

Information for Tann residents regarding need for change to conservation rules

Introduction

I am writing this to give my experience and opinions about conservation rules, to give residents an idea of what they currently face if they want to improve their homes, and to urge others to participate in any future review.

In a letter to 3 residents and Laura Robertson Collins, our ward councillor, the planning dept have announced that they intend to consult us on how the conservation area should work- [see letter appendix 2]. This follows some residents' concerns about the strictness of current rules, as set out in the windows planning guidance document, and the Council's unitary development plan, regarding requirements in replacing windows on conservation areas.

Even when the current windows are totally incompatible, any replacements **MUST** be to the original design from the time of building, This means sliding sash windows. It means in some cases that people will not replace or improve their homes, but patch up and make do- not enhancing the conservation area at all.



Sliding sash windows are more than three times more costly than windows of the type often used to give the visual effect but which open outwards, [made in wood, or upvc]. These have been widely used in the street I live on,

[see above photo] yet we were refused when we applied to fit similar windows to replace old rotting frames. The ones we proposed to fit looked more like sliding sash windows [very similar to the ones in the photo] The non sliding sash window types also allow a greater depth of double glazing, offering better sound and heat insulation qualities.

We are not aware yet of the exact nature of the consultation, but have asked that the ward councillors should be advised in this and able to comment- to ensure it addresses the issues that have been brought to their attention as concerns.

There are a number of issues to bear in mind when thinking about what kind of rules we think reasonable in this area;

1. Balance of affordability and compatibility- letter appendix 3 states that affordability is difficult for planners to consider, and suggest personal circumstances and means testing. Following our application, there was no dialogue regarding our point about affordability, only a refusal. There was certainly no indication of any means testing approach. Residents may have a view about a requirement to demonstrate poverty to get flexibility!

2. Is total authenticity possible

If the rules are to have the effect of restoring the area to it's original appearance, many interesting issues arise.

- Should the parking of cars be allowed on the streets, they have a bigger visual impact than windows which do not slide open, or where the width of a rail is out by 10 mm!
- Should residents be allowed to cap chimney pots when the old pots become dangerous, or they are leaking and causing damp penetration.
- Should we be allowed to paint the stone work on our bays- they were originally red sandstone
- Should we be required to get planning permission to re decorate the fronts of our houses. The existing process would entail a slow, complicated, and costly procedure before a single brush stroke

3. Planning process

I think the process I had to follow is the same as a developer would have to take if he was building new houses. I had to submit a location plan, a site plan showing trees, a scaled layout of the whole property



within the boundary, an agricultural certificate! and elevations (shown alongside). These are not cheap to produce!

4. Are the rules applied fairly

The new housing development on Arundel Avenue opposite Brompton Avenue was built after the windows guidance. The windows are not sliding sash, or compatible even superficially with the other houses on Arundel Avenue. They do not even match the incompatible windows recently fitted in the nearby Council flats.

In our street, one house replaced their windows with compatible but not historically authentic windows, they were replaced after the guidance was announced, but without planning permission. The planners have not used enforcement powers in this case as the windows are still there!

What do you think. I think we should get organised as a neighbourhood, to protect the style of these lovely houses, but in a proportionate way. To do this we need to respond to the planning consultation so the views are those of the majority.

Mike Hogan
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attachments

- 2 further letters from planning [letters appendix 2 & 3]

Letter appendix 1

Letter to Councillor Laura Robertson - Collins

Subject: RE: Window specifications in Conservation Area
Date: Tue, 11 Oct 2011 17:50:41 +0100
From: Steve.Corbett@liverpool.gov.uk
To: robertsoncollins@hotmail.co.uk
CC: Lorraine.Ward@liverpool.gov.uk; Holly.Levy@liverpool.gov.uk;
Stuart.Clark@liverpool.gov.uk; Mark.Loughran@liverpool.gov.uk

Laura,

my apologies for the delay, I was on leave for much of the last week. In response to Mr Hogan's two questions to ourselves as officers in the Planning and Building Control Service:-

Question 1

The first asks whether our decision to refuse his application at 19 Lancaster Road (ref. 11H/0162) for replacement windows in uPVC was fair or justified in light of other windows in the area and other decisions made by us, with a concern that we are not consistent in our decision-making and that in this case the officers dealing with this application paid little regard to existing windows in the conservation area similar to the style he wished to install, and instead focussed on surviving traditional windows.

