

Reference:	22/01627/AMDT	
Application Type:	Minor Amendment	
Ward:	West Leigh	
Proposal:	Application to vary and amend the wording to condition 03 to allow change to the type of 'A Bar' used (Minor Material Amendment of Planning Permission 21/01748/FULH dated 22/10/2021) (Part Retrospective)	
Address:	44 Canvey Road, Leigh-on-Sea, Essex, SS9 2NN	
Applicant:	Mr Harry Kinn	
Agent:	N/A	
Consultation Expiry:	22.09.2022	
Expiry Date:	04.11.2022	
Case Officer:	Abbie Greenwood	
Plan Nos:	<p>Plans to be Replaced</p> <p>P05A</p> <p>Proposed Replacement Plans</p> <p>P05 Rev A, Cross Section titled 'SMA Alitherm Heritage Standard Garrard Square (W20170)'</p> <p>Plans unchanged from Previous Application</p> <p>P01, P03</p>	
Additional information:	Product brochure titled: "Smart architectural aluminium by Alitherm Heritage"	
Recommendation:	GRANT PLANNING PERMISSION subject to conditions	



1 Site and Surroundings

- 1.1 The application site contains a 1920s semi-detached dwelling on the east side of Canvey Road, close to the junction with Western Road, in Chapmanslord Conservation Area. The property is part of the Homes for Heroes planned estate and is the same design as most of the other properties in this section of Canvey Road except that it has been previously extended to the north side including with a single storey garage and two storey side extension. Both additions pre-date the conservation area designation. The garage area has recently been remodelled to improve its appearance.
- 1.2 Chapmanslord Conservation Area is covered by an Article 4 Direction which seeks to protect aspects and features which are important to the historic character of the houses in the area. This means that planning permission is required for a variety of works which would usually be permitted development. The Article 4 Direction covers a range of items including alteration or replacement of front doors and windows fronting a highway.
- 1.3 Canvey Road forms part of the Marine Estate, a residential area which is on the top of Leigh Cliffs at the western end of the City. No other site-specific planning designations affect the site.

2 The Proposal

- 2.1 The application, which is retrospective in nature because the development has already been undertaken, seeks a minor-material amendment to the planning permission granted under application reference 21/01748/FULH (the “2021 Permission”) for:

‘The replacement of the existing windows to front and side with double glazed aluminium Georgian style units’.

- 2.2 That application was approved subject to the following condition which was in line with the submitted details:

03 The replacement windows shall only be from the Heritage putty-line range by Duration windows manufactured by Smart Systems, and shall be finished in white metal to the outside, shall be fitted with A shaped astragal bars and shall have not visible trickle vents.

Reason: In the interests of visual amenity and to ensure that the appearance of the building makes a positive contribution to the character and appearance of the Chapmanslord Conservation Area. This is as set out in the National Planning Policy Framework (2021), Core Strategy (2007) policies KP2 and CP4, Development Management Document Policies DM1 and DM5 and the Southend Design and Townscape Guide (2009).

- 2.3 The windows which have been installed are not from the Heritage Putty Line Range specifically consented but a similar product from the SMART Alitherm Heritage range. Furthermore, they have been installed with flat external glazing bars, which are materially different from those approved under the 2021 Permission. This minor-material amendment application is therefore both for a change of window product from that originally consented to the SMART Alitherm Heritage range but the application also includes the replacement of the existing flat glazing bars with 'A' shaped glazing bars so that the windows are more comparable to that originally consented. The replacement glazing bars are 18mm wide and 8mm deep.

3 Relevant Planning History

- 3.1 The most relevant planning history for the determination of this application is shown on Table 1 below:

Table 1: Relevant Planning History of the Application Site

Reference	Description	Outcome
22/00173/BRCN_B	Enforcement Enquiry (Windows)	Ongoing
22/01613/NON	Application to vary and amend the wording to condition 03 to allow change to the type of 'A Bar' used (Non-Material Amendment to Planning Permission 21/01748/FULH dated 22.10.2021)	Withdrawn
21/01748/FULH	Replace existing windows to front and side with double glazed aluminium Georgian style units	Granted
21/00486/FULH	Erect part single/part two storey side and rear extension and layout paving to front with boundary fence	Granted
10/01259/FULH	Install replacement windows to front elevation	Granted

4 Representation Summary

Call-in

- 4.1 The application has been called in to Development Control Committee by Councillor Mulroney.

Public Consultation

- 4.2 Seven (7) neighbouring properties were consulted, a site notice was displayed and a press notice was published. Objections from two interested parties have been received raising the following summarised issues:

- The windows which have been installed are not those consented under the 2021 Permission.
- The flat glazing bars which have been installed are out of character and harmful

to the conservation area.

- The conservation area appraisal identifies inappropriate windows as having a negative impact on the character of the conservation area.
- The application does not preserve or enhance the conservation area.
- The application has not been demonstrated that the original condition is unreasonable or irrelevant.
- The conservation area should be monitored for breaches of planning permissions.

