

Enforcement Delegated Report

Receipt date:

26/06/2023

Officer

Joshua Cheung

Enforcement Case

EN21/0508

Breach Address

Flat 3, 10 Hilltop Road, London, NW6 2PY

Photos & Other material



Authorised Officer Signature



28/06/2023

Alleged Breach

Without planning permission: Replacement of 5 x timber windows on the front elevation at first floor level with UPVC windows.

Recommendation(s):

That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town and Country Planning act 1990 as amended for the removal of five UPVC windows to the front elevation at first floor and reinstate the timber framed sash windows to match those which previously existed, and officers be authorised in the event of non-compliance, to commence legal proceedings under Section 179 or other appropriate power and/or take direct action under Section 178 in order to secure the cessation of the breach of planning control.

Site Description

The property is a four-storey terraced building located on Hilltop Road. Hilltop Road comprises a mixture of flats and residential dwellings of two to four storeys. The majority of the properties have Victorian features and characteristics which benefit the appearance of the street scene and the surrounding area.

The building is not listed nor within a Conservation Area. However, it sits within the Fortune Green and West Hampstead Neighbourhood Plan area and opposite the South Hampstead Conservation Area.

Investigation History

09-SEPT-21 – Warning letter sent to submit planning application or reinstate original windows.

20-OCT-21 – Retrospective planning application submitted (2021/5138/P).

24-MAR-22 – Retro app refused.

27-JUN-22 - Enforcement Notice served.

15-JUN-23 - Appeal was lodged and decision issued – Enforcement Notice is quashed on the basis that it referred to 3 windows, which did not highlight the windows on the side of the projecting bay (2 side panels) The Inspector considered it did not specify with sufficient clarity the alleged breach of planning control or the steps required for compliance. The notice is being reissued to refer to the 5 windows in breach.

Relevant policies / GPDO Category

National Planning Policy Framework 2021

London Plan 2021

Camden Local Plan 2017

A1 Managing the impact of development.

CC1 Climate Change Mitigation

D1 Design

D2 Heritage

Camden Planning Guidance 2021

CPG Design 2021

CPG Home Improvements 2021

Fortune Green and West Hampstead Neighbourhood Plan 2015

Policy 2 Design and Character

Assessment

Planning history:

2021/5138/P - Replacement of white painted timber sash windows with white UPVC windows (retrospective) – Refused.

Issues:

Design and Sustainability

The Council's design policies are aimed at achieving the highest standard of design in all developments, including where alterations and extensions are proposed. Local Plan policy D1 (Design) requires development to be of the highest quality design. Local Plan policy CC1 (Climate Change Mitigation) requires development to minimise the effects of climate change and encourage all developments to meet the highest feasible environmental standards.

Policy 2 (Design & Character) of the Fortune Green and West Hampstead Neighbourhood Plan requires that 'All development shall be of a high quality of design, which complements and enhances the distinct local character and identity of Fortune Green and West Hampstead.'

CPG Design 2021 guidance recommends that alterations take into account the character and design of the property and surroundings, and that windows, doors and materials should complement the existing building. Both CPG Design 2021 and CPG Home Improvements also state that UPVC windows are strongly discouraged both aesthetically and for their inability to biodegrade. In addition, timber window frames have a lower embodied carbon content than UPVC and aluminium.

The traditional and dominant window material in the property and the surrounding properties is timber. Therefore, the replacement of the original timber windows with UPVC is not considered to complement the existing building or surrounds.

The replacement of the previous timber windows with UPVC windows fails to preserve the appearance of the building on account of both their non-traditional materials, their thicker proportions of frames which give a bulkier appearance and the opening mechanisms which opens outwards rather than sliding upwards.

The poor-quality materials and the detailed design of the windows are considered harmful to the host building, and the character and appearance of surrounding buildings, contrary to Camden Local Plan policies, Camden Planning Guidance 2021 and the Fortune Green and West Hampstead Neighbourhood plan 2015.

The material of UPVC is also unacceptable in respect of sustainability due to its inability to degrade high carbon embodied content. As such the proposals fail to comply with policy CC1 and CPG Home Improvements.

The owner has referred to a number of other UPVC windows in the wider area. It is considered that unacceptable or unauthorised development elsewhere is not justification for the harm caused at the site and wider area. The predominant character remains timber windows which are respectful of the character and appearance of the buildings within the terrace.

Recommendation:

That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 as amended for the removal of five UPVC windows to the front elevation at first floor and reinstate the timber framed sash windows to match those which previously existed, and officers be authorised in the event of non-compliance, to commence legal proceedings under Section 179 or other appropriate power and/or take direct action under Section 178 in order to secure the cessation of the breach of planning control.

The notice shall allege the following breaches of planning control:

Without planning permission: Replacement of 5 x timber windows on the front elevation at first floor level with UPVC windows.

WHAT ARE YOU REQUIRED TO DO:

1. Completely remove the 5 UPVC windows from the front elevation at first floor level;
2. Reinstate timber-framed one over one sliding sash windows on the windows on the front elevation and timber windows on the side of the projecting bay to match the design and proportions of those which previously existed; and
3. Make good any damages caused by the above operations

PERIOD OF COMPLIANCE: 3 months

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:

1. The replaced windows, by reason of their detailed design including opening mechanism, proportions and inappropriate materials, detract from the appearance of the host building, wider street scene and the wider area, and would not be environmentally sustainable, contrary to policies D1 (Design) and CC1 (Climate Change Mitigation) of the London Borough of Camden Local Plan 2017 and Policy 2 of the Fortune Green and West Hampstead Neighbourhood Plan 2015.