the EN to cease, exceed what is necessary to remedy the breach of planning control or any injury to amenity.
18. It is necessary for the breach of planning control to be described consistently throughout the EN. Consequently, variations are needed to requirements (i) and (ii) within section 5 of the EN so they accord with the breach. As these variations are for consistency, I am satisfied there would be no injustice to either party.

19. The requirements of the EN (as varied) are to remove the unauthorised windows; install windows that match in design, form, materials, glazing and details of the previous timber sash windows; and remove all materials from the premises. Therefore, the purpose of the EN is to remedy the breach of planning control.
20. The appellant asserts that requirement (ii) of the EN is excessive as the reasons for issuing the EN do not refer to the materials, details and form of the replacement windows causing harm, only their design and appearance. However, to remedy the breach of planning control the replacement windows must match the original timber sash windows that were removed. It would therefore be necessary for the windows to be constructed of the same materials and have the same design, form, glazing and detailing as the original timber sash windows. Consequently, any lesser step would not remedy the breach of planning control.
21. For these reasons, the requirements are not excessive to remedy the breach of planning control. The appeal on ground (f) therefore fails.

Appeal on Ground (g)

22. An appeal under ground (g) is that the period specified for compliance within the EN falls short of what should reasonably be allowed.
23. The period for compliance is 3 months. The appellant asserts that this is insufficient to source a firm, have surveys undertaken, agree the windows' design and appearance with the Council, and have the replacement windows manufactured and installed. Therefore, they request the compliance period is extended to 6 months.
24. It is not necessary for the appellant to obtain the Council's agreement to the replacement windows' design and appearance as they must replicate the original timber sash windows that were removed. It has not been evidenced that there would be issues in sourcing a company to make the windows. Furthermore, I have not been provided with details of lead times from window companies that would indicate that 3 months is insufficient.
25. Even if the appellant did experience delays with their chosen window supplier, the Council correctly states that they have the authority to extend the compliance period under s173A of the 1990 Act.
26. Consequently, I do not find that a compliance period of 3 months is unreasonable. Therefore, the appeal on ground (g) fails.

Conclusion

27. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the EN with a variation and refuse to grant planning permission on the application deemed to have been made under s177(5) of the 1990 Act.

A Berry

INSPECTOR