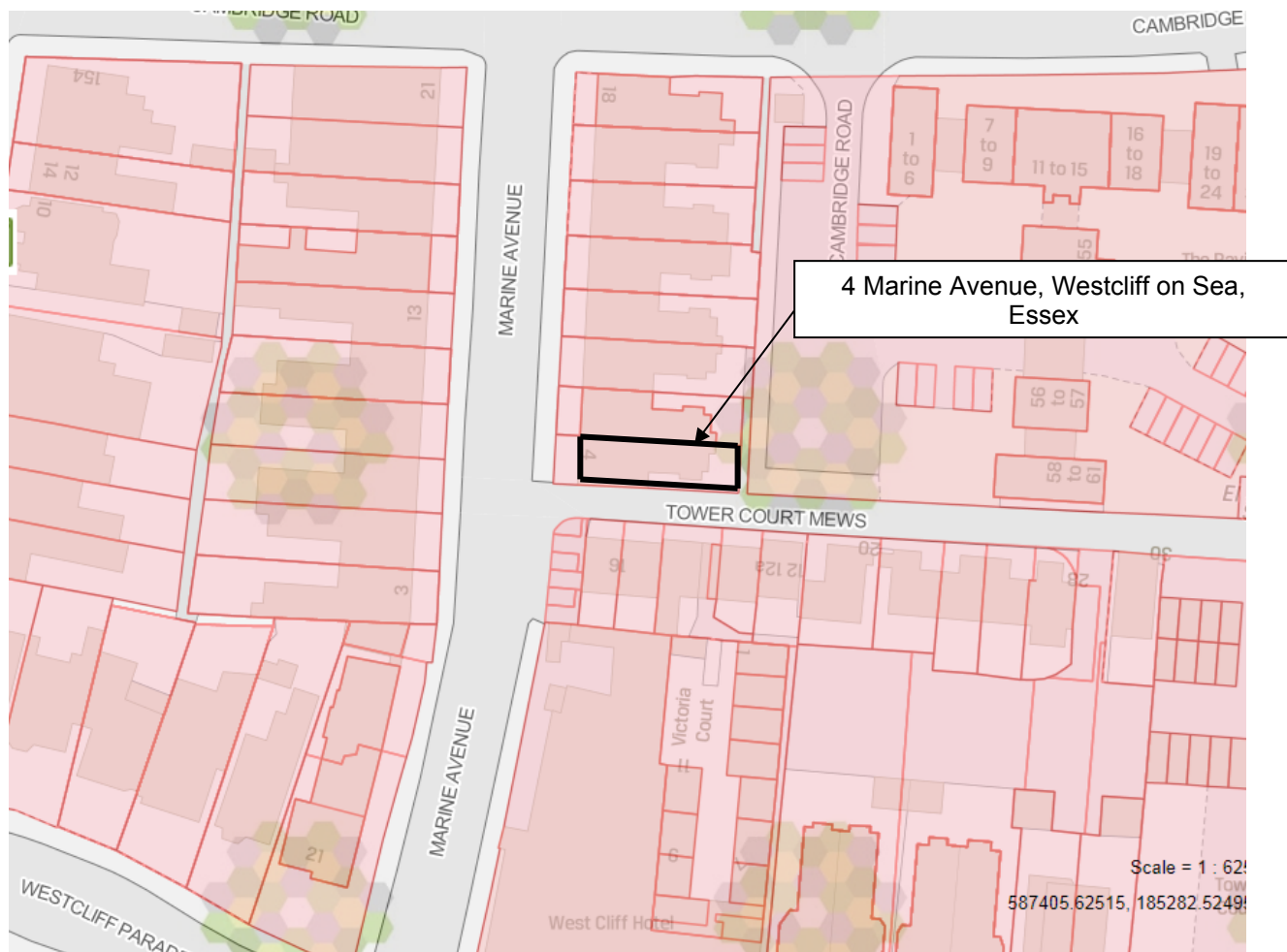


Reference:	18/00240/UNAU_B	
Ward:	Milton	
Breaches of Control	Without planning permission, the replacement of the existing wooden framed windows at ground and first floor level in the front elevation with Upvc windows. (Conservation & Article 4 Area)	
Address:	4 Marine Avenue, Westcliff on Sea, Essex. SS0 7PS	
Case Opened:	29/6/2016	
Case Officer:	Steve Jones	
Recommendation:	AUTHORISE ENFORCEMENT ACTION	



