

Surbiton Neighbourhood Committee

20 March 2019

Enforcement: 48 Maple Road, Surbiton, KT6 4AE

Report by the Director of Growth

Purpose

This report concerns the unauthorised installation of a replacement uPVC windows to a Building of Townscape Merit, located within the St. Andrews Square Conservation Area.

Recommendations

To resolve that the Director of Growth and the London Borough of Merton (for Shared Legal Service) are authorised to:

1. issue an Enforcement Notice (s) under S. 172 of the Town and Country Planning Act 1990 (as amended), subject to any necessary legal amendments being made for which authority is delegated to the Head of Planning and Regeneration in consultation with officers from the London Borough of Merton (for Shared Legal Service SLLP),
2. withdraw and to vary such notice (s) under S. 173A, and
3. in the event of non-compliance, take action (s) by way of prosecution under S. 179, S.187A and/or direct action under S. 178 of the Act in respect of the breach of planning control/or for injunctive relief under S.187B.

Site and surroundings

1. The subject site is located on the southeastern side of Maple Road and comprises a large semi detached dwelling, in use as flats. The building itself is a building of Townscape Merit (locally listed) and is located within the St. Andrews Square Conservation Area.

Relevant planning history

2. 17/16135/FUL- Retrospective application for the replacement of the windows in the front and rear elevations at lower ground floor, ground floor and first floor with UPVC.. Refused on 18/04/2017 and appeal dismissed on 14/03/2018

Breach of planning control

3. In October 2016 the Council received a complaint that various original timber windows were being replaced with upvc windows. A letter was sent to the owner who appointed an agent to submit a retrospective planning application. This was refused on 18 April 2017 and the appeal against the refusal was dismissed on 14 March 2018. In total, 22 upvc windows have been installed across the front and rear elevation and it is these windows that the enforcement action will target.
4. The owner has agreed to replace all 22 of the windows in 2 phases via the enforcement process which Officers consider acceptable in principle. Plan A demonstrates the windows to be retained and replaced. Phase 1 will focus on the windows to the front and phase 2 the rear. Phase one will be completed within 12 months of the date of the notice and phase 2 within 22 months.

Planning considerations

5. The development is assessed against policies of the current development plan which consists of the 2018 National Planning Policy Framework, London Plan July 2016 (consolidated with alterations since 2011) and the Council's adopted LDF Core strategy April 2012. The main considerations of the development are impact on the Conservation Area and Impact on character and appearance of the host building.

Impact on Conservation Area and host building

6. The Conservation Area is a designated heritage asset, as such the relevant statutory and policy tests contained in Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 (PLBCA), paragraph 193 of the National Planning Policy Framework 2018, Policy 7.8 of the London Plan 2016, and Core Strategy Policy CS8 and Development Management Policy DM12 of the Local Development Framework 2012 apply.
7. In accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 when considering any planning matter that affects a Conservation Area a local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of that area. These requirements are echoed in Policies CS 8 and DM 12 of the LDF Core Strategy, where amongst other things, they require

development to "preserve or enhance the existing heritage assets of the Borough.."

8. Paragraph 193 of the NPPF states when considering the impact of a proposed development on the significance of a designated heritage asset (in this case the St Andrews Square Conservation Area), great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. 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.

9. Policy DM12 of the Core Strategy stresses that the Council will "respect features of local importance and special interest through the consideration of form, scale, layout, and detailed designs of a site, area or streetscape."

10. The site falls within the St Andrew's Square Conservation Area which is an area of Victorian housing dating from the 1860s-1880s, in Gothic and Italianate styles, with strong historic assets found in the mix of historic houses in terms of fenestrations, cornices and timber windows. This significance is enhanced by many of the buildings in the Conservation Area retaining their original features such as timber windows and doors on the front and rear elevations. Nos 48 and 50 are a pair of semi detached properties that forms part of six similar victorian villas on this section of Maple Road that have the same architectural details and appearance. The bay windows on the front elevations of the villas, are prominent features when viewed from the street. The majority of the windows of the front and rear elevations of the adjacent properties are traditional timber sash, apart from some of the windows at the adjoining semi detached dwelling at No 50 which are upvc.

11. The Inspector who determined the appeal to retain the current windows states *'The appeal windows attempt to replicate the profile and detail of the original timber sash windows at front and rear of No 48 and match the original windows at the adjacent properties. However, the glazing bars of the UPVC windows appear thicker and starker than timber when viewed from the street. Furthermore, the detailing on the sash horns is not as fine as their timber equivalents and the runners within which the upper sash slides are deeper and more obvious from the street.....*

12. It is not disputed that the previous windows may have needed repair or even replacing for better sound insulation or environmental performance. The site is located near a busy road and therefore it is plausible that noise from the road is a concern, however, there are other means available to address these concerns without the loss of the timber windows.
13. There are other examples of uPVC windows within the conservation area, many that do not have permission but have become immune due to the '4 year rule', however, they are exceptions within the Conservation Area and serve to highlight the harm caused to the Conservation Area and do not justify retention of the windows under consideration here.
14. The windows, owing to design and materials have led to the loss of traditional features harming the significance of the St. Andrews Square Conservation Area. The development is therefore contrary to policies CS8, DM10 and DM12 of the Kingston Local Development Framework Core Strategy and policy 7.8 of the London Plan 2016 and Paragraph 193 & 196 of the National Planning Policy Framework 2018.
- 15. Requirements of the enforcement notice(s)**
 1. Phase 1- Remove windows and upvc frames numbering 1-3, 6-13 on the front elevation as shown on 'Plan A' (attached).
 2. Replace the windows and frames mentioned at step 1 so that they match the profile, design and materials of the pre-existing windows.
 3. Phase 2- Remove windows and frames numbering 20-27 situated on the rear elevation as shown on attached 'Plan A'
 4. Replace the windows and frames mentioned at step 3 so that they match the profile, design and materials of the pre-existing windows.

Timescale for compliance

16. Section 173(9) of the 1990 Town and Country Planning Act (as amended) requires that an enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased. Ground (g), as set out in section 174(2) of the aforementioned Act, provides that an appeal may be made if it is considered that any period specified "falls short of what should reasonably be allowed".

the following compliance period have been agreed with the owner and are considered reasonable:

Phase 1 to be completed within 12 months

Phase 2 to be completed within 22 months

17. Reasons for issuing the notice

The operational development has occurred within the last 4 years.

Planning conditions would not overcome planning objections and render the development acceptable.

The windows owing to the design and materials has led to the loss of traditional features harmed the significance of the St. Andrews Square Conservation Area. The development is therefore contrary to policies CS8 and DM12 of the Kingston Local Development Framework Core Strategy and policy 7.8 of the London Plan and Paragraph 193 & 195 of the National Planning Policy Framework.

Background papers held by Harsha Bhundia

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