

## Report for Resolution

**Report to** Planning Applications Committee  
**Date** 19 January 2011  
**Report of** Head of Planning Services  
**Subject** 11/01983/F 120 Earlham Road Norwich NR2 3HE

Item  
**5(3)**

### SUMMARY

<b>Description:</b>	New PVCU double glazed windows - designed to look like sash windows.
<b>Reason for consideration at Committee:</b>	Contrary to policy and consideration of enforcement action
<b>Recommendation:</b>	Refused
<b>Ward:</b>	Nelson
<b>Contact Officer:</b>	Mr John Dougan Planner 01603 212504
<b>Valid Date:</b>	26th November 2011
<b>Applicant:</b>	Mr Michael Pye
<b>Agent:</b>	Mr Michael Pye

### INTRODUCTION

#### The Site

##### Location and Context

1. The site is on Earlham Road and is a mid-terrace two storey dwelling situated between Wellington and Caernarvon Roads, opposite the Mitre PH. The house comprises a C19th 2 storey white brick dwelling with a slate roof with a garden/driveway to the front and garden to the rear. The other houses in the terrace are similar to the application dwelling, although those to the east of the site have ground floor splayed bays.
2. The dwelling is located within the Heigham Grove Conservation Area and is a locally listed building. The other dwellings in the terrace and the pub opposite, together with other properties to the east of the site are also locally listed. Curfew Lodge, a Grade II listed property is almost opposite the site at 129 Earlham Road.
3. The photos submitted with the application indicate that prior to the unauthorised works being installed, there were two original 19<sup>th</sup> century sash windows on the first floor, but a later replacement top opening casement window at ground floor, possibly installed in the 1960-70's.
4. In terms of setting, 120 Earlham Road was built with the adjacent 122 Earlham Road and is slightly different to 114-118 (even) but they are locally listed as a terrace group in the local list. No 122 had replacement windows at the time the direction was made, however 114-118 (even), which are considered part of the terrace group, retain original windows.

## **Constraints**

5. The building is on the local list (07/02385/L) and within the Heigham Grove Conservation area. The property was also made subject to an Article 4 direction on 6 June 2011, which was confirmed by Cabinet on 22 July 2011. The installed windows require planning permission as the site does not have the same permitted development rights as a normal dwelling. The new windows are a different design to the original C19 windows and the more modern casement window at ground floor, so all three windows require planning permission as a result of the article 4 direction and are currently unauthorised.

## **Relevant Planning History**

6. None.

## **Equality and Diversity Issues**

There are no significant equality or diversity issues.

## **The Proposal**

7. The applicant is applying for retrospective permission for the installation of 3 no. uPVC double glazed windows designed to look like sash windows on the northern elevation replacing the original first floor C19th windows and the more modern casement window at ground floor level. The windows were installed on 20 June 2011.

## **The Article 4 Direction**

8. This property is subject to an article 4 direction resulting in certain 'permitted development' rights being removed on the 6 June 2011. The direction was confirmed by cabinet on 22 July 2011.
9. Residents of the area were first made aware of the proposal to designate groups of buildings with an article 4 direction in a consultation exercise for the draft Heigham Grove Conservation Area appraisal. A letter was sent to the owner of 120 Earham Road on 29 October drawing their attention to the draft Conservation Area appraisal and the proposal to place an Article 4 direction on their property. Residents were given from 1 to 29 November 2010 to feed back any comments. The draft appraisal was also online and available to view at the planning reception desk. An exhibition for the Conservation Area appraisal, which included information on the proposed Article 4 direction, was held in the City Hall foyer from 15 to 19 November 2010. An exhibition was also held within the area at the URC Church on Earham Road on 20 November 2010.
10. Following the consultation exercise the Heigham Grove Conservation Area appraisal was adopted on 16 March 2011 and is available online:  
<http://www.norwich.gov.uk/Planning/documents/Heighamgrove.pdf>
11. The character area within which the house is located is sub-area I "C19 larger villas'. Pages 24 & 25 of the appraisal identify timber sash windows as being a predominant and characteristic feature of houses of this period. Untraditional alterations to windows and doors that do not reflect the prevailing character and appearance of the Conservation Area are identified as No2 in the Management and

Enhancement Section as harmful in that they 'disrupt the visual harmony of traditional terraces within street views'.

