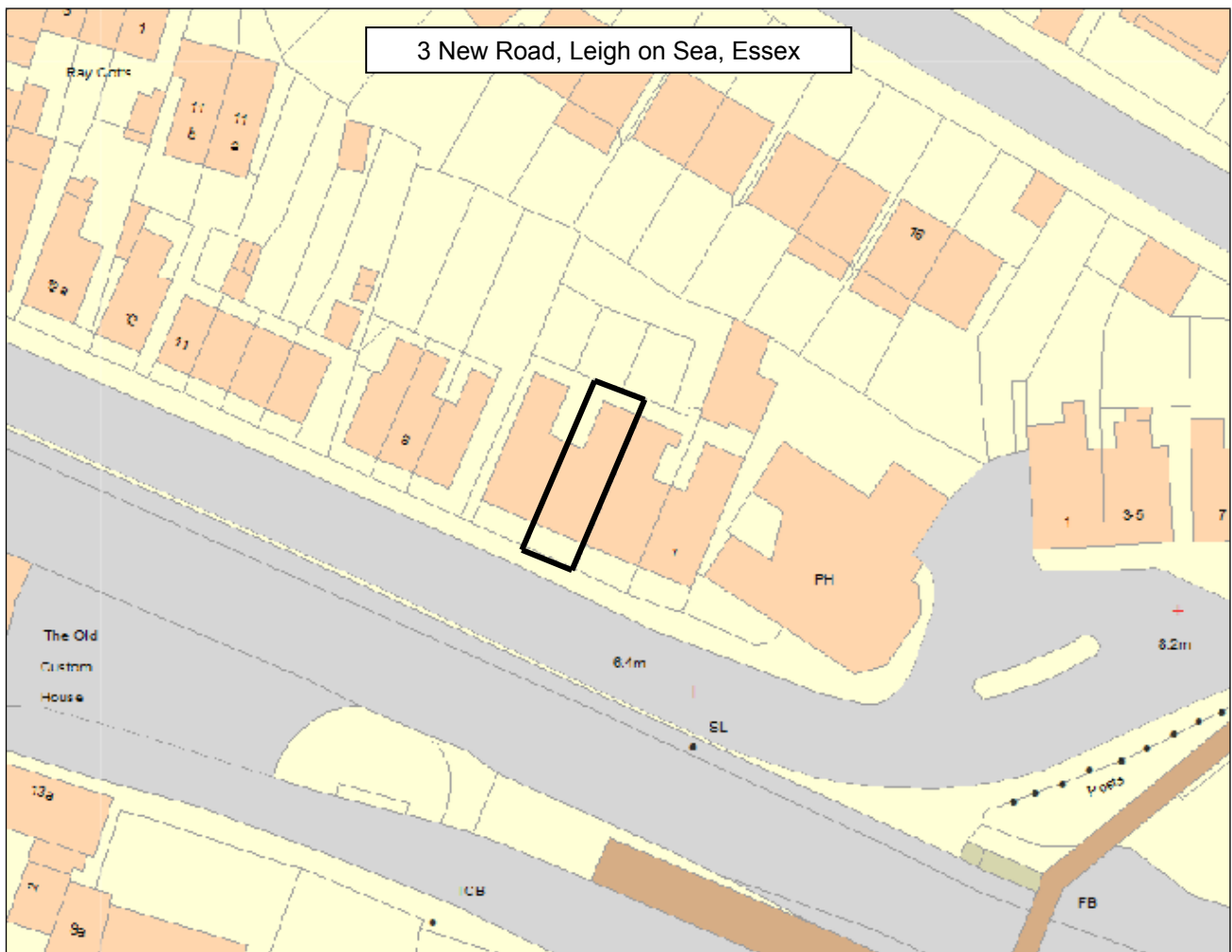


Reference:	16/00231/UNAU_B	
Ward:	Leigh	
Breaches of Control	Without planning permission, the replacement of the existing wooden framed French windows at first floor level in the front elevation with Upvc French windows. (Article 4 Direction)	
Address:	3 New Road, Leigh on Sea, Essex. SS9 2EA	
Case Opened:	15 th December 2016	
Case Officer:	Steve Jones	
Recommendation:	AUTHORISE ENFORCEMENT ACTION	



1 Site and Surroundings

- 1.1 Two storey mid terraced cottage circa 1883, lying to the north side of New Road facing across the C2C railway line towards Old Leigh. The property lies within the Leigh Conservation Area and is subject of an Article 4 Direction controlling window alterations to a dwelling house.

