



# Appeal Decision

Site visit made on 28 October 2008

by **V F Ammoun BSc DipTP MRTPI FRGS**

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

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**Decision date:  
10 November 2008**

## **Appeal Ref: APP/Q1445/C/08/2079481**

### **Land at 1A York Place, Brighton, BN1 4GU**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr D G Newman against an enforcement notice issued by Brighton & Hove City Council.
- The Council's reference is 2007/0429.
- The notice was issued on 29 May 2008.
- The breach of planning control as alleged in the notice is *Without planning permission the replacement of timber sliding sash windows to front elevation with uPVC units.*
- The requirements of the notice are (1) *Remove uPVC windows to the front elevation (2) Replace with timber sliding sash windows to match the original design and method of opening prior to the insertion of the current uPVC windows and to match the first and second floor bay windows at the adjacent property.*
- The period for compliance with the requirements is 16 weeks.
- The appeal is proceeding on the grounds set out in section 174(2)[a] of the Town and Country Planning Act 1990 as amended.

### **Summary of Decision: The appeal fails, as set out in the Formal Decision.**

1. No.1A is a first and second floor maisonette situated above No.1 York Place, a ground floor commercial unit. The building comprising Nos 1 and 1A fronts onto York Place and has a side elevation to Trafalgar Street. It is situated within the Valley Gardens Conservation Area.
2. Well established planning policies referred to in the representations reflect the legal requirement in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, that decision makers pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. A draft Council policy would bar all uPVC windows in this location but I attach limited weight to this policy because of its draft status. This does not, however affect the relevance to the appeal of Section 72(1) or that of the local policies consistent therewith.
3. From my inspection of the site and area, and consideration of the representations made, I have concluded that the main issue in this case is the effect of the replacement uPVC windows upon the character and appearance of the building and the Conservation Area.
4. The Appellant considers that the new windows are not materially different from or inferior to the original ones. Reference is also made to the varied character of the area, in particular to shopfronts/fascia and the windows on modern

buildings, and it is suggested that in any event any differences are hardly noticeable due to the distance to the opposite side of the road.

5. As to the differences, it is not in dispute that the original windows were made of wood with sliding sashes, and as demonstrated by a Council survey photograph, had distinctive decorative rounded upper sections. The appeal windows are made of uPVC, have a different opening method, and do not have rounded upper sections. In addition the transoms and mullions are of differing proportions to those originally extant and differ between parts of the window. I conclude that the new windows are different from the ones they replaced, and have materially changed the external appearance of the building.
6. As to quality of design, it is apparent from the presence of similar windows in other buildings in the area that the replaced windows were either the same as or later reproductions of those originally installed. As such they are part of the historic character of the building and area. I conclude that whatever the individual merits of the uPVC window design, which on a modern building would be unremarkable, the windows on the appeal building are incongruous. I found that it was not necessary to cross the road to view the appeal windows, as they can be easily seen from the pavement at relatively short range, and in relation to nearby upper floor sliding sash windows along the terrace to the north.
7. The area has shopfronts whose designs are inappropriate to the building above, but I do not consider that their adverse effect or that of the modern buildings in the vicinity has gone so far as to make it inappropriate to protect what remains of the original appearance and character of the area. This matter will in any event have been assessed when the Conservation Area was designated. In respect of shopfronts there is also the prospect of a gradual return to more appropriate designs as needed replacements seek planning permission.
8. In all these circumstances I have concluded on the main issue in this case that the replacement uPVC windows have harmed the appearance of the building and the character of the Conservation Area. It is likely that the appeal windows have better noise insulation qualities than those they replaced, but there is no evidence that the previous situation was so harmful to residential amenity or the present one so much less so that substantial weight should be given to this factor. I have concluded that the appeal should fail.

### **FORMAL DECISION**

9. I dismiss the appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*V F Ammoun*

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