12. A guidance note was also issued with the article 4 direction to each household:  
<http://www.norwich.gov.uk/Planning/documents/Heighamgrovearticle4directionnotes.pdf>
13. This clearly sets out on page 1 that planning permission will be required for changing windows, and gives a list of the addresses covered on page 2. Page 3 clearly sets out the building details covered by the article 4 direction with a drawing which includes timber sash windows and below the drawing under a separate heading the guidance states: 'Existing windows can be upgraded with draught-proof strips and/or secondary glazing. Alternatively where there are sash windows, double glazed units can be installed into existing sash boxes using slimline low E argon gas filled double glazed frames, thereby retaining the embodied energy of the existing timber (which is usually very good quality Baltic Deal timber) and avoiding damage to brickwork around the frame.' It goes on to provide details of sources of further information on acceptable window designs and ways to improve the efficiency of houses.
14. Further information on internet page states the following: 'When considering upgrading original windows for thermal efficiency and or replacement because they are in part rotten, it is worth noting that Victorian pine is generally of a much higher quality than modern timber because the timber was grown for longer therefore has a much tighter grain and is more resinous, making it more resistant to rot. It is therefore always preferable to repair existing windows. The thermal performance can be significantly improved by correctly balancing the window and installing draft strips or by installing secondary glazing. If windows do need to be replaced, the slimlite glazing system now allows for new double glazed sash frames to be installed inside existing sash boxes so that they do not have to be removed (therefore keeping the original high grade timber, avoiding waste). If the materials and detailing of the window remain exactly the same in terms of the external appearance through only replacing the sash and not the sash box then there is no requirement to apply for planning permission as this will be considered a repair. However, the glazing pattern must replicate the original design.'
15. 'Changing the design of the window will always require planning permission; although where it is proposed to change modern casement windows it is likely to be advantageous. It is important to remember that these planning applications will be free of charge. The most important feature of the sash window is that it slides up and down (rather than being outward opening like the more modern windows) and that the window is set behind the 'reveal' of the brickwork. More modern windows that open outwards break up the architectural unity of traditional terraces. Windows made out of uPVC and aluminum windows appear 'chunky' and untraditional and are often poorly fitted, looking out of place in historic areas and are unlikely to be acceptable. However as described above, the manufacturing of timber double glazed windows has significantly improved with 'slimlite' timber double glazing.'
16. Page 4 of the guidance note in the question and answer section also states: 'When does the article 4 direction come into force? The article 4 direction will come into force on 6 June 2011.'

17. The effects of the direction are therefore fully explained and there is a lot of guidance on how to install sympathetic replacement windows, which can be double glazed, if that is considered necessary.
18. 120 Earlham Road is a locally listed building. It is therefore considered to make a positive contribution to the character and appearance of the conservation area. The local list entry is as follows: 'C19. Terrace. 2 Storeys white brick. Slate roof. Single-fronted. Ground floor splayed bays, 114 and 118 2 storey splayed bays. 3 sashes. Simple entrance with semi-circular fanlight. 120, replacement windows to ground floor. 122, painted brickwork and chimney missing.'

## **Representations Received**

19. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. No letters of representation have been received.
20. The submitted application did include a letter from the applicant which appears to indicate that their proposal is supported by other property owners in the area.
21. Although the description of the development did not specifically confirm its retrospective nature, section 3 of the application form and the supporting letter signed by various neighbours clearly states that the works had already been completed. It is therefore considered that those consulted would have had a reasonable level of information to determine that the works were in fact retrospective.

## **ASSESSMENT OF PLANNING CONSIDERATIONS**

### **Relevant Planning Policies**

#### **Relevant National Planning Policies**

PPS1 – Sustainable development

#### **Relevant policies of the adopted East of England Plan Regional Spatial Strategy 2008**

SS1 – Achieving sustainable development

ENV7 – Quality in the Built Environment

#### **Relevant policies of the adopted Joint Core Strategy for Broadland, Norwich and South Norfolk 2011**

Policy 2 – promoting good design

#### **Relevant saved policies of the adopted City of Norwich Replacement Local Plan 2004**

HBE12 – High quality design

HBE8 – Development in conservation areas

#### **Other material considerations**

Written Ministerial Statement: 23 March 2011: Planning for Growth: Support of enterprise and sustainable development.

Draft National Planning Policy Framework July 2011

## **Principle of Development**

### **Policy Considerations**

22. The key issues in the assessment of these works are local policies HBE8 and HBE12. Policy HBE12 is a general design policy which aims to reinforce and complement the character of the townscape and, in the context of this application, require that developers give appropriate attention to choice of materials, design, setting and tradition. Policy HBE8 goes a step further protecting buildings in conservation areas requiring that every effort be made to conserve and retain features which contribute to the area's character. Furthermore, it requires that any new design respect and be sympathetic to the form and character of the area in terms of built form elements, materials and relationship with neighbouring buildings.

## **Design**

### **Conservation Area – Impact on Setting**

23. The windows are a different design to the two original sash windows on the first floor. The windows are casement windows rather than sliding sash windows so fundamentally a different type of window design. The effect of a casement is that it projects outwards when opened rather than the sash that slides up and down. The window is no longer set within the reveal of the opening and is now flush with the brickwork. The sill is a less prominent component of the window. The detailing of the window attempts to match that of a sliding sash window. However the way in which the window operates is fundamentally different and this results in a thicker frame for the opening light that overlaps the outer frame (a 'stormproof' detail). A glazing bar is set within the window but this has no function and is purely installed for 'aesthetic' reasons. It does not have the same design or appearance as a traditional glazing bar.
24. The installed windows due to the window type, design and fitting appear incongruous within the conservation area and are considered to harm its character and appearance. The differences in design also affect how the building is viewed in relation to the setting of the other buildings within the terrace of 114-122 (even) and within the wider conservation area.
25. However, it should be noted that the former window on the ground floor was a later replacement top opening casement window, possibly installed in the 1960s/70s. These were replaced by the same window used on the first floor. In light of this, the amount of harm caused by the current installation is considered to be much less compared with the installation on the first floor.