1 Site and Surroundings

- 1.1 The property is located at the southern end of a terrace of late Victorian/Edwardian houses on the eastern side of Marine Avenue. The defining feature of the properties is the large two storey bay window which is repeated along the terrace and in other properties in the street. Most of the properties in the street have retained their timber sash windows and these are an important feature of the streetscene and the wider conservation area.
- 1.2 There are some upvc windows present within the street but these appear to be historic and are regarded to have a negative impact on the character of the conservation area.
- 1.3 Marine Avenue is within a residential area and is located at the top of the Cliff Gardens. It is one of 3 conservation areas in this area which showcase the best of Southend's Victorian and Edwardian heritage.
- 1.4 The property is within Shorefields Conservation Area and falls within the remit of the Shorefields Conservation Area Article 4 Direction which seeks to protect this area of special historic character. The Direction removes householder permitted development rights in relation to the following items which are considered to be significant to the character of the conservation area;
 - The alteration or replacement of any window
 - The rendering of brickwork
 - Re-roofing with different materials
 - Painting brickwork
- 1.5 Therefore, planning permission is required for the installation of Upvc windows.

2 Lawful Planning Use

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

3 Present Position

- 3.1 Following complaints in June 2016 and October 2016 it came to the Council's attention that Upvc windows had been installed in the front elevation of the property without the required consents.
- 3.2 In January 2017 the property owners were invited to submit a retrospective planning application.
- 3.3 On 16th March 2017 Enforcement staff again wrote to the property owner reminding them that a planning application should be submitted.
- 3.4 On 4th May 2017 Enforcement staff again wrote to the property owner advising that, as no planning application had been received, a report would be submitted to the Development Control Committee to authorise enforcement action.

- 3.5 On 9th May 2017 a planning application was received in respect of the replacement front windows (Ref 17/00789/FULH).
- 3.6 On 10th August 2017 the planning application was refused. (See attached Officers Report at Appendix 2 for details of the background and reasons.)
- 3.7 This report seeking authority for enforcement action responds to the continuing unresolved nature of the case.

4 Appraisal

- 4.1 The principle of the development, its design and its impact on the character of the existing building are set out and fully assessed in the Officers Report at Appendix 2.
- 4.2 Following a comprehensive assessment of the unauthorised windows through the formal process of the planning application submission it was found that the Upvc windows by reason of their detailed design, materials and opening mechanism are harmful to the character and appearance of the individual property and the streetscene in the wider Shorefields Conservation Area of which it forms part. That basis for refusing permission was conveyed to the applicant through the planning decision notice which included details about their rights to appeal. No appeal was lodged within the requisite timeframe.
- 4.3 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 Upvc windows in the interests of seeking to prevent development which has been found to be material harmful to the special character and appearance of the Conservation Area.

5 Relevant Planning History

- 5.1 17/00789/FULH Replacement windows to front elevation (retrospective) – Refused 10 August 2017