2 Lawful Planning Use

- 2.1 The lawful planning use is as a dwelling house within Class C3 of the Town and Country Planning Use Classes Order 1987 (as amended)

3 Present Position

- 3.1 A complaint was received on 13th December 2016 concerning the alleged installation of replacement French windows with Upvc frames.
- 3.2 A site inspection was carried out on 16th December 2016 which confirmed that Upvc framed replacement French windows had been installed to the front elevation of the property at first floor level.
- 3.3 On 16th December 2016, a letter was sent to the property owner advising that the Upvc framed French windows did not benefit from Permitted Development Rights and a Retrospective Planning Application should be submitted by 27th January 2017.
- 3.4 On 20th December 2016 the owner emailed Officers stating that the doors were already installed when the property was purchased in August 2015.
- 3.5 On 20th December 2016 Officers emailed the owner informing him that the French windows were installed post June 2014 and that it was likely the Article 4 Direction on the property was highlighted during the conveyancing process.
- 3.6 On 18th January 2017 the owner emailed Officers regarding plans found on the Council website indicating an application for double doors.
- 3.7 On 18th January Officers emailed the owner advising that the 2005 Planning Application referred to related to the windows and front porch door in wood and not the French windows subject of this complaint.
- 3.8 On 30th January 2017 a copy of the 2005 planning application was forwarded to the property owner for his information and the accompanying email highlighted that the French doors were discussed in a meeting with planning officers but the French windows were not included on the subsequent planning application. It was also pointed out that the image shown on Google Street view dated June 2014 indicates the French windows installed at that time were timber framed.
- 3.9 On 10th May 2017 the owner was emailed and advised that formal enforcement action would be sought as no planning application had been submitted to the Local Planning Authority
- 3.10 On 7th June a further reminder of enforcement action was emailed to the owner.

- 3.11 On 9th June 2017 Officers attended the property to establish if the Upvc French windows had been removed to inform whether to seek authority for formal enforcement action. Whilst in attendance the property owner appeared and during a conversation with the Officer it was established that a change in the owners email address meant they had not received any emails from the officer since January 2017. A new email address was established.
- 3.12 On 9th June 2017 Officers forwarded the earlier emails to the property owner and advised that the current French windows should be removed or a planning application to retain the existing French windows should be submitted within the next 2 weeks.
- 3.13 On 22nd June 2017 Officers received an email from the owner stating he was trying to resolve the matter with his solicitor and insurance company.
- 3.14 On 27th June 2017 Officers emailed the owner advising that his communication with his solicitor would not hold up necessary enforcement action. He was further advised that a recent application by a neighbouring property to retain Upvc windows was about to be refused planning permission and it was recommended that the French windows be replaced with a timber equivalent. A response as to his intentions was requested by 30th June 2017.
- 3.15 On 30th June 2017 Officers received an email from the owner stating he would change the doors and sought confirmation he would still be required to submit a planning application.
- 3.16 On 30th June 2017 Officers emailed the owner asking for details of the proposed door ahead of a formal planning application so that guidance could be given as to their suitability.
- 3.17 On 26th July 2017 Officers emailed the owner asking for an update.
- 3.18 On 21st August 2017 Officers again emailed the property owner asking for an update within the next 7 days or risk formal enforcement action.
- 3.19 On 21st August 2017 Officers received an email from the owner stating he was organising quotes from window installation companies.
- 3.20 On 21st August 2017 Officers emailed the owner acknowledging his last email but giving him a 14 day deadline.
- 3.21 On 21st August 2017 Officers received an email from the property owner stating he cannot guarantee a response within 14 days as he was at the mercy of the window companies.
- 3.22 On 21st August 2017 Officers emailed the owner reminding him that 14 days was reasonable given the length of time since this matter was first brought to his attention.
- 3.23 On 6th September 2017 Officers received an email from the owner again asking for

guidance on the planning application process.

- 3.24 On 18th September 2017 Officers emailed the owner giving him advice as requested.
- 3.25 On 24th October Officers emailed the owner asking for an update.
- 3.26 On 25th October 2017 Officers further emailed the owner advising that a response was required within 2 weeks to prevent the application to Development Control Committee of a report recommending enforcement action.
- 3.27 On 30th October 2017 Officers received an email from the owner advising he was in possession of 3 quotes and again asked what he was required to do in terms of a planning application.
- 3.28 On 30th October 2017 Officers emailed the owner advising that they send over the door brochure / specification to enable the Council conservation officer to express a view on suitability ahead of a formal planning application.
- 3.29 On 30th October 2017 Officers received an email from the owner stating they would speak with a window company regarding the brochure for the French windows.
- 3.30 On 6th December Officers emailed the property owner asking for an update as no planning application had been received.
- 3.31 To date no further contact has been made by the property owner and no planning application has been received.
- 3.32 On 15th December 2017 Officers visited the site and noted the Upvc French windows were still installed.