### **Other Material Considerations**

26. The applicant provided a signed letter of support from a number of properties in the area stating the installed windows look similar/better than the old sash windows.
27. The letter also stated that the applicant mis-read the dates and timescale of the implementation of the article 4 direction and believed that he had until the 13 July to fit the windows before the council's cabinet confirmed the article 4 direction, stating further that he had always intended to fit the windows ordering the windows on 15 February 2011, attaching the invoice as proof that the windows were not fitted on time – citing that the fitter was ill.
28. The applicant concludes that the above is sufficient evidence to demonstrate that they made a genuine mistake and that the installed windows leave the property in a better state as it is losing less heat.

29. It would appear that a combination of circumstances meant that the installation could not be made before permitted development rights were removed on 6 June 2011 as confirmed by cabinet on 22 July 2011.
30. However, the previous sections of the report demonstrate that the introduction of the article 4 direction was subject to extensive consultation, giving property owners sufficient time to understand the intent of the direction and time any works according prior to the removal of the permitted development rights on 6 June 2011.
31. Whilst it is regrettable that the applicant finds himself in this situation, the applicant's mitigating circumstances are not considered to have a sufficient amount of weighting to override the adverse impact of the two installed window on the first floor on Conservation Area and locally listed building.
32. Interestingly, a recent appeal case in King Lynn dated 29/6/2011 (10 Checker Street) for a similar type development is considered useful for comparison with the issues raised in this application. Whilst it would be preferable to have a timber window, it is also possible to get a better designed uPVC double glazed windows that meets the criteria as outlined above. The use of uPVC over timber was not identified as an issue in terms of refusal by the appeal inspector in the King Lynn case
33. In paragraph 8 of the Inspector's decision letter it is stated: 'The reasons for refusal do not oppose the use of uPVC, and in some cases the use of modern materials can be acceptable in conservation areas. I note that the previous windows were in poor condition, but this did not dictate the form and design of the replacement windows, and it is not evident that the cost of an alternative form of uPVC window would have been prohibitive. As such, I give these arguments little weight, and do not accept that the replacement in principle has improved the setting.'
34. It is also worth noting that the presence of nearby existing windows (in this case 122) also does not mean that these windows will not preserve or enhance the character and appearance of the conservation area and the setting of adjacent buildings.
35. Similarly in paragraph 7 of the decision it also states: 'I acknowledge that there are many similar examples in the vicinity, but the introduction of further insensitive fenestration to the conservation area does not preserve, nor enhance, the setting, as it contributes to a gradual erosion of historic features in the wider area. Whilst I can understand the rationale behind the appellant's view that the windows do not result in demonstrable harm to this particular street, I do not reach the same conclusion, as such changes compound the loss of historic character of the street and the wider conservation area. Although not an irreversible change, for their duration the windows would undermine the wider setting.'
36. The issue here is not whether the windows are double glazed or uPVC. Other properties in the area, such as 51 Park Lane, have used appropriate uPVC windows with sliding sash windows correctly set into the reveals have acceptable detailing and would therefore be considered an acceptable solution for 120 Earlham Road.

## **Conclusions**

37. This report concludes that the three installed windows require planning permission and that predominant and unacceptable additional harm caused by the installation occurs on the first floor. It is therefore recommended that the application be refused. This is an important conclusion as it demonstrates the Council's commitment to highlighting the importance of the article 4 direction and protecting the integrity of the locally listed building and the character and appearance of the

conservation area.

38. In recommending the application be refused, it is also necessary to consider the merits of taking enforcement action against the unauthorised installation of the windows. It would be possible to require the recently installed windows to be removed and the old ones reinstated. However, it should be noted that if this were the case, the applicant would only have to reinstate the two sash windows on the first floor and a casement window on the ground floor.
39. Although it is considered that there would be clear benefits to the character and appearance of the Conservation Area from the reinstatement of the previous windows, the more modern casement window at ground floor level would reduce these benefits compared to if all three windows had been traditional sash windows.
40. The issues in this case are finely balanced. Taking the reduced benefit to the Conservation Area into account, together with the detailed evidence submitted by the applicant demonstrating the reasons for the unauthorised installation, it is considered that, on balance and with great reluctance, it would not be expedient to pursue enforcement action in this particular case.

### **RECOMMENDATIONS**

To refuse planning permission for Application No 11/01983/F 120 Earlham Road for the following reason(s):-

1. The installed windows due to their type, design and fitting are detrimental to the character or appearance of this locally listed building and the Conservation Area and result in harm to the setting of adjacent properties. The retrospective installation of the windows is therefore contrary to policy 2 of the adopted Joint Core Strategy 2011 and saved policies HBE12 and HBE18 of the City of Norwich Replacement Local Plan 2004.



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Planning Application No 11/01983/F  
Site Address 120 Earlham Road

Scale 1:500



**NORWICH**  
City Council

PLANNING SERVICES