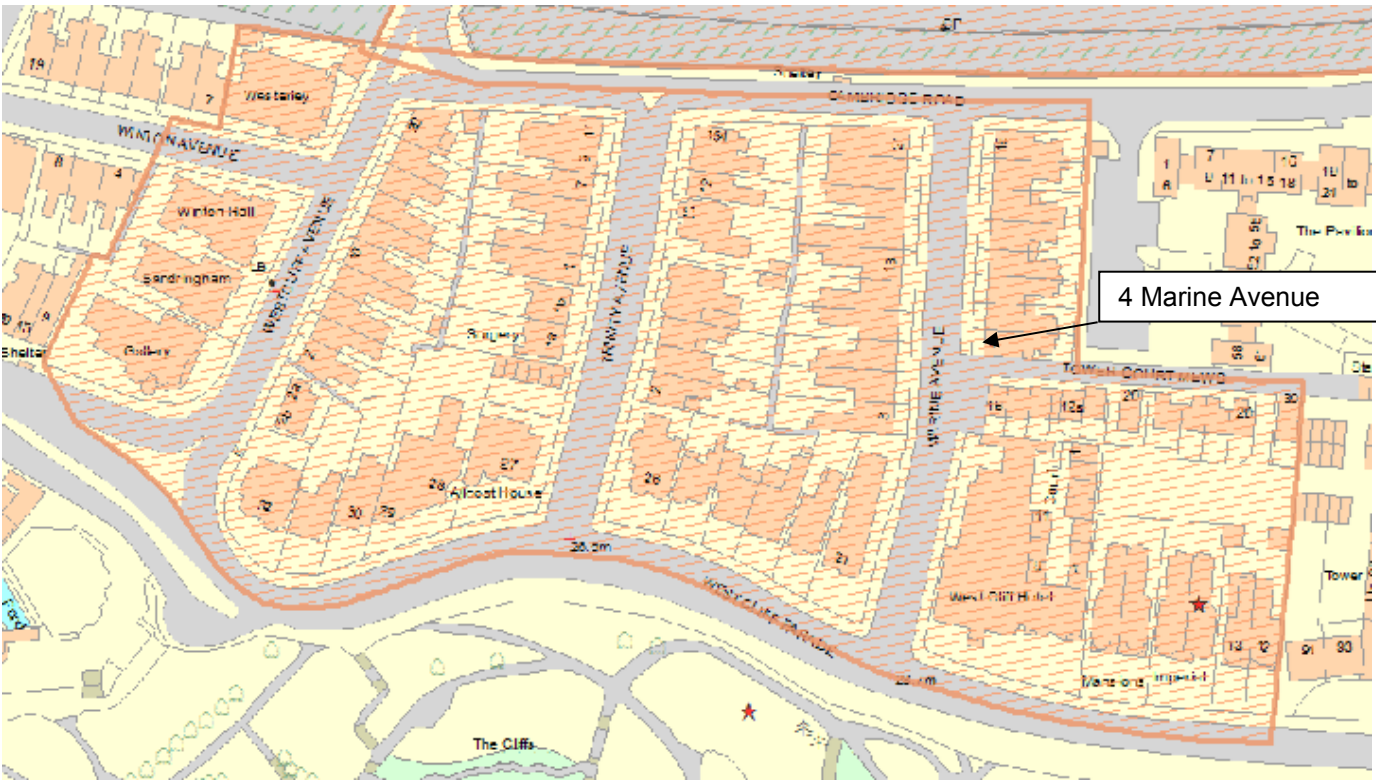
6 Planning Policy Summary

- 6.1 The National Planning Policy Framework (NPPF) (2018).
- 6.2 Core Strategy (2007) Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance).
- 6.3 Development Management Document (2015) 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)