4 Appraisal

- 4.1 Planning permission is required for this development because the property lies within the Leigh Conservation Area (See Appendix 1) and is subject to an Article 4 Direction, (See Appendix 2) confirmed in 1989, which restricts certain permitted development rights including 'window alterations to a dwelling house.'
- 4.2 Records show that no planning permission has been applied for or granted in respect of the installation of Upvc framed replacement French windows at this property.
- 4.3 The area is characterised by older two storey cottages 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 current windows in this property are sliding sash and timber framed. Permission for the installation of these windows was granted under reference 05/00085/FUL on 8th April 2005.

- 4.4 Successful enforcement action has been taken in respect of several cases of unauthorised replacement Upvc framed windows in local Southend conservation areas. 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 acknowledged that there are a number of Upvc 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 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 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 aims to preserve or enhance its character.
- 4.7 The previous French windows installed to the front elevation of this property were constructed of traditional materials (i.e. timber). Its replacement with Upvc framed French windows, as carried out, does not preserve or enhance the character of the area.
- 4.8 It is considered that the unauthorised replacement Upvc framed French windows detracts 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 Leigh 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 French windows.

5 Relevant Planning History

- 5.1 Reference SOS/05/00085/FUL – Replace windows to front and rear with timber sliding sash windows and install replacement front door and replacement balcony to front. – Approved.

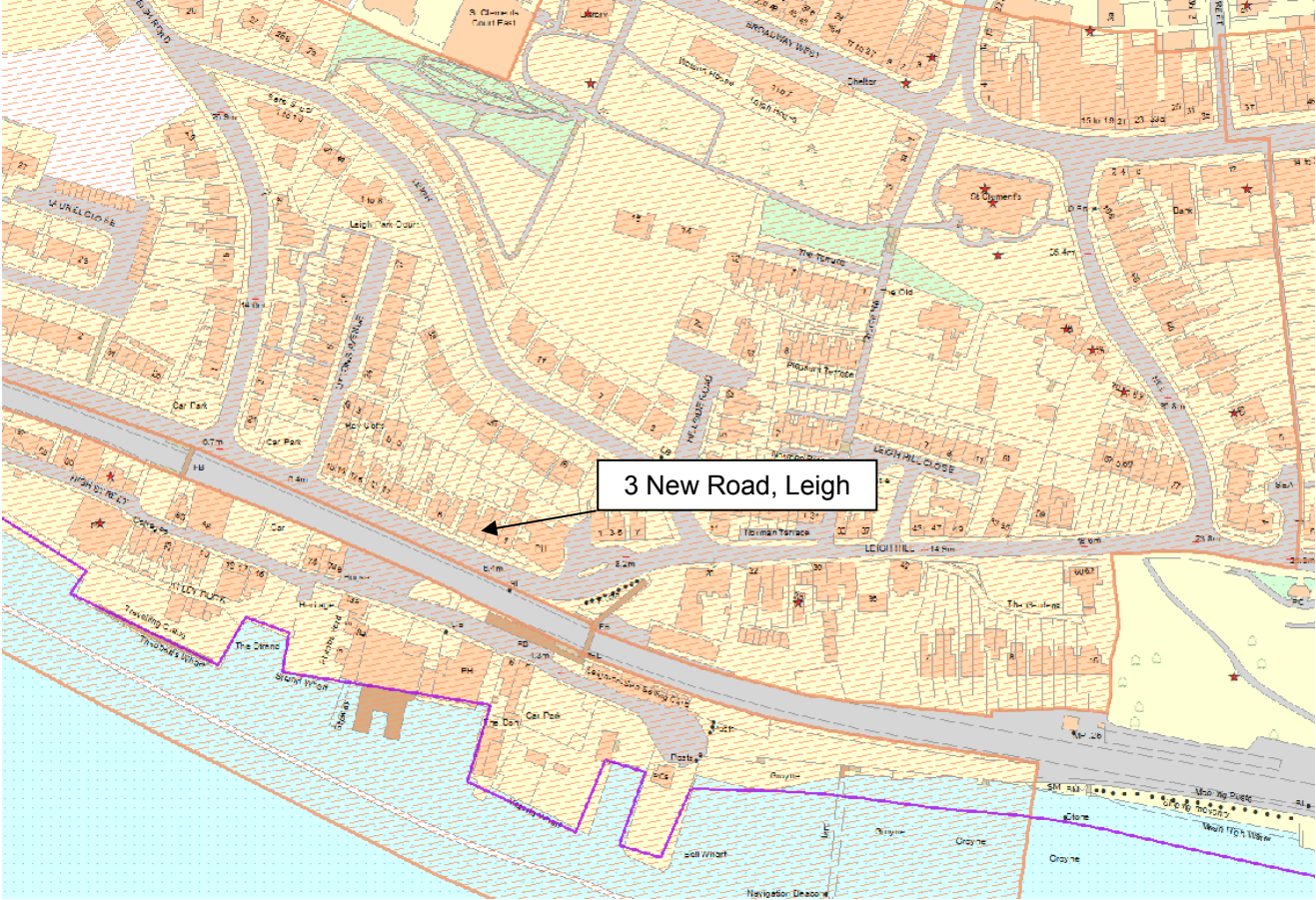
6 Planning Policy Summary

- 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.

