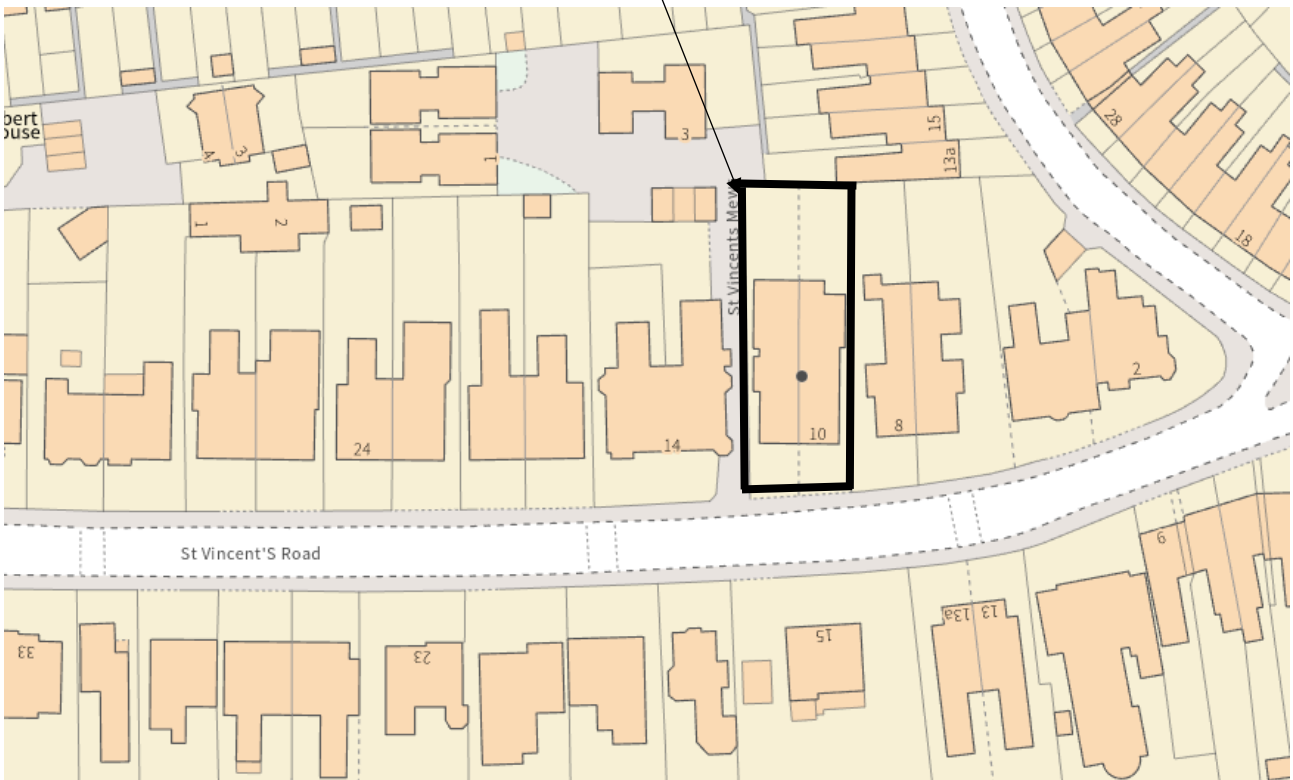


<b>Reference:</b>	19/00290/UNAU_B	
<b>Report Type:</b>	Enforcement	
<b>Ward:</b>	Milton	
<b>Breach of Planning Control:</b>	UPVC Windows installed in the Milton Conservation Area	
<b>Address:</b>	Beaufort Lodge, 10-12 St Vincent's Road, Westcliff-on-Sea, Essex, SS0 7PR	
<b>Case Opened Date:</b>	22 October 2019	
<b>Case Officer:</b>	Edward Robinson / Abbie Greenwood	
<b>Recommendation:</b>	<b>AUTHORISE ENFORCEMENT ACTION</b>	

Beaufort Lodge, 10-12 St  
 Vincent's Road, Westcliff-on-  
 Sea, Essex, SS0 7PR



## **1 Site and Surroundings**

- 1.1 The site is on the northern side of St Vincent's Road and contains a detached building that was previously used as a care home. The building is surrounded by traditional residential properties which are very attractive in character and design. The site is within the Milton Conservation Area and is covered by the Milton Conservation Area Article 4 Direction but is not subject to any other site-specific planning policy designations.