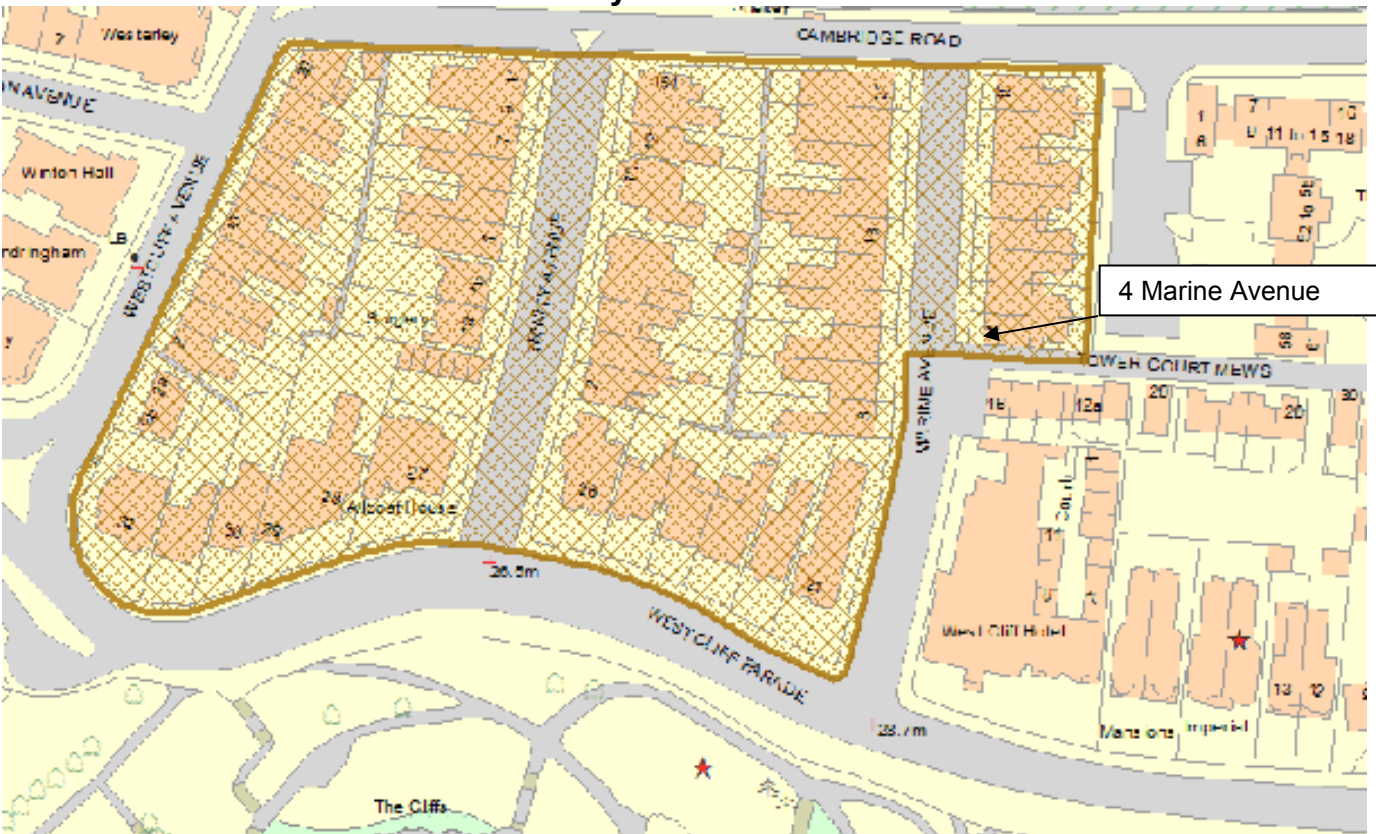
7 Recommendation

- 7.1 Members are recommended to AUTHORISE ENFORCEMENT ACTION to secure the removal of the unauthorised Upvc framed windows installed to the ground and first floor front elevation.
- 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, research and quotes are possibly still required to be obtained and any time delay in manufacture and installation is likely to be dictated by the suppliers lead time. A compliance period of 3 months is deemed reasonable.

Appendix 1 Shorefields Conservation Area Boundary



Shorefields Conservation Area Boundary



Appendix 2 Copy of officer report for Planning Application 17/00789/FULH

Reference:	17/00789/FULH
Ward:	Milton
Proposal:	Replacement windows to front elevation (Retrospective)
Address:	4 Marine Avenue, Westcliff-on-Sea
Applicant:	Andrew Savva
Agent:	n/a
Consultation Expiry:	26.07.17
Expiry Date:	15.08.17
Case Officer:	Abbie Greenwood
Plan No's:	Front Elevation and Location Plan, photographs of installed windows
Recommendation:	REFUSE PERMISSION

1 The Proposal

- 1.1 The application seeks planning permission to retain nine upvc sash windows on the front elevation of 4 Marine Avenue which were installed without planning consent.
- 1.2 The windows replace white painted timber sliding sash windows at first floor and fixed upvc windows with a central glazing bar at ground floor. The applicant has submitted a statement to say that the reason for the change was because the existing windows were in a poor condition and they wished to improve the thermal performance of the property.

