



Planning Committee
2nd December 2010

REPORT OF HEAD OF PLANNING AND BUILDING CONTROL

34 Emery St, Walsall, WS1 3AW

1.0 PURPOSE OF REPORT

- 1.1 To request authority to take planning enforcement action in respect of the installation of a U-PVC replacement first floor window, in the front elevation of a terraced house in the Highgate Conservation Area.

2.0 RECOMMENDATIONS

- 2.1 That authority is granted for the issuing of an Enforcement Notice under the Town and Country Planning Act 1990 (as amended), to require remedial actions to be undertaken as in para 2.3.
- 2.2 To authorise that the decision as to the institution of Prosecution proceedings, in the event of non-compliance with an Enforcement Notice, or the non-return of Requisitions for Information or a Planning Contravention Notice; and the decision as to the institution of Injunctive proceedings in the event of a continuing breach of control; be delegated to the Assistant Director - Legal and Constitutional Services in consultation with the Head of Planning and Building Control.
- 2.3 That, in the interests of ensuring an accurate and up to date notice is served, authority be delegated to the Assistant Director - Legal and Constitutional Services in consultation with the Head of Planning and Building Control to amend, add to, or delete from the wording set out below stating the nature of the breach(es) the reason(s) for taking enforcement action, the requirement(s) of the Notice, or the boundaries of the site:

Details of the Enforcement Notice

The Breach of Planning Control:-

The installation of a replacement first floor window, requiring planning permission by virtue of an Article 4 Direction.

Steps required to remedy the breach:-

Remove the replacement window frame and install a new timber window frame whose design replicates that of the original window as shown in photograph 1 attached to this Notice, and constructed using timbers whose cross sections match exactly those of the original where known, or match exactly the first floor front windows at number 40 Emery street.

Period for compliance: 5 weeks after this notice takes affect

Reasons for taking Enforcement Action:-

The property is in the Highgate Conservation Area, and the quality of buildings in that Conservation Area has been protected by an Article 4 Direction. The replacement U-PVC window frame is out of keeping with the character and appearance of the original window frame and the first floor front window frames on other adjacent dwellinghouses. It also does not reflect the quality of the design and detail of the original frame and does not meet the high standards expected by virtue of the property's designation under an Article 4 Direction and location within the Highgate Conservation Area. The replacement window frame harms the historic value and character of the property and the special character and appearance of the Highgate Conservation Area, and conflicts with saved policies GP2, ENV29, ENV 31, ENV32 and H10 of the Walsall Unitary Development Plan, DW3 of the Supplementary Planning Document Designing Walsall, QE3 and QE5 of the Regional Spatial Strategy for the West Midlands (RSS11) and Planning Policy Statement 5: Planning for the Historic Environment.

3.0 FINANCIAL IMPLICATIONS

None arising from the report.

4.0 POLICY IMPLICATIONS

The report recommends enforcement action in order to seek compliance with planning policies.

5.0 LEGAL IMPLICATIONS

None arising from the report.

6.0 EQUAL OPPORTUNITY IMPLICATIONS

None arising from the report.

7.0 ENVIRONMENTAL IMPACTS

None arising from the report.

8.0 WARD(S) AFFECTED

St Matthews

9.0 **CONSULTEES**

The Council's built conservation specialists have been consulted on this case, and have confirmed their support for taking formal planning enforcement action as necessary to preserve the historic value and character of the property as protected by its designation under an Article 4 Direction and location within the Highgate Conservation Area.

10.0 **CONTACT OFFICER**

Alexander Keen
Development Management West: 01922 652527

11.0 **BACKGROUND PAPERS**

Planning applications 08/1843/LB and 09/1713/FL (36 Emery St) and 09/1302/FL (38 Emery St).
Highgate Article 4 Direction.
Enforcement file not published.

D. Elsworthy, Head of Planning and Building Control Services

12 BACKGROUND AND REPORT DETAIL

- 12.1 Planning permission is required for the replacement window frame as the property is subject to an Article 4 Direction. The Direction removes the permitted development rights that would normally permit such a replacement without the need for a planning application. The purpose of the Direction is to give the Council greater control over development within the Highgate Conservation Area, in order to preserve and enhance its historic character and appearance.
- 12.2 The replacement U-PVC window frame was installed in September 2009, and replaced an original timber-framed sash window. The Council wrote to the owner, advising that planning permission was required, that the replacement was unacceptable, and inviting discussion on what would be acceptable.
- 12.3 No response was received to that letter, nor to three further attempts to contact the owner. Officers' are now seeking authority to take enforcement action in order to ensure that the historic value and character of the property and the Highgate Conservation Area is preserved.
- 12.4 Officers consider that the replacement window at 34 Emery Street is particularly out of character but Members should note that replacement windows and doors have also been installed at 36 and 38 Emery Street without planning permission. These also do not meet the high standards expected by virtue of the properties' designation under the Article 4 Direction and Conservation Area status. However, following negotiations with the owner of those two properties, planning permission for replacement windows and doors was granted earlier this year subject to conditions requiring details to be agreed. The Council is currently in discussions with the owner to agree those details with a view to installing the permitted windows and doors as soon as possible.