## **2 Lawful Planning Use**

- 2.1 The lawful planning use is as a care home within Use Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) but there are extant permissions for the conversion of the building to 4no. residential units within Use Class C3.

## **3 Relevant Planning History**

- 3.1 21/01204/FUL- Demolish existing rear extension and convert care home (Class C2) back to the original 2no. dwellinghouses (Class C3), form new terraces to rear, replace windows to front and access door to the east side elevation, alter front curtilage (part retrospective). Permission granted.
- 3.2 22/00584/FUL- Demolish existing rear extension and convert Care Home (C2) to 4no. dwellings (C3), replace existing UPVC doors and windows, install rooflights to east and west flank roof slopes and alter elevations. Permission granted.
- 3.3 23/01256/FUL- Convert existing care home (Class C2) to 4no. dwellings (Class C3) (retrospective). Application invalid.

## **4 Planning Policy Summary**

- 4.1 The National Planning Policy Framework (NPPF) (2021)
- 4.2 Planning Practice Guidance (PPG) – National Design Guide (NDG) (2021)
- 4.3 Core Strategy (2007): Policies KP2 (Development Principles), CP4 (Environment and Urban Renaissance)
- 4.4 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM5 (Southend's Historic Environment)
- 4.5 Southend-on-Sea Design and Townscape Guide (2009)
- 4.6 Milton Conservation Area Appraisal (2021)

## **5 The alleged breach of planning control and efforts to resolve the breach to date**

- 5.1 The identified breach of planning control is the installation of UPVC windows at first floor level to the front elevation of the building and the installation of a UPVC window and door to the west side elevation of the building. The original finely detailed large timber sash windows were important to the historic character and significance of the existing building and wider conservation area.
- 5.2 In October 2019, a complaint was received by the Council alleging original windows had been replaced with UPVC windows. No planning application has been submitted for these works.

- 5.3 On 13 November 2019, a letter was sent to the address to advise that this alteration of the fenestration was not acceptable as their property was within the Milton Conservation Area and the windows were an important feature of the historic building and conservation area.
- 5.4 On 16 June 2021, an application was received reference 21/01204/FUL. This included proposed reinstatement of the decorative timber sash windows to the front to the same design as those removed and the replacement of the window and door to the west elevation with a timber door and side panels to match the design of the fenestration on the east side elevation. This was taken into account in the overall assessment of that application. Planning permission was granted in October 2021.
- 5.5 On 07 March 2022, a new application was received reference 22/00584/FUL. This also included proposed reinstatement of the decorative timber sash windows to the front to the same design as those removed and replacement of the window and door to the west elevation with a timber door and side panels to match the design of the fenestration on the east side elevation. This was taken into account in the overall assessment of that application. Planning permission was granted in June 2022.
- 5.6 On 18 August 2022, 21 November 2022, 14 December 2022 and 30 March 2023, enforcement staff carried out site visits to monitor the replacement of the windows. Construction works had begun on site. However, the timber framed windows had not been installed.
- 5.7 On 25 July 2023, a further application was received which includes proposed reinstatement of the decorative timber sash windows and the installation of a timber door with panels on the west elevation. This application is currently invalid.
- 5.8 On 24 August 2023, a further site visit took place. The unauthorised UPVC windows were still in place to the front elevation, similarly the side UPVC entrance and window.

