

Reference:	22/00236/FULH	
Application Type:	Full Application - Householder	
Ward:	Leigh	
Proposal:	Replace existing wooden sash windows with UPVC windows to all elevations (retrospective)	
Address:	11B New Road, Leigh-on-Sea, Essex	
Applicant:	Mr M Good and Ms C Harper	
Agent:	Mr Thomas Sharman of Smart Planning Ltd	
Consultation Expiry:	10th March 2022	
Expiry Date:	7th April 2022	
Case Officer:	Kara Elliott	
Plan Nos:	21.7663/M001, 21.7663/M002, 21.7663/E101, 21.7663/E102	
Supporting Documents:	Planning Statement, Heritage Statement	
Recommendation:	(A) REFUSE PLANNING PERMISSION; and (B) AUTHORISE ENFORCEMENT ACTION	



1 Site and Surroundings

- 1.1 The application property is a semi-detached two storey dwelling on the northern side of New Road behind 11 and 12 New Road, located within the Leigh Conservation Area. The application site is also within the area subject of the Leigh Article 4 Direction which removes permitted development rights for, amongst other development, the alteration of any window.

2 The Proposal

- 2.1 Submitted in response to a planning enforcement investigation, planning permission is sought to retain white UPVC casement windows to all elevations (front, western flank and rear) on the ground and first floors.
- 2.2 This report comes to Development Control Committee because it includes a recommendation to authorise enforcement action.

3 Relevant Planning History

- 3.1 The relevant planning history for the application is listed below:

- 3.2 21/00293/UNAU_B – Enforcement investigation for UPVC windows in Conservation Area

3.3

There is extensive replacement window history within New Road. In particular:

3.4 10 New Road

20/01347/FULH - Replace single glazed wooden Georgian sash box windows at front to wooden double glazed box sash windows – Granted 09.11.2020

3.5 6 New Road

19/02252/FULH - Replace existing UPVC windows with timber sash windows to front elevation (Amended Proposal) – Granted 12.02.2020

3.6

19/00450/FULH - Replace existing UPVC sash windows with timber sash windows to front elevation – Granted 23.05.2019

3.7

17/00140/FULH - Retain two UPVC windows to front elevation (Retrospective) - Refused 11.07.2017

3.8

16/00232/UNAU_B – Enforcement Notice against replacement of timber windows with UPVC windows – Issued 22.11.2018

3.9 12 New Road

16/02106/FULH - Replace windows to front elevation (timber) – Granted 19.12.2016

3.10 11 New Road

16/01310/FULH - Replace windows to front elevation (timber) – Granted 08.09.2016

3.11 11A New Road

15/00226/FULH - Replace existing windows to front and rear elevations (timber) –

Granted 16.10.2015

4 Representation Summary

Leigh Town Council

4.1 Objects.

Heritage & Conservation

4.2 Objects. Comments: *Inappropriate style and material for this historic cottage. The loss of timber sashes have caused harm to the significance of the building and the wider conservation area. This harm is not outweighed by any public benefits.*

Public Consultation

4.3 8 neighbouring properties were consulted, a site notice was displayed and a press notice was published. 2 letters of representation have been received which make the following objections;

- Harm to character and appearance of site and wider conservation area;
- Not in keeping with area;
- Velux window installed to front elevation roof slope;
- Sets a precedent for inappropriate development.

4.4 The views in the representations have been taken into consideration in the assessment of the application. Other than as reflected in the reason for refusal at Section 8 of this report the remaining points of objection raised were not found to be justifiable reasons for refusing planning permission in the circumstances of this case.

5 Planning Policy Summary

5.1 National Planning Policy Framework (NPPF) (2021).

5.2 The National Design Guide (2021)

5.3 Core Strategy (2007) Policies KP2 (Development Principles) and CP4 (Environment & Urban Renaissance)

5.4 Development Management Document (2015) policies DM1 (Design Quality), DM5 (Southend on Sea Historic Environment)

5.5 Design & Townscape Guide (2009)

5.6 CIL Charging Schedule (2015)

5.7 Leigh Conservation Area Appraisal (2020)

6 Appraisal

Principle of Development

- 6.1 This application is considered in the context of the above policies relating to design and conservation. These policies and guidance support alterations and extensions to properties in a conservation area where they respect the special historic character and significance of the building and that of the wider conservation area.
- 6.2 Subject to these requirements this development is acceptable in principle. The determining factors are therefore the detailed material considerations discussed below.

