

## **APPEAL DECISION**

### **WARD: HYDE PARK AND WOODHOUSE**

#### **APPLICATION REF: 10/00267/UBAX3**

### **ENFORCEMENT APPEAL BY MR P O'TOOLE AGAINST AN ENFORCEMENT NOTICE ISSUED BY LEEDS CITY COUNCIL REGARDING THE INSTALLATION OF UPVC WINDOWS TO THE FRONT AND REAR OF 2 CLAREMONT VILLAS, LEEDS**

#### **1.0 INTRODUCTION**

- 1.1 2 Claremont Villas is located in the Woodhouse/Hanover Square Conservation Area within close proximity to Woodhouse Square. A planning application for the removal of timber windows and replacement with UPVc windows intended to match the appearance of the timber windows was refused on 13/10/09. However, the UPVc windows were still inserted therefore Enforcement notices were served that required the removal of the UPVc windows and replacement with timber framed windows and the removal of two metal grilles at the rear.

#### **2.0 KEY ISSUES**

- 2.1 The Inspector identified the main issue to be whether the development preserves or enhances the character or appearance of the defined Woodhouse/Hanover Square Conservation Area.

#### **3.0 DECISION**

- 3.1 The appeal was allowed in a letter dated 19<sup>th</sup> July 2011.

#### **4.0 SUMMARY OF COMMENTS**

- 4.1 The Inspector highlighted UDPR policies N19 and BC7 that seek to preserve or enhance the character of the Conservation Area and normally place a requirement on the use of local and/or traditional materials. It was acknowledged that this approach was repeated in the Little Woodhouse Neighbourhood Design Statement. The Inspector also stated new developments in the Conservation Area require the most careful consideration.
- 4.2 The Inspector noted that the terrace of which 2 Claremont Villas was a part of was an important feature of an attractive vista unified by the common use of red brick and slate. The ornate brick detailing of the area was highlighted as was a wide variety in uses, shape and size of buildings, relationship between buildings and boundary treatments of the area. It was noted there was a wide range of window size and configurations, but that the frames are largely white.

- 4.3 The disparity between the character of UPVc and timber framed windows was recognised and it was stated that consistent use of timber windows would enhance the area.
- 4.4 However, the Inspector noted that many of the window replacements and the new dormers in the terrace of properties that the appeal site formed part of were in UPVc. In addition, almost all of those properties to the rear of the appeal site had been modernised with UPVc windows. The Inspector stated the use of UPVc was widespread and sets the context for the use of white, neo-Victorian UPVc windows and that the development is therefore consistent with its context.
- 4.5 The absence of an Article 4 Direction for the area was said to make it difficult for the Council to apply a robust and consistent approach to seeking the use of traditional materials. It was concluded that the development does not conflict with its local context as it is in keeping with the fenestration configuration and materials which existing in most of the surrounding properties. Whereas the Inspector did not believe it enhanced the area, it was felt it preserved the existing character and therefore does not undermine the thrust of policy N19.

#### **4.6 IMPLICATIONS**

- 4.1 Despite the Inspector's conclusion, it is considered that this decision significantly undermines the thrust of UDPR policy N19 and BC7. In the past these policies have been used to successfully prevent the insertion of UPVc windows in Conservation Areas but this may become increasingly difficult.



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## Appeal Decision

Site visit made on 23 May 2011

by **R E Watson BA (Hons)**

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

Decision date: 19 July 2011

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**Appeal Ref: APP/N4720/C/11/2147943**

**2 Claremont Villas, Leeds, LS2 9NY**

- 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 P O'Toole against an enforcement notice issued by Leeds City Council.
- The Council's reference is 10/00267/UBAX3.
- The notice was issued on 26<sup>th</sup> January 2011.
- The breach of planning control as alleged in the notice is the installation of UPVC windows to the front and rear of the building and the affixing of metal grills covering the two rear ground floor windows of the building known as 2 Claremont Villas, which comprises of four self-contained flats, resulting in a material alteration to the external appearance of the building.
- The requirements of the notice are:-

### Step 1

Remove all the unauthorised UPVC windows installed in the premises, consisting of seven windows sited in the ground floor bay, one window at the side of the front door and three windows sited on the first floor of the front elevation of the building shown on the attached photograph "A", eight windows contained in the dormer on the front elevation on the attached photograph "B", four windows sited in the first floor of the rear elevation, and seven windows contained in the rear dormer, all shown in the attached photograph marked "C" and two windows sited on the rear ground floor of the building shown on the attached photograph marked "D", and replace, with the exception of the front and rear dormers, with timber sliding sash windows of the same design and appearance of those as existed prior to the installation of the unauthorised UPVC windows and replace the front and rear dormer windows with timber windows with each having three even proportioned vertical divides.