## **6 Appraisal**

### **Impact on the Character of the Building and Wider Conservation Area**

- 6.1 Sections 69 and 72 of the Planning and Listed Buildings and Conservation Areas Act 1990 state that special attention should be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 6.2 Paragraph 126 of the NPPF states 'the creation of high quality, sustainable and beautiful buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations and how these will be tested, is essential for achieving this.'
- 6.3 Paragraph 195 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...'
- 6.4 Paragraph 196 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.’

- 6.5 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.’ 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 by 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.’
- 6.6 Policy DM1 of the Development Management Document advocates the need for good quality design that contributes positively to the creation of successful places. All developments should respect the character of the site, its local context and surroundings in terms of its architectural approach, height, scale, form and proportions.
- 6.7 Policy DM5 of the Development Management Document seeks to protect the character and significance of the City’s heritage assets including conservation areas.
- 6.8 The site is within the Milton Conservation Area Article 4 Direction Area. This requires that planning permission is submitted for alterations to any windows fronting the highway to ensure that the historic character of the windows and the front elevations of the properties in the conservation area is maintained. Regardless of the Article 4 Direction, this site does not benefit from permitted development rights that would allow the alteration of windows and doors without planning permission.
- 6.9 The finely detailed first floor timber sash windows at the property, which were a key part of its historic character, have been removed and replaced with standard UPVC casement windows and this has caused harm to the character of the existing historic building and the wider conservation area. The UPVC window and door to the west side elevation of the building are visible from the public highway. They detract from the character of the building and exacerbate the identified harm to the conservation area. Whilst this harm is less than substantial it is nevertheless significant in degree and not outweighed by any public benefits. The replacement replica timber sash windows specifically proposed and taken into account in the respective assessments for the developments subsequently approved under applications 21/01204/FUL and 22/00584/FUL have not been installed and the harm to the conservation area persists. This is contrary to national and local policy and therefore unacceptable.
- 6.10 The development, by reason of the detailed design and materials of the replacement windows and door, has resulted in visually prominent, out of keeping and incongruous alterations to the existing building which are harmful to the character and appearance of the site, the streetscene and the wider area including the conservation area. Whilst this harm is less than substantial, it is nevertheless significant in degree and is not outweighed by any public benefits of the development. This is unacceptable and contrary to the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1, DM3 and DM5 of the Development Management Document (2015) and advice contained within the National Design Guide (2021) the Southend-on-Sea Design and Townscape Guide (2009) and the Milton Conservation Area Appraisal (2022).

#### Enforcement Action

- 6.11 Given the harm identified above, it is reasonable, expedient and in the public interest to

pursue enforcement action in the circumstances of this case. Enforcement action in this case will reasonably aim to secure the removal of the unauthorised front and side windows and side door in their entirety and remove from the site all materials resulting from compliance with the removal of the windows. No lesser steps that could remedy the identified breach or associated harm have been identified.

- 6.12 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 uPVC windows and door. This period is considered appropriate taking into account that the design of windows and doors to match those removed or those existing on site was previously agreed under application reference 22/00584/FUL and also considering the time needed to manufacture timber windows and doors to comply with the approved design.
- 6.13 Staff consider that taking enforcement action is proportionate and justified in the circumstances of the case and that an enforcement notice should be served as this will bring further focus to the need for the breach to cease and the identified harm to be remedied. Service of an enforcement notice carries its own right of appeal and does not fetter the owner in seeking to gain planning permission for a different proposal which remedies the identified harm.
- 6.14 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 in the public interest.

## **7 Equality and Diversity Issues**

- 7.1 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 planning enforcement case 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.

## **8 Recommendation**

- 8.1 **Members are recommended to AUTHORISE ENFORCEMENT ACTION to:**
- a) **Remove from the site the front and side UPVC windows and door in their entirety, and**
  - b) **Remove from site all materials resulting from compliance with a) above.**
- 8.2 **The authorised enforcement action to include (if/as necessary) the service of an Enforcement Notice under Section 172 of the Act with time for compliance six (6) months and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of the Enforcement Notice.**