
Appeal Decision

Site visit made on 8 October 2015

by Anthony J Wharton BArch RIBA RIAS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 October 2015

Appeal Ref: APP/Z0116/F/15/3000500 70 Kingsdown Parade, Bristol BS6 5UQ

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Michael Robin Rogers against a listed building enforcement notice issued by Bristol City Council.
 - The Council's reference is 13/30642/LB.
 - The notice was issued on 13 October 2014.
 - The contravention of listed building control alleged in the notice is the removal of metal windows to the rear of the property on the ground and second floors and their replacement with UPVC windows.
 - The requirements of the notice are to remove the unauthorised UPVC windows at ground and second floor level and replace them with metal windows in line with the remaining windows at the property at 70 Kingsdown Parade, Bristol BS6 5UQ.
 - The period for compliance with the requirements is four months.
 - The appeal is made on ground (i) only, as set out in section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. The appeal is dismissed.

Background information and matters of clarification

2. The appeal building is one of a terrace of 12 mid-Georgian style houses and was listed in Grade II on 6 February 1976. The building comprises of a basement, ground floor, first floor, second floor and roof storey. The unauthorised UPVC windows have been fitted to the rear elevation and the positions referred to within the notice are to 'ground floor' and 'second floor'.

3. In his statement and in relation to the submitted and highlighted photographs, the appellant refers to the windows as being on the 4th floor and the 2nd floor. Taking the basement as the first level, then this would appear to be logical. However, in any case, there is no doubt that it is the two UPVC windows in the rear elevation (on what would normally be referred to as ground and second floor) which are the subject of the listed building enforcement notice (LBEN). These UPVC windows were pointed out to me at the site visit and had replaced Crittall type metal windows which were fitted in the 1950s and 60s and prior to the building being listed. There were was a Crittall type window still in position at the basement level.

4. Because the appeal has only been made on ground (i), I have not been able to consider whether or not listed building consent ought to be granted for the two

UPVC windows as installed. The merits of the works carried out are not before me and I have dealt with the appeal on the basis of ground (i) only.

The appeal on ground (i)

5. To be successful on this ground of appeal the onus is on the appellant to conclusively show that the steps required by the notice, for the purposes of restoring the character of the building to its former state, would not serve that purpose. In other words, that the removal of the unauthorised UPVC windows and their replacement with metal windows, in line with the other metal windows to the property, would not restore the character of the building to its former state before the new windows were installed.
6. From the photograph, which formed part of the April 2008 report, there are UPVC windows to the attic or roof storey; one timber and one metal window (the first of the appeal windows) on the 2nd (4th) floor; one wooden and one metal window on the 1st (3rd) floor; one wooden window and one large metal window (the second appeal window) on the ground (2nd) floor and two metal windows to the basement.
7. The 23 April 2014 photograph, which accords with what I saw on site, indicates that the appeal windows on the ground (2nd) and second floors (4th) have replaced the former metal windows.
8. The appellant contends that there has been no change to the appearance of the rear elevation and that the two new windows are the exact same size with the same profiles as the ones removed. However, I do not agree. Whilst accepting that the windows are the same size in that they fit within the structural openings, the component sizes and profiles of the UPVC windows are completely different. The plastic mullions, thick frames and even thicker opening frames all result in a distinctive difference to the previous metal windows.
9. Prior to the UPVC windows being fitted the thinner framed metal windows clearly had similar sized sections to the fine timber sash and case windows. Despite being metal the 2008 photograph of the appeal windows shows that in elevation the transoms and mullions were more closely related to the sizes of the sections of the timber sash and case windows. This mixture of window types formed part of the character and the appearance of the rear elevation.
10. Because of the materials used and the sizes of the UPVC sections the appeal windows have taken on a different character. They are heavy looking and are clearly of a different material to the sash and case windows. As such they contrast markedly with the timber windows and look distinctly uncharacteristic on the rear elevation of this listed building.
11. Thus the character of the building, as a building of special architectural and historic interest has been changed. Where works carried out to a listed building change its character in such a way listed building consent is required for the works.
12. As indicated above I am not concerned with the merits of the works as carried out and cannot consider the appeal on ground (e). However, I do have to reach a conclusion on whether or not the steps required would restore the character of the building to its former state.
13. Having seen the appeal windows and noted the remaining metal windows to this elevation, it is my view that if the UPVC windows are replaced with two metal windows similar to the ones taken out (and some of those remaining) the character of the listed building would be restored to its former state. The overall elevation

would again be perceived as having a mixture of windows but with its previous appearance and character. It follows that, in my view, the steps required will restore the character of the building to its former state. Nothing put forward by the appellant convinces me otherwise and the appeal, therefore fails on ground (i).

14. During my site visit the thick timber framed doors to the adjacent property were brought to my notice and it was indicated that these were thicker than the UPVC frames. However, this does not alter my conclusions set out above and in any case it is not a question of comparison of the windows with other windows in the terrace but whether or not the requirements will result in the character being restored. Thus whatever has been carried out on other properties cannot affect my conclusions above in relation to the appeal on ground (i).

Other matters

15. In reaching my conclusions I have taken into account all of the other matters raised by the appellant. These include the planning history; the 2004 UPVC windows; reference to the Kingsdown Residence (sic) Association and the references to energy efficiency and Bristol City Council Landlords News. However, none of these matters outweigh my conclusions that the steps required will restore the character of the building to its former state.

16. On the points relating to energy efficiency, as indicated by the Council, appropriate double glazed windows would achieve similar ratings to UPVC windows. It should also be indicated that the appellant is not precluded from applying for listed building consent (as initially suggested by the Council) to replace the unauthorised UPVC windows with appropriate and acceptable windows rather than putting metal windows back in place.

17. There are no other factors of such significance to change my decision that the appeal should fail.

Anthony J Wharton

Inspector