### Step 2

Remove the metal grills covering the two rear ground floor windows as shown on the attached photograph marked "D" and make good the brickwork of the building to which they were attached.

- The period for compliance with the requirements is three months beginning with the day on which this notice takes effect.
  - The appeal is proceeding on the grounds set out in section 174(2)[a & f] of the Town and Country Planning Act 1990 as amended.
  - I have taken account of the views of local residents and other interested parties in reaching this decision.
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## **Decision**

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the installation of UPVC windows to the front and rear of the building and the affixing of metal grills covering the two rear ground floor windows of the building known as 2 Claremont Villas, Woodhouse, Leeds, LS2 9NY.

## **Appeal made under ground (a)**

### **Main Issue**

2. The main issue in this case is whether the development preserves or enhances the character or appearance of the defined Woodhouse/Hanover Square Conservation Area.

### **Reasons**

3. Policy N19 of the adopted Leeds Unitary Development Plan (Review 2006) states that all new buildings and extensions within or adjacent to Conservation Areas should preserve or enhance the character or appearance of the Area by ensuring that, among other things, the materials used are appropriate to the environment of the Area and sympathetic to adjoining buildings. It further states that, where a local materials policy exists, this should be complied with. Policy BC7 states that normally within Conservation Areas development will be in traditional materials. This is repeated in the Little Woodhouse Neighbourhood Design Statement, recently adopted as Supplementary Planning Guidance, following its production by the local community. The draft Appraisal for the emerging combined Conservation Area, which would also include the existing Woodhouse/Clarendon Road Conservation to the north, further describes Clarendon Villas as positive features. I am satisfied, therefore, that new developments within this Area require the most careful assessment. However, I note that an Article 4 Direction is not in force within the Area.
4. I acknowledge that the terrace which includes the appeal property is an imposing element of the street scene. Because of its prominent siting it is an important feature of an attractive vista, as I saw when looking north along Clarendon Road from Woodhouse Square. Claremont Villas is a terrace of red-brick construction with grey slate roofs. The red-brick construction and roofing materials of most of the buildings in the surrounding area provide the main unifying design elements of the townscape. The detailing of the ornate brick work found in some of the buildings is particularly impressive. However, I also noted that the component buildings display a wide variety in terms of their uses, shape, size, boundary features and relationship with each other. The fenestration of the buildings in the area also displays a wide range of configurations and sizes, but the frames are largely white.
5. Of greater significance in assessing this case is the issue of the materials used in the construction of the window surrounds. As a general policy proposition I would support the use of traditional materials in developments within the defined Area. With regard to the fenestration, I recognise the disparities between the character of the UPVC windows and the timber sash openings which the Council have carefully described in their statement. I noted that the windows of some properties in the Area have retained their timber sash

character and I would subscribe to the view that replacements with that character, provided they were done consistently would undoubtedly enhance the character of the Area.

6. However, the reality is significantly different. The many replacements carried out in the remainder of the terrace are all of the UPVc material, as well as the insertion of dormers. To the rear of Claremont Villas, along Back Claremont Avenue and in Claremont Avenue virtually all properties have been modernised with UPVc windows inserted. I also saw many other properties on Clarendon Road where UPVc fenestration is in place. Certainly, in the immediate vicinity of the appeal site this type of window treatment is a dominant design element. It is clearly widespread and sets the context for the use of white, neo-Victorian, UPVc windows. The development sits within this context and is consistent with it.
7. I am not aware of the precise circumstances which have informed the Council's approach to controlling developments in this area, either through the determination of planning applications or initiating enforcement proceedings, but the absence of an Article 4 Direction clearly places them in a difficult position in attempting to apply a robust and consistent approach seeking the use of traditional materials. In this case, I am forced to the conclusion that this development does not conflict with the local context which has been set. It is consistent and in sympathy with the fenestration configuration and materials which exist in most of the surrounding properties. Although I do not believe it enhances the Area, it at least preserves its character. Accordingly, I conclude that it does not undermine the thrust of Policy N19.

