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# Appeal Decision

Site visit made on 5 April 2022

**by Nigel Harrison BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 07 April 2022**

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## **Appeal Ref: APP/P1045/W/21/3289711**

### **Flat 11, Rutland Court, Rutland Street, Matlock, DE4 3GN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Robert Doyle against the decision of Derbyshire Dales District Council.
  - The application Ref: 21/01182/FUL, dated 16 August 2021, was refused by notice dated 3 December 2021.
  - The development proposed is replacement of windows.
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### **Decision**

1. The appeal is allowed, and planning permission is granted for the installation of replacement windows at Flat 11, Rutland Court, Rutland Street, Matlock, DE4 3GN in accordance with the terms of the application, Ref: 21/01182/FUL dated 16 August 2021, subject to the following conditions:
  - 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No 1; NW elevation dated 6 October 2021; Drawing No 2; SW and NE elevations dated 6 October 2021; Drawing indicating window locations dated 20 August 2021.
  - 3) Notwithstanding condition No 2, no development shall take place until full constructional drawings of the windows have been submitted to and approved in writing by the local planning authority. The drawings shall illustrate the overall proportions, profiles including glazing bars, method of operation and the relationship of the window with the reveal (relative to the outer face of the wall). The development shall be carried out in accordance with the approved details.

### **Main Issue**

2. The main issue is the effect of the proposed replacement windows on the character and appearance of the host building and the Matlock Bank Conservation Area (CA).

### **Procedural Matter**

3. Although different from that stated on the application form, I have taken the description of the proposed development from the Council's decision notice, as it more concisely describes the proposal.

## Reasons

4. At the statutory level the *Planning (Listed Buildings and Conservation Areas) Act 1990* requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. This is reflected in Policy PD2 of the *Derbyshire Dales Local Plan (LP)*, adopted in 2017, which says heritage assets will be conserved in a manner appropriate to their significance. It requires development to take account of the local distinctive character and setting of the CA and show this has been reflected in the layout, design, form, scale, mass, use of materials and detailing.
5. Paragraph 199 of the *National Planning Policy Framework* (the Framework) makes it clear that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 201 says where a proposal will lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal.
6. The significance of the CA derives much from the history and landmark status of the former hydropathic ('hydro') buildings, the steep terrain and extensive views, together with other characteristic Victorian and later buildings. Despite considerable modern infill development and some unsympathetic intrusions, it still represents a distinctive townscape which can be recognised as a distinct entity, despite being surrounded by more recent suburban development.
7. Rutland Court is a former 'hydro' dating from 1863. The building is large and imposing and prominent in this part of the Matlock Bank CA. The building's position, relatively original condition, and overall appearance make a significant positive contribution to the significance of the CA.
8. The appeal relates to a second floor flat where it is proposed to replace five painted timber vertically sliding sash windows (and one arch topped sash window) on three elevations with 'mock sash' uPVC windows with the upper parts being top-hinged opening casements and the bottom parts fixed. Attached vertical strips would be added to mimic the two over two pattern of the existing timber sashes.
9. The applicant says the existing windows are generally in poor condition and inadequate in terms of modern standards of heat conservation, insulation, ease of operation, and also pose a safety risk due to the light weight of the glass, rotten sills and loose fixings. At my site visit, and even from a casual inspection, it was evident that many of the windows were in a poor state of repair and in parts badly rotted.
10. I fully support the Council's aims in seeking to preserve the character and appearance of conservation areas, and acknowledge that in some cases the use of uPVC rather than timber can be harmful to the overall appearance of an individual building and hence the wider CA. The Matlock Bank Conservation Area Appraisal says uPVC windows can make a significant impact on the overall visual character of the CA, as they generally have more heavy proportions than the original timber profiles and many do not follow the original patterns. Throughout, it emphasises the importance that the details that timber sashes provide.

11. However, the majority of windows at Rutland Court are now uPVC replacements of various styles. About two thirds of windows on the most prominent south west elevation are uPVC and have the same opening mechanism as those proposed (top-opening casements with the appearance of four panes). Furthermore, of the remaining timber windows, only about half are the 'original' sliding sash type. On the north-west elevation the ground floor windows have been replaced by uPVC (top opening). The rear elevation, which is much less prominent, contains a wide variety of window styles and materials. A number of dormer windows have also been replaced with uPVC.
12. The Council says there is no planning permission for any of the existing replacement windows (with the exception of some dormer windows) and that consequently no precedent has been set. Very few of these attempt to replicate the original patterns. Most are to a much simpler design, many with two rather than four panes, and top-hung casements rather than sliding sash. Taken together, this wide variety of replacement windows, predominantly in uPVC contributes significantly to the present-day character and appearance of the building and the CA. This factor has influenced my reasoning.
13. From the officer report it seems that the use of uPVC windows is not ruled out *per se* and may be acceptable, although the report says these should be appropriately detailed, vertically sliding double-glazed windows with 'authentic' vertical glazing bars.
14. I accept that the proposed replacement uPVC windows would subtly alter the character and appearance of the host building and CA. This would be particularly noticeable when the windows are open. Nonetheless, the submitted drawings show that the traditional pattern of two panes over two could be replicated, and the profiles of the frames and glazing bars are reasonably slim-line and well proportioned. On balance, I do not consider that top-opening casement mechanism and other aspects of the overall design would be sufficiently harmful to warrant refusal of the scheme.
15. However, other than some photographs, full details of the windows have not been submitted, and these are needed to clarify the profiles and the depth of recession of the frames relative to the outer wall face. The Framework says local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions, and with this advice in mind I consider it would be reasonable to impose the condition suggested by the Council requiring the submission and approval of detailed drawings.

### **Other Matters**

16. The officer report also refers to development which affects a listed building or its setting. However, the appeal building is not listed, and no specific listed building is mentioned whose setting might be affected by the proposal. Nor is any effect on the setting of a listed building mentioned in the reason for refusal. Consequently, this is not something I can take into account in my consideration of this appeal.

### **Conclusion**

17. Overall, I conclude that the proposed replacement windows would have a neutral effect that would preserve the character and appearance of the host

building and the Matlock Bank Conservation Area, causing no harm to its significance. Therefore, the question of public benefits to outweigh any harm does not arise. As such, I find no conflict with National Policy in the Framework or LP Policy PD2.

**Conditions**

18. I have considered the suggested conditions in the light of the tests in the Framework and advice provided by the Planning Practice Guidance.
19. In addition to the standard time condition for commencement of development, a condition is needed to ensure that the development takes place in accordance with the approved plans, in order to provide certainty. As explained above, further details of the design and profile of the window frames are needed to ensure a satisfactory appearance to the completed development.

**Conclusion**

20. For the reasons given above, and taking into account all matters raised, I conclude that the appeal should be allowed.

*Nigel Harrison*

INSPECTOR