2 Site and Surroundings

- 2.1 The application property is located at the southern end of a terrace of late Victorian / Edwardian houses on the eastern side of Marine Avenue. The defining feature of the properties is the large two storey bay window which is repeated along the terrace and in other properties in the street. Most of the properties in the street have retained their timber sash windows and these are an important feature of the streetscene and the wider conservation area. A few upvc windows were evident on the site visit but these appeared to be historic and were considered to have a negative impact on the character of the conservation area.
- 2.2 The application property is within Shorefields Conservation Area and falls within the Shorefields Conservation Area Article 4 Direction which seeks to protect this area of special historic character. The Direction removes householder permitted development rights in relation to the following items which are considered to be significant to the character of the conservation area:
 - The alteration or replacement of any window
 - The rendering of brickwork
 - Re-roofing with different materials
 - Painting brickwork

This means that planning permission would be required for these works.

- 2.3 Marine Avenue is within a residential area and is located at the top of the cliff gardens. It is one of 3 conservation areas in this area which showcase the best of Southend's Victorian and Edwardian heritage.

3 Planning Considerations

- 3.1 The main considerations for this application are the principle of the development, and the design including the impact of the proposed works on the character and appearance of the conservation area. It is not considered that there would be any impact on neighbours or highway implications arising from this proposal.

4 Appraisal

Principle of Development

National Planning Policy Framework (2012); The Core Strategy (DPD1) Policies KP2 (Development Principles) and CP4 (Environment and Urban Renaissance); Development Management Document (DPD2) Policies DM1 (Design Quality), DM3 (The Efficient and Effective use of land) and DM5 (Southend's Historic Environment) and Design and Townscape Guide SPD1 (2009).

- 4.1 This proposal is considered in the context of the Core Strategy DPD policies KP2 and CP4 and policies DM1, DM3 and DM5 of the Development Management Document (2015). These policies and guidance support alternations to properties in conservation areas where such alterations respect the existing historic character of the buildings, preserve and enhance the character and appearance of the wider conservation area and respect the amenity of neighbours.
- 4.2 The Article 4 Direction for Shorefields Conservation Area requires that planning permission be obtained for the alteration or replacement of windows because they are considered to be important to the historic character and significance of the conservation area. Applications for replacement windows will therefore need to demonstrate that the proposed replacements would preserve or enhance the historic character and traditional materials of the conservation area. If this can be justified then replacement windows would be acceptable. The principle of replacement windows would therefore be acceptable on this basis.

Design and impact on the character of the existing building and the wider conservation area

National Planning Policy Framework (2012); The Core Strategy (DPD1) Policies KP2 (Development Principles) and CP4 (Environment and Urban Renaissance); Development Management Document (DPD2) Policies DM1 (Design Quality) DM3 (The Efficient and Effective use of land) and DM5 (Southend's Historic Environment) and Design and Townscape Guide SPD1 (2009).

- 4.3 The National Planning Policy Framework (NPPF) states *"The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people."* (Paragraph 56 – 'Requiring good design').
- 4.4 Policy KP2 of the Core Strategy advocates the need for all new development to *"respect the character and scale of the existing neighbourhood where appropriate and secure improvements to the urban environment through quality design"*.
- 4.5 Policy CP4 of the Core Strategy states *"development proposals will be expected to contribute to the creation of a high quality, sustainable urban environment which enhances and complements the natural and built assets of Southend. This will be achieved by:*

5. maintaining and enhancing the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development.