Design and Impact on the Character of the Area

- 6.3 Good design is a fundamental requirement of new development to achieve high quality living environments. Its importance is reflected in the National Planning Policy Framework, in Policies KP2 and CP4 of the Core Strategy and also in Policy DM1 of the Development Management Document. The Design and Townscape Guide also states that; *“the Borough Council is committed to good design and will seek to create attractive, high-quality living environments.”*
- 6.4 With regard to the character of the area, the application site is located within the Leigh Conservation Area. A Conservation Area is; *“an area of special architectural or historic interest” with a character which is “desirable to preserve or enhance”* (Planning (Listed Buildings & Conservation Areas) Act, 1990). This special character comes from a range of factors including the design of the buildings as well as the materials used.
- 6.5 Consistent with the statutory duty under S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policy DM5 of the Development Management Document states that in order to conserve and enhance the character and quality of the Conservation Areas, development proposals will have to be carefully considered and demonstrate a high quality design that not only integrates with the surroundings but also conserves and enhances its intrinsic character and distinctiveness.
- 6.6 Leigh Conservation Area has generally retained a good proportion of its original features, including timber windows which make an important contribution to the character and significant of the conservation area. There are some instances of inappropriate replacement plastic windows in New Road. However, these are historic and where recent replacements have been undertaken, the Council has sought reinstatement with sympathetic timber windows to stop the erosion of the historic character. A brief history of planning permissions for timber replacements and refusing/taking enforcement action against UPVC replacements can be found in section 3 of this report.
- 6.7
- 6.8 The application retrospectively seeks planning permission for the development as the white UPVC windows are already in place. The application property forms part of a group of similar cottages at the eastern end of New Road. Nos. 11A and 11B are located behind the front row of buildings immediately facing New Road but their front elevations can be glimpsed in the gaps between the front houses, such glimpses contributing to the setting and character of the conservation area. These cottages and in particular the application property are described in the 2020 Leigh Conservation Area Appraisal as making a positive contribution to the special character of the conservation area.

6.9 Despite the restricted views of these properties, there is significant value to the character and integrity of the conservation area and character of the existing building in retaining their historic features, especially to their principal south elevation. This value is reinforced by the inclusion of these properties within the Leigh Article 4 Direction and applies to all windows on a building under the Direction. The side and rear elevations of the dwelling on site, whilst not readily visible from public vistas, are also contributing to the architectural and historic significance of the conservation area.

6.10 The UPVC windows which have been installed to all elevations are top hung casements with heavy frames. These are of an inappropriate style and material for this historic cottage. The inappropriate design of the installed windows and alien material, result in fenestration that significantly detracts from the historic character and appearance of the dwelling on site and are unsympathetic additions to all elevations of the dwelling, regardless of public vistas. The loss of timber sashes has caused harm to the significance of the building and the wider conservation area. This harm is not outweighed by any identified public benefits. The applicant attaches weight to the sustainability benefits of using UPVC windows. However, this is not considered to outweigh the significant harm identified. Furthermore, sustainability credentials can be improved without harm to the heritage assets and alternative solutions should be sought.

The development fails to preserve the character and significance of the conservation area, causing less than substantial, albeit significant harm, and the public benefits of the development do not outweigh the identified harm. This is unacceptable and contrary to policy in this regard.

Other Matters

6.11 The development is not found to result in any significant parking or highways impacts or any material neighbour amenity impacts, it is therefore acceptable and policy compliant in these regards.

6.12 The development equates to less than 100sqm of new floorspace. As such, the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and no charge is payable.

Request for Enforcement Authority

6.13 In light of the recommendation that planning permission be refused and because the unauthorised windows are causing significant harm to the character and appearance of the Leigh Conservation Area in conflict with planning policies, Staff consider it is proportionate and justified in the circumstances of the case to seek authority for an enforcement notice to be served as this will bring focus to the need for the breach to be regularised. Service of an enforcement notice carries its own right of appeal and also does not fetter the owner in seeking to gain planning permission for a different replacement window proposal which remedies the identified harm. Taking enforcement action in this case may amount to an interference with the owner/occupier's 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.

Equality and Diversity Issues

6.14

The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty. Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment and victimisation, and must advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have in considering this application and preparing this report had careful regard to the requirements of the Equalities Act 2010 (as amended). They have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation.

7

Conclusion

7.1

Having taken all material planning considerations into account, it is considered that the development is unacceptable in terms of its impact on the character of the existing dwelling and that of the streetscene and that it fails to preserve or enhance the character of the Leigh Conservation Area. The identified harm to the heritage asset is less than substantial, albeit significant, and any public benefits arising from the development do not outweigh the identified harm. The development conflicts with the development plan policies and guidance set out above and therefore this application is recommended for refusal and it is requested that the power to serve an enforcement notice be authorised.

8

Recommendation

8.1

Members are recommended to:

A) REFUSE PLANNING PERMISSION for the following reasons:

01. The replacement windows, by reason of their materials and detailed design are considered to be detrimental to the historic character and significance of the existing property and the wider Leigh Conservation Area. The identified harm to the conservation area is less than substantial, albeit significant, and any public benefits arising from the development do not outweigh the identified harm. The development is contrary to the National Planning Policy Framework (2021), Policies KP2 and CP4 of Core Strategy (2007), Policies DM1 and DM5 of the Development Management Document (2015) and the Design and Townscape Guide (2009).

AND

B) AUTHORISE ENFORCEMENT ACTION to require from anyone with an interest in the land (the site) to:

- a) remove the unauthorised windows UPVC; and**
- b) remove from site all materials resulting from compliance with a) above.**

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

When serving an Enforcement Notice the Local Planning Authority must ensure a reasonable time for compliance. In this case a compliance period of six (6) months is considered reasonable for the removal of the unauthorised windows, considering that planning permission is required for the installation of new appropriate windows.