

REGENERATION & DEVELOPMENT SERVICES

REPORT TO PLANNING AND HIGHWAYS COMMITTEE

5 NOVEMBER 2013

ENFORCEMENT REPORT

UNAUTHORISED REPLACEMENT OF WINDOWS TO THE FRONT AND SIDE OF 263 CEMETERY ROAD, S11 FACING GRANGE CRESCENT ROAD AND CEMETERY ROAD, THE ERECTION OF A NEW SOIL PIPE FACING CEMETERY ROAD, A NEW DOWN PIPE ADJACENT TO THE BAY WINDOW FACING GRANGE CRESCENT ROAD, THE REPLACEMENT OF GUTTERING AND THE ERECTION OF ROOF FELT ON THE GROUND FLOOR BAY WINDOWS.

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to inform Committee Members of a breach of planning control and to make recommendations on any further action required.

2. BACKGROUND AND BREACH

- 2.1 263 Cemetery Road is a two/three storey brick built end terrace property at the corner of Grange Crescent and Cemetery Road. It has an elevated position and is a prominent property highly visible from both road frontages. The property is located within a Housing Area as designated in the Unitary Development Plan. The property is also within the Nether Edge Conservation Area and the Nether Edge Article 4(2) Area, where permitted development rights for alterations to the front of dwellings have been removed.
- 2.2 A complaint was received on the 16 March 2013, regarding the replacement of windows at the property. A subsequent site visit was carried out and it was noticed that most of the original timber windows to the front and side of the property facing Grange Crescent and Cemetery Road had been removed and replaced with UPVC windows.
- 2.3 A site meeting was arranged with the representative of the owner of the property informing him that the property was within the Article 4(2) area and that there are no permitted development rights for alterations to dwelling houses fronting the highway. Therefore the replacement of the windows facing Grange Crescent and Cemetery Road without planning permission was unauthorised. It was suggested that a planning application for a more appropriate replacement should be submitted for the Council's consideration. Several assurances have

been given that an application would be submitted however, to date, no planning application has been received for the Councils consideration.

- 2.4 On a further site visit it was also noticed that a new black UPVC soil pipe at first floor level had been installed at the front of the property facing Cemetery Road. The gutters above the ground floor bay windows had been replaced and new black UPVC guttering and new black UPVC down pipe had been installed adjacent to the bay window facing Grange Crescent Road and the roofs of the bay windows had been covered with roof felt.
3. ASSESSMENT OF BREACH OF CONTROL
 - 3.1 Unitary Development Plan Policy BE5 'Building Design and Siting' states that good design and the use of good quality materials will be expected in all new and refurbished buildings and extensions.
 - 3.2 Unitary Development Plan Policy BE15 'Areas and buildings of special architectural or Historical Interest' states that development which would harm the character or appearance of a Conservation Area will not be permitted.
 - 3.3 Unitary Development Plan Policy BE16 'Development in Conservation Areas' states that in Conservation Areas permission will only be given for proposals which contain sufficient information to enable their impact on the area to be judged acceptable and which would preserve or enhance the character or appearance of the Conservation Area.
 - 3.4 Unitary Development Plan Policy BE17 'Design and Materials in Areas of Special Architectural or Historic Interest' requires a high standard of design using traditional materials.
 - 3.5 Unitary Development Plan Policy H14 'Condition on Development in Housing Areas' states that developments should be well designed and in scale and character with the neighbouring buildings.
 - 3.6 The previous windows were original timber sliding sash. The replacement windows are now all white UPVC either top or bottom hung opening.
 - 3.7 It is considered that the unauthorised new UPVC windows are of an unsatisfactory appearance due to the poor design and detailing. The traditional styles of windows in this area were timber sliding sash. One of the most important aspects of these are the top sash that projects over the bottom sash and the method of opening which has not been replicated in these replacements. This has the effect of a flush appearance. The second important characteristic is the slender box frame. The replacements have lost this slender detail and have a much heavier chunky appearance to the frames. As the windows have

a non-traditional method of opening this is further exacerbated when the windows are left in the open position.