#### **Other Matters**

8. In reaching this conclusion, I have taken account of all other matters raised in the representations, including the rehearsal of the history of the discussions between the Appellant and the Council leading to the enforcement action; the alleged use of the adjoining property at no. 1 Claremont Villas and the character of its replacement windows and the history of the rear window security bars in the appeal property. None of these has persuaded me to alter my conclusions on the principal issue. Consequently, I conclude that the appeal made under ground (a) succeeds and that the deemed planning application should be granted. As a result, the appeal made under ground (f) does not fall to be considered.

*R E Watson*

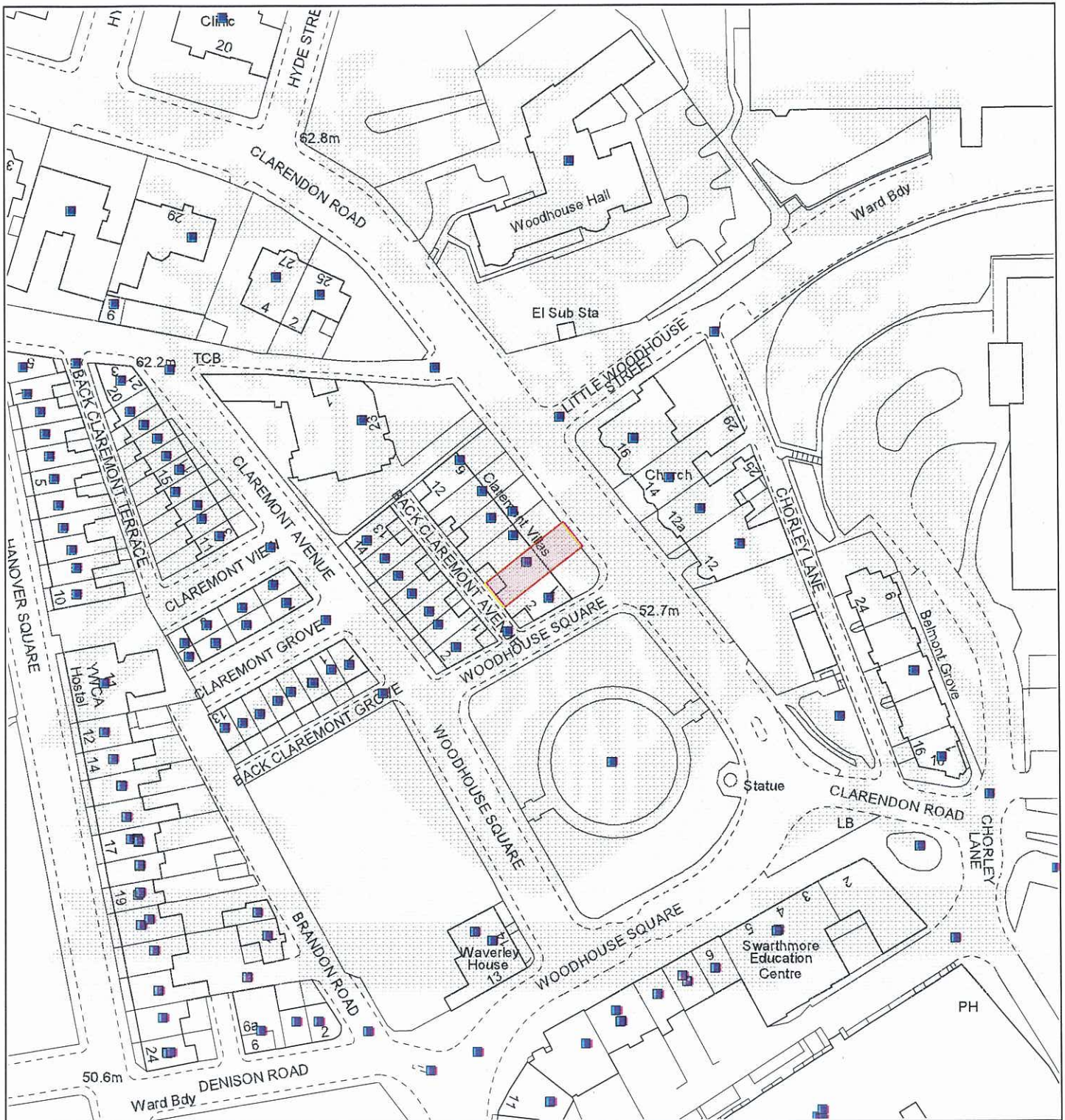
Inspector`





# 2 Claremont Villas

10/00267/UBAX3



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