- In response, the Council as Local Planning Authority (LPA) exercised its statutory duty under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires we pay special regard to **preserving** or **enhancing** the special **architectural** or **historic character** or **appearance** of the conservation area. These terms are very important and their meaning has been subject to Government guidance and tested in the courts. Guidance and case law guide our decisions.
- In 2005 when the Toxteth Park and Avenues Conservation Area was designated in response to calls from residents (and the conservation area was increased in size in response to the wishes of residents outside our initial assessment) the 'planning rules' for alterations to properties changed. The statutory duty above took effect. Residents were consulted and advised of this.
- Conservation areas in Liverpool cover about a tenth of the city and officers try to apply the Council's 'preserve or enhance' duty consistently, and try to ensure heritage interests are safeguarded whilst meeting other Council duties and objectives such as encouraging access for all, promoting social and economic opportunities and protecting the environment.
- With respect to windows in conservation areas, our starting point is the heritage value of the existing windows. If they are original features on historic buildings (that justified the designation of the conservation area), we are required to encourage their retention - our

duty to '**preserve** special architectural and historic character and appearance'. There are ways to improve the energy efficiency of original windows. For example, English Heritage advice is available on-line.

- Alternatively, if the windows are not original, we are required to look for opportunities to '**enhance**' the conservation area's special character or appearance by reinstating replica windows of a historic design - or at the very least to ensure character and appearance are not harmed by allowing a less sympathetic style of window. What this means in practice is that provided the design is appropriate to the special architectural and historic qualities of the area there are opportunities to insert windows with better thermal performance. Use of double glazed panes, for example.
- Many Councils only allow new windows in materials and a design appropriate to the age and character of the building in which they are proposed to be inserted. Liverpool Council has agreed that in exercising its statutory duty it will accept non-traditional materials (i.e. uPVC) provided the design is an authentic replica of traditional windows that characterise the particular conservation area (a result of Planning Committee policy review, 24 August 2010). This can include use of double-glazed panes.
- I trust this explains how we approach decision-making in a fair and transparent way, consistent with our statutory duty and adopted Council policy to meet that duty. In this case, I am happy with the assessment provided by the Conservation Officer in my team. It is inevitable in any assessment that attention focuses on the area's surviving historic windows; they are our reference point. I am happy with the consistency of our decision-making. This has been tested by appeal to the independent Planning Inspectorate on a number of occasions in Toxteth Park and Avenues Conservation Area. The Council's decisions have been upheld.
- I would add that in this case the decision by the Council to refuse planning permission was made by the Council's Planning Committee, rather than under powers delegated to the Head of Planning and Building Control. The application was required to go to Committee because there was an objection to Mr Hogan's proposal by one of the Ward Councillors.
- Unfortunately, residents cannot have both the heritage status and the ability to alter properties in the same way residents do in the other nine tenths of the city that have no heritage designation. If residents feel conservation area status is too restrictive they can ask for de-designation. Similarly, de-designation can occur if the area loses its special character or appearance through Council decisions or overwhelming unauthorised alterations (the latter arguably people 'voting with their feet').

Question 2

In his second question Mr Hogan has asked for detailed advice about the specification for replacement windows, including dimensions, etc. This is something more appropriately dealt with outside of my reply to you. He will really need to follow this up with the Planning Officer (Holly Levy) and Building Conservation Officer (Lorraine Ward) who dealt with his application. I have copied-in both.

Your two Questions

I agree with your first question about how the need to conserve energy will inevitably mean there will be more cases like Mr Hogan's. There is national guidance, notably by the national heritage organisations such as English Heritage or Historic Scotland, which start to address these issues. These not only relate to windows but address the addition of solar and photovoltaic panels to historic buildings along with micro generation and other energy generation apparatus; insulation both internal and external; draught proofing; light, heating and energy uses; etc. Although we have no resources to produce a Liverpool-specific guide (few Councils have specific guides), officers in the Planning and Building Control Service do give advice based on their up-to-date knowledge of national best practice guidance.

Your second question about consistent application of policy is something I picked up in the reply to Mr Hogan's first question (above). In applying policy it is not simply a case of specifying an acceptable type of window. We are required to apply the 'preserve or enhance' test to an applicant's proposal based on (1) the heritage value of what is there at present and (2) what is proposed to replace it. The right to an independent appeal to the Planning Inspectorate is the safeguard against Local Authority inconsistent decision-making. As I mentioned, appeal results have upheld our decisions on this issue. I take that as a reasonable barometer test for our consistency.

As you mention, there will be modern windows that pre-date the conservation area's designation in 2005, and there will be unauthorised windows that have been added since, possibly subject to on-going enforcement action. If we do not pick up unauthorised works after four years they are immune from our action. There are also modern buildings on gap sites that are clearly not historical so are built to modern standards but in a design appropriate to the character of the conservation area - a double-glazed uPVC window in a new-build property is accepted in most conservation areas unless there are stringent controls over materials (which Liverpool does not have in any of its conservation areas).

I hope this provides adequate explanation.

Steve

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