7. safeguarding and enhancing the historic environment, heritage and archaeological assets, including Listed Buildings, Conservation Areas and Ancient Monuments ;'

- 4.6 Policy DM1 of the Development Management Document advocates the need for good quality design that contributes positively to the creation of successful places. It states that:

'In order to reinforce local distinctiveness all development should:

- (i) Add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features giving appropriate weight to the preservation of a heritage asset based on its significance in accordance with PolicyDM5 where applicable;'*

- 4.7 Policy DM5 of the Development Management Document states that all development proposals that affect a heritage asset will be required to demonstrate the proposal will continue to conserve and enhance its historic and architectural character, setting and townscape value. In relation to development within Conservation Areas in particular policy DM5 (Historic Buildings) states that:

"Development proposals that are demonstrated to result in less than substantial harm to a designated heritage asset will be weighed against the impact on the significance of the asset and the public benefits of the proposal and will be resisted where there is no clear and convincing justification for this."

- 4.8 In relation to development with conservation areas Paragraph 302 of the Design and Townscape Guide (SPD1) states that

'New buildings, extensions and alterations visible from public places should positively enhance the character and appearance of the Conservation Area.'

- 4.9 In relation to Article 4 Directions Paragraph 308 of the Design and Townscape Guide states:

'There are a number of key building features of particular significance to the character of Conservation Areas and it is important that these are preserved and respected. Where necessary the Council has introduced Article 4 Directions to give greater protection to these features.'

and in relation to windows in conservation areas para 310 states that:

'If replacement or reinstatement is necessary, purpose-made windows to match the original materials and external appearance should normally be installed. For most buildings, double glazing within timber frames is acceptable if the external appearance is unaltered and the metal frames and seals are not visible.'

Non-traditional materials, especially plastic, cannot match traditional timber windows and are normally not acceptable.

To safeguard the building's character, new windows should normally:

- *Be of good quality softwood or hardwood from renewable sources;*
- *Be painted (not stained);*
- *Copy the original pattern of glazing bars and horns, if any - glazing bars should be built into the window and not stuck on to the glass;*
- *Use the original method of opening;*
- *Retain or restore the dimensions of the original window opening and the position of the frame within the opening - most openings are well-proportioned and most frames in older brick buildings are well set back from the face of the wall to give weather-protection, shadow and character;*
- *Give adequate ventilation;*
- *Retain decorative surrounds - they give elegance and distinction to many Victorian and Edwardian buildings.*

4.10 • Shorefields Conservation Area has generally retained a high proportion of its original features including timber windows and these make an important contribution to the character and significance of the conservation area. Unfortunately there are few windows in Marine Avenue which were changed to UPVC many years ago most likely prior to the designation of the Article 4 Direction. Certainly there are no consents for UPVC in this street within the last 20 years. The Council has a duty to preserve and enhance the character of its Conservation Area and in line with this, where UPVC windows have recently been installed without consent (within the last 4 years) the Council is seeking reinstatement to more appropriate timber designs to stop the erosion of the historic character of the conservation areas in the Borough.

4.11 4 Marine Avenue has recently replaced all the windows to the front with new UPVC sash style windows. Prior to this the property had its original timber sliding sashes at first floor but the windows in the ground floor bay were simple old style UPVC fixed windows. There is no record that these windows at ground floor ever had planning permission. The owner comments that these were installed in the 1990s by the previous occupants and are therefore now exempt from planning permission (although no evidence has been submitted to confirm this). The timber sashes at the top, however, were considered to make a positive contribution to the character of the conservation area.

4.12 The site visit revealed that the new windows were situated very close to the public realm and were noticeably different from the timber sashes in the adjacent properties. Although the replacement windows were of a sliding design, differences were apparent in their design detailing as well as the different look of the materials. In particular the joints within the plastic frame were evident at the corners, horns and between the pieces of the frame itself, which contrasts with traditional timber windows where the paintwork conceals these joints. It was also noted that the windows had an additional deep groove within the outer frame to enable them to slide without the need for the pulley mechanism found in traditional sash windows.