- 3.8 The ground floor bay windows at the corner of the property and the ground floor window facing Cemetery Road have not been replaced and have subsequently been repaired.
- 3.9 The new black UPVC soil pipe, black UPVC guttering and the roof felt on the bay windows have been installed. UPVC and roof felt which is normally manufactured from bitumen are materials not traditional to the area and are considered to be unacceptable in a conservation area, where traditional natural materials are required by Policy BE17 of the UDP. The rainwater goods would traditionally be cast iron, and painted timber and lead would be the appropriate material for the top of the bay window.
- 3.10 The Nether Edge Conservation Area Appraisal was adopted in 2005 and refers to the loss of original architectural features and poor quality replacements which have eroded the quality of the Conservation Area. This was one of the reasons for the introduction of the Article 4 direction in late 2005, which limits certain permitted developments.
- 3.11 The incremental loss of traditional features such as windows threatens the character and appearance of the Conservation Area, and is in direct conflict with the purpose of the Article 4(2) direction. The aim of the direction is to halt the erosion of traditional character, by exerting greater control, and to gradually restore it with suitable alterations that enhance the appearance of the Conservation Area. The works undertaken are typical examples of the alterations identified by the Conservation Area Appraisal as having a negative impact on the conservation area.
- 3.12 Given the circumstances the windows and the new soil pipe, guttering, down pipe and the roof felt on the bays fail to preserve or enhance the character of Nether Edge Conservation Area and as a result are contrary to the aims of the policies BE5, BE15, BE16, BE17 and H14 of the Unitary Development Plan.
- 3.13 Officers acknowledge the recently allowed enforcement appeal relating to replacement windows at 2 Albany Road, within the same Conservation Area. This appeal decision is a material consideration but officers consider it should be afforded little weight as there are clear differences in the two cases. The Inspector made it clear in the Albany Road case that his decision to allow the appeal was significantly influenced by the fact the previous timber windows (replaced by UPVC) were poor quality non-traditional windows and in very poor condition. He specifically noted there was no loss of original windows or windows of a traditional form, and stated that his decision should not set a precedent for the replacement of timber sliding sash windows with uncharacteristic UPVC windows.

- 3.14 As the windows replaced at 263 Cemetery Road were traditional timber, sliding sash windows, their loss and replacement with UPVC windows represents a clear erosion of character, and a very different case to the appeal described above.
- 3.15 The photo images below show the property in question before and after the changes and clearly demonstrate that the unauthorised windows and the new soil pipe, guttering, down pipe and roof felt on the bay windows are not appropriate for the property and their appearance is deemed not to be in keeping with the character of the Conservation Area.

Before changes photographs taken in September 2011



After changes photograph taken in August 2013



- 3.16 The Enforcement Notice would require the removal of the unauthorised ground floor bay window facing Grange Crescent, all the windows on the first and second floor elevation, the removal of guttering, down pipe and roof felt on the ground floor bays and the removal of the unauthorised soil pipe facing Cemetery Road within a specified time period.

4. REPRESENTATIONS

- 4.1 A complaint was received from a local resident about the replacement of windows with "horrible" UPVC units which are in contravention of the Article 4 direction.

5. ASSESSMENT OF ENFORCEMENT OPTIONS

- 5.1 The service of an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 enables the Local Planning Authority to issue Enforcement Notices where there has been breach of planning control. In this case the notice would require remedial measures to ensure that the perceived harm is remedied. In this case this would be that the unauthorised windows on the elevation facing Grange Crescent and Cemetery Road, the guttering, down pipe and roof felt on the ground floor bays and the new soil pipe on the elevation facing Cemetery Road are all removed. There is a right of appeal to the Planning Inspectorate against the service of an Enforcement Notice. However it is considered that the Council would be able to defend any such appeal.

6. FINANCIAL IMPLICATIONS

- 6.1 There are no financial implications arising from the recommendations of this report

7. EQUAL OPPORTUNITY IMPLICATIONS

- 7.1 There are no equal opportunities implications arising from the recommendations of this report.

8. RECOMMENDATIONS

- 8.1 That authority be given to the Director of Regeneration & Development Services or the Head of Planning to take all necessary steps, including enforcement action and the institution of legal proceedings, if necessary, to secure the removal of the unauthorised ground floor bay window facing Grange Crescent and all the windows at first and second floor, soil pipe, guttering, down pipe and roof felt.
- 8.2 The Head of Planning is delegated to vary the action authorised in order to achieve the objectives hereby confirmed, including taking action to resolve any associated breaches of planning control.

M Duffy
Interim Head of Planning

25 October 2013

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