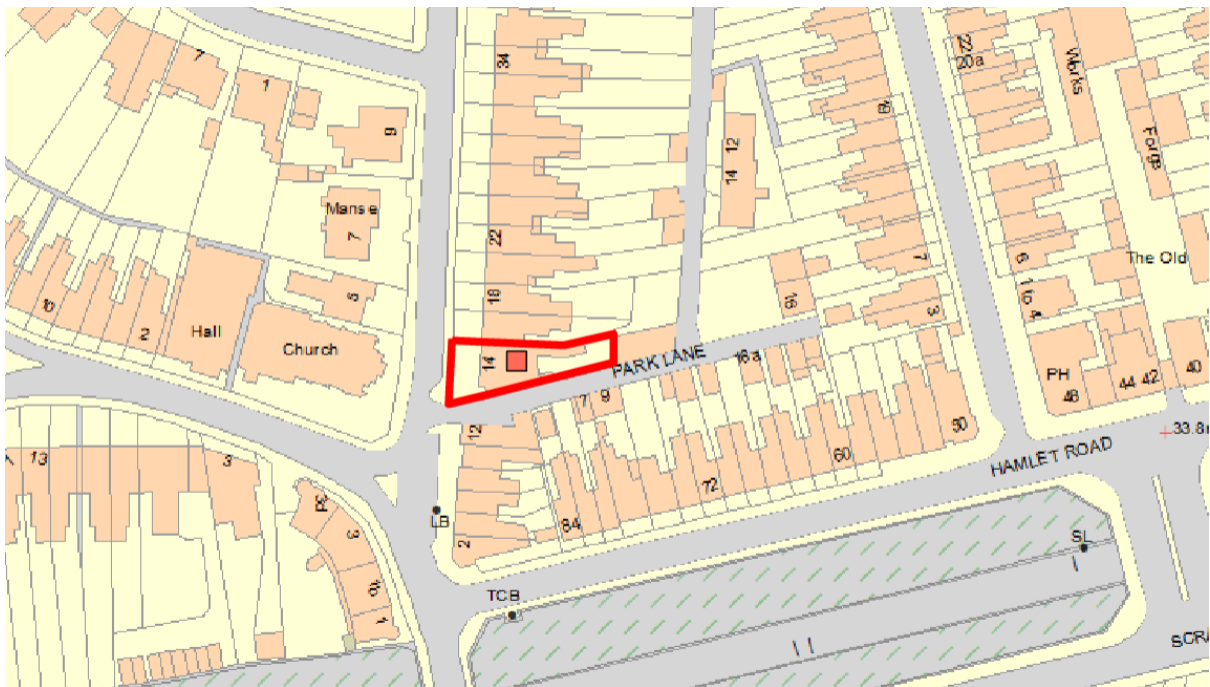


<b>Reference:</b>	EN/16/00001/UNAU-B	
<b>Ward:</b>	Milton	
<b>Breaches of Control</b>	Without planning permission, the replacement of the existing window frames at ground floor level in the front elevation with windows having Upvc frames.	
<b>Address:</b>	Flat 1, 14 Park Road, Westcliff-on-Sea, Essex SS0 7PE	
<b>Case Opened:</b>	4 <sup>th</sup> January 2016	
<b>Case Officer:</b>	Philip Kelly, Neil Auger	
<b>Recommendation:</b>	<b>AUTHORISE ENFORCEMENT ACTION</b>	



## **1 Site and Surroundings**

- 1.1 Ground floor front flat located within the two storey end-of-terrace property lying to the east side of Avenue Road directly to the north of its junction with Park Lane. The property comprises a number of self-contained flats and lies within the Milton Conservation Area.

## **2 Lawful Planning Use**

- 2.1 The lawful planning use is as a self-contained flat within Class C3 of the Town and Country Planning Use Classes (Amendment) Order 2005

## **3 Present Position**

- 3.1 A complaint was received on 4<sup>th</sup> January 2016 concerning the alleged installation of replacement windows having Upvc frames.
- 3.2 A site inspection was carried out on 18<sup>th</sup> February 2016 which confirmed that Upvc framed replacement windows had been installed to the front elevation of the property at ground floor level.
- 3.3 On 2<sup>nd</sup> March 2016, a letter was sent to the leaseholder advising that the Upvc framed windows were unacceptable in planning terms and that they should be replaced with wooden windows of a traditional design.
- 3.4 A response was received on behalf of the leaseholder on 4<sup>th</sup> March 2016 stating that the matter would be dealt with as a matter of urgency.
- 3.5 The site was revisited by the current case officer on 13<sup>th</sup> January 2017 when it was observed that the Upvc framed windows remained in situ.
- 3.6 On 18<sup>th</sup> January 2016, an email was sent to the leaseholder reiterating that the Upvc framed windows should be removed.
- 3.7 A reply was received from the freeholder's Assistant Lettings Manager on 26<sup>th</sup> January explaining why the matter had been overlooked and stating that "I will follow this up and come back to you with confirmation of a start date for the replacement windows".
- 3.8 Despite further exchanges of emails between the case officer and the Assistant Lettings Manager, no progress has been made in the matter and the Upvc framed windows have not been removed.