There was a clear difference to the application windows and both original and replacement timber sashes seen in the adjacent properties and it is considered that this difference contributed to the erosion of character.

- 4.13 It is noted that the ground floor bay already had UPVC, however, the upper bay had maintained its timber sashes. The replacement of 4 UPVC windows with 9 cannot therefore be justified in this heritage location.
- 4.14 It is considered that the proposal is contrary to the objectives of the Article 4 Direction, which is seeking to maintain the special historic character of the conservation area, and that the new windows have not preserved or enhanced the character of the conservation area. Therefore this application cannot be supported. It is suggested that the applicant look to submit a revised proposal for timber sashes of a design similar to the neighbouring property. Slimline double glazing could be used to improve thermal performance subject to agreement of design details.
- 4.15 The application is therefore contrary to the policies and guidance outlined above which seeks to preserve and enhance the historic character of the conservation area unless the harm to the heritage asset is outweighed by the public benefit. There are no public benefits to justify the retention of these windows in this case and they are therefore considered to be unacceptable.

Community Infrastructure Levy (CIL) Charging Schedule.

- 4.16 The proposal for the existing property equates to less than 100sqm of new floor space, the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.

Conclusion

- 4.17 Having taken all material planning considerations into account, it is considered that the proposed development is unacceptable in terms of its impact on the character of the existing property and that of the streetscene and that it would fail to preserve or enhance the character of the Shorefields Conservation Area. The proposal conflicts with the development plan policies and guidance set out above and therefore is recommended for refusal.

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework 2012.
- 5.2 Development Plan Document 1: Core Strategy Policies KP2 (Development Principles) and CP4 (Environment & Urban Renaissance).
- 5.3 Development Plan Document 2: Development Management Document Policies DM1 (Design Quality), DM3 (The Efficient and Effective use of land) and DM5 (Southend on Sea's Historic Environment)
- 5.4 Supplementary Planning Document 1: Design & Townscape Guide, 2009.

6 Representation Summary

The Southend Society

6.1 No comments.

The Milton Society

6.2 We strongly object to this retrospective application. Original sliding sash windows (or their like for like replacements) to principal street facing elevations, make an important contribution to the character of the conservation area and should not be replaced with alien uPVC windows with their heavier or misproportioned frames, mitred corners and different appearance. Southend Council has a good record of protecting these types of windows and this has been supported at appeal.

Neighbours

6.3 5 neighbours were individually consulted and a site notice was displayed. Two neighbours have objected and makes the following comments:

- The majority of windows in Marine Avenue are on the whole wood sash windows and as such add to the period feel of the street. We have original wood sash windows and my neighbour recently replaced hers but did so using wood sash windows, at considerable expense.
- If the above application is approved, it would go against the conservation principles for this area and set a precedent for any other resident wishing to install UPVC windows.
-

7 Relevant Planning History

7.1 No relevant planning history

8 Recommendation

It is recommended that the application be REFUSED for the following reason:

01 The windows, by reason of their detailed design, materials and opening mechanism, are harmful to the character and appearance of the individual property and the street scene in the wider Shorefields Conservation Area of which it forms a part. The development is therefore unacceptable and contrary to the National Planning Policy Framework; Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007); Policies DM1, DM3 and DM5 of the Southend-on-Sea Development Management Document (2015); and advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal.

The detailed analysis is set out in a report prepared by officers. In the circumstances the proposal is not considered to be sustainable development. The Local Planning Authority is willing to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development, should the applicant wish to exercise this option in accordance with the Council's pre-application advice service.

Informative

01 The applicant is advised that an installation of a traditional timber sliding sash windows, similar to the adjacent property, which could include slimline double glazing, would be considered more acceptable but these will require a revised planning application. If you require further advice regarding this please contact the Council's Conservation Officer on 01702 215330.

02 The proposal for the existing property equates to less than 100sqm of new floor space, the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.