Officer Comment: These concerns are noted and those that represent material planning considerations have been taken into account in the assessment of the application. However, they are not found to represent a reasonable basis to refuse planning permission in the circumstances of this case.

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (NPPF) (2021)
- 5.2 Planning Practice Guidance (PPG) – National Design Guide (NDG) (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) and DM5 (Southend on Sea's Historic Environment)
- 5.5 Southend-on-Sea Design and Townscape Guide (2009)
- 5.6 Community Infrastructure Levy (CIL) Charging Schedule (2015)
- 5.7 Chapmanslord Conservation Area Appraisal (2021)

6 Planning Considerations

- 6.1 This application is for the variation of condition 03 of planning permission 21/01748/FULH relating to the window details only. In all other respects, including the principle of replacement windows in this dwelling, the proposal remains unchanged from that approved under application 21/01748/FULH. The only considerations for this application are therefore the impact of the amended window details on the character and appearance of the historic building and surrounding conservation area. As with the 2021 application there are no material highways or neighbour amenity considerations for this application as it relates to the replacement of existing windows only.
- 6.2 The proposed amendments are considered to fall within the scope of a minor material amendment.

7 Appraisal

Design and Impact on the Character of the Conservation Area

- 7.1 Section 72(1) of the Planning and Listed Buildings and Conservation Areas Act 1990 states that special attention should be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

- 7.2 In relation to development in conservation areas paragraph 199 of the NPPF states *'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.'* And paragraph 194 states *'Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.'*
- 7.3 Paragraph 201 of the NPPF states where a proposed development will lead to *'substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or total loss...'*
- 7.4 Paragraph 202 of the NPPF states *'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'*
- 7.5 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".
- 7.6 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.*
- 9. safeguarding, protecting and enhancing nature and conservation sites of international, national and local importance;'*
- 7.7 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 Policy DM5 where applicable;'*
- 7.8 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.”

- 7.9 As already stated, rather than using the product range Heritage Putty Line windows from Duration Windows manufactured by Smart Heritage Systems for the replacement windows as approved under 21/01748/FULH, the installed windows are from the SMART Alitherm Heritage range. These windows have been installed with flat external glazing bars, which are materially different from those approved under the 2021 Permission and out of character with the conservation area. This has caused harm to the heritage asset and is unacceptable in this current form.
- 7.10 In order to address this harm, the windows in situ are proposed to be retained but amended to remove the flat glazing bars currently installed and replace them with ‘A’ shaped glazing bars to match the other properties in the Conservation Area. The replacement glazing bars will be of a comparable size and profile to those originally approved and those elsewhere in the conservation area. The overall window frame design and quality is also considered to be compatible with the character of the conservation area. The amended proposal, subject to a condition requiring the replacement of the flat glazing bars with “A” shaped glazing bars, is considered to have a neutral impact on the character of the conservation area and is acceptable and policy compliant in the above regards

Community Infrastructure Levy (CIL)

- 7.11 The development equates to no new floor space, as such the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.

Equality and Diversity Issues

- 7.12 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.

Conclusion

- 7.13 Having taken all material planning considerations into account, it is found that subject to the installation of replacement “A” shaped glazing bars, the amended window range is acceptable in terms of its design and impact on the character and appearance of the dwelling and the conservation area and that condition 03 of application 21/01748/FULH can be varied to this effect. In all other respects including the principle of the development, the proposal is the same as application reference 21/01748/FULH which was found to be acceptable and compliant with the objectives of the relevant development plan policies and guidance subject to conditions. There have been no material changes in policy since this time. This application is therefore recommended for approval subject to conditions. An informative is included to remind the applicant of

the importance of installing the windows as approved.

8 Recommendation

Members are recommended to:

GRANT PLANNING PERMISSION subject to the following conditions:

- 01 The development hereby permitted shall be carried out/ retained in full accordance with the following approved plans P01, P03, P05A and Cross Section titled SMA Alitherm Heritage Standard Garrard Square (W20170).**

Reason: To ensure that the development is carried out in accordance with the provisions of the Development Plan.

- 02 The replacement windows shall only be from the SMART Alitherm Heritage Range, finished in white metal to the outside and fitted with “A” shaped astragal bars as set out on Cross Section titled SMA Alitherm Heritage Standard Garrard Square (W20170) permanently bonded to the glass.**

Reason: In the interests of visual amenity and to ensure that the appearance of the building makes a positive contribution to the character and appearance of the Chapmanslord Conservation Area. This is as set out in the National Planning Policy Framework (2021), Core Strategy (2007) policies KP2 and CP4, Development Management Document Policies DM1 and DM5 and advice in the Southend-on-Sea Design and Townscape Guide (2009) and Chapmanslord Conservation Area Appraisal (2021).

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.

Informatives:

01 You are advised that as the proposed development equates to less than 100sqm of new floorspace, and does not involve the creation of a new dwelling (Class C3), the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable. See www.southend.gov.uk/cil for further details about CIL.

02 The applicant is reminded that the development on site remains unauthorised. Failure to remedy this is likely to result in the Council considering the expediency of enforcement action to seek to remedy the identified harm caused by the development currently on site.

03 You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council will seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the city.