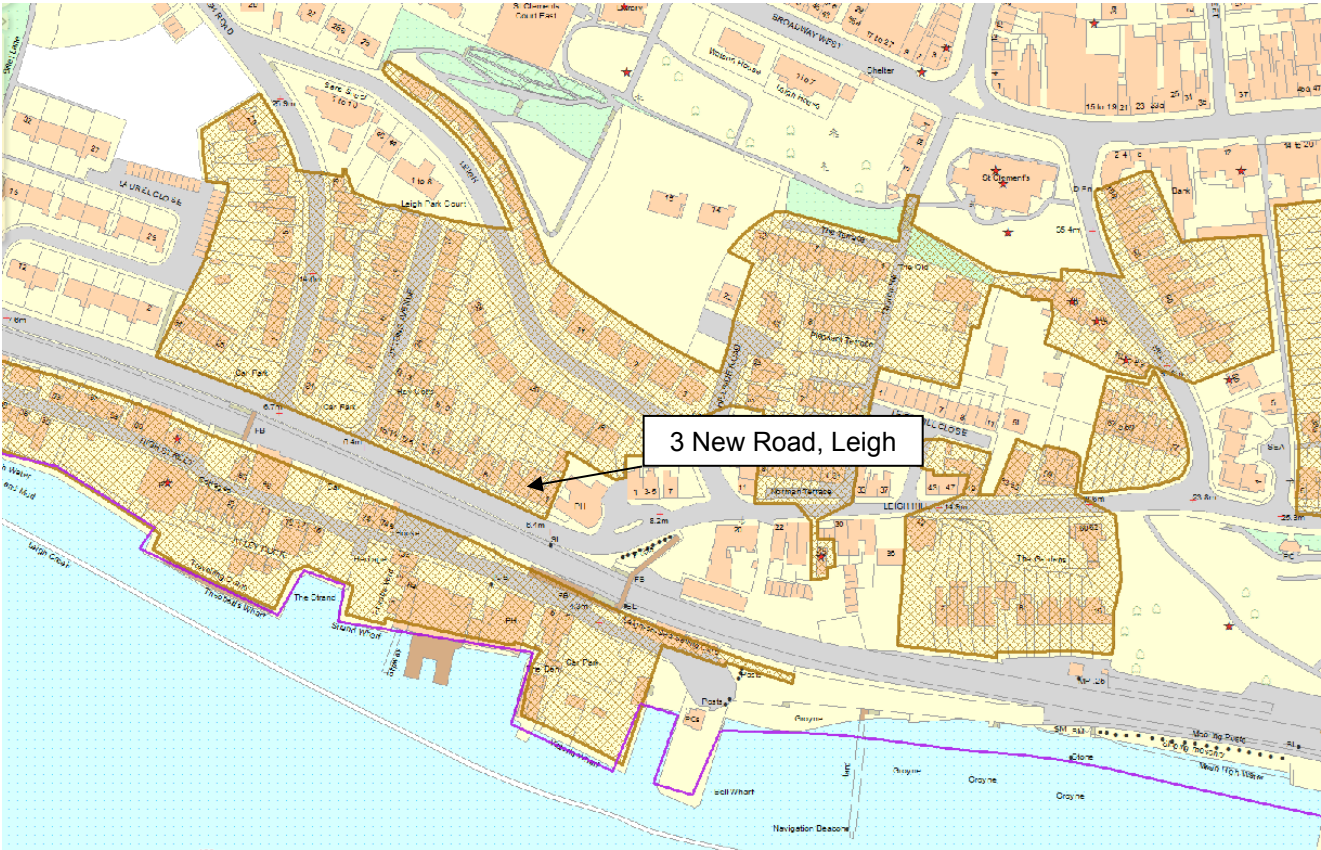
7 Recommendation

- 7.1 **Members are recommended to AUTHORISE ENFORCEMENT ACTION** to secure the removal of the unauthorised Upvc framed French windows installed to the first floor front elevation of this property on the grounds that they harm the appearance of the property and 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 Leigh Conservation area contrary to the National Planning Policy Framework, 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 necessary research and quotes have already been undertaken and any time delay in manufacture and installation is likely to be dictated by the suppliers lead time. It is considered that a compliance period of 2 months is deemed reasonable.

Appendix 1 – Leigh Conservation Area Boundary



Appendix 2 – Article 4 Direction Boundary





3 New Road, Leigh. View across railway line from Old Leigh