## **4 Appraisal**

- 4.1 Planning permission is required for this development because (a) the property lies within the Milton Conservation Area and is subject to an Article 4 Direction, confirmed in 1989, which restricts certain permitted development rights including the replacement of windows in the front elevation and (b) the lawful planning use of the property is as a self-contained flat so it does not benefit from the same permitted development rights which would generally apply to single dwellinghouses.

- 4.2 Records show that no planning permission has been applied for or granted in respect of the installation of Upvc framed replacement windows at this property.
- 4.3 The area is characterised by older two storey houses which, originally, would have been fitted with timber framed windows of the sliding sash style. Some of the houses retain this style of window although others have also been replaced over time. The previous windows in this property, although not sliding sash, were timber framed similar to a number of other properties in this part of Avenue Road.
- 4.4 Successful enforcement action has been taken in respect of several cases of unauthorised replacement Upvc framed windows in the area. Some Enforcement Notices have been challenged at appeal but, to date, these have been dismissed by the Planning Inspectorate and the Notices upheld.
- 4.5 It is conceded that there is a small number of window installations in the area which were carried out many years ago and are now immune from enforcement by virtue of the time constraints imposed by Section 171B of the Town and Country Planning Act 1990 (as amended). As these gradually become due for replacement, the Council will, of course, seek to ensure that appropriate frame styles and materials are used. In any event, the presence of other, unsuitable replacement windows does not justify the insertion of additional harmful examples which can only serve to further dilute the character of the area.
- 4.6 Policy CP4 of the Core Strategy requires development to safeguard and enhance the historic environment, including Conservation Areas. Policy DM5 of the Development Management Document also requires that all new development within a Conservation Area is required to preserve or enhance its character.
- 4.7 Whilst the previous window frames installed to the front elevation of this property were not of the traditional sliding sash construction, they did use traditional materials (i.e. timber). As such, their replacement with Upvc framed windows cannot be considered to preserve or enhance the character of the area.
- 4.8 It is considered that the unauthorised replacement Upvc framed windows detract from the appearance of the property by reason of the unsympathetic frame material, inappropriate style of opening and the discordant frame thickness.
- 4.9 The unauthorised development does not respect or enhance the appearance of the property in particular or the terrace in general and, as such, is considered to be detrimental to the character and appearance of the Milton Conservation Area.
- 4.10 It is therefore considered expedient to pursue enforcement action to secure their removal.
- 4.11 Taking enforcement action in this case may amount to an interference with the owner/occupiers Human Rights. However, it is necessary for the Council to balance the rights of the owner/occupiers against the legitimate aims of the Council to regulate and control land within its area. In this particular case it is considered reasonable, expedient and proportionate and in the public interest to pursue enforcement action to require the removal of the unauthorised windows.

## **5 Planning History**

5.1 There is no relevant planning history

## **6 Planning Policy Summary**

6.1 The National Planning Policy Framework (NPPF) 2012.

6.2 Development Plan Document 1: Core Strategy Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance).

6.3 Development Plan Document 2: Development Management Document Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land) and DM5 (Southend-on-Sea's Historic Environment) .

6.4 Design and Townscape Guide 2009 (SPD1)

6.5 Community Infrastructure Levy Charging Schedule.

## **7 Recommendation**

7.1 **Members are recommended to AUTHORISE ENFORCEMENT ACTION** to secure the removal of the unauthorised Upvc framed windows installed to the front elevation of this property on the grounds that they harm the appearance of the property and of the streetscene by reason of their unsympathetic materials, inappropriate style of opening and discordant frame thickness to the extent that they are detrimental to the character and appearance of the Milton Conservation area contrary to the National Planning Policy Framework (NPPF), Policies CP4 and KP2 of the Southend-on-Sea Core Strategy, Policies DM1, DM3 and DM5 of the Southend-on-Sea Development Management Document and the advice contained within the Council's Design and Townscape Guide.

7.2 The authorised enforcement action to include (if/as necessary) the service of an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of said Notice.

7.3 When serving an Enforcement Notice the local planning authority must ensure a reasonable time for compliance. In this case, the services of a specialist installer will be required which will, most likely, entail research and the acquisition of quotations prior to the manufacture and subsequent installation of the wooden frames. A compliance period of 3 months is therefore deemed reasonable.