

Report to Planning applications committee
10 October 2013

Item

Report of Head of planning services

Subject Enforcement Case 13/00148/CONSRV/ENF – 39 Neville Street, Norwich, NR2 2PR.

5(7)

SUMMARY

Description: Installation of uPVC casement Windows at 39 Neville Street, Norwich, which is located in the Heigham Grove Conservation Area. The premises are subject to an Article 4 direction that requires any replacement windows and doors on the principal elevation, and the demolition of the front garden wall have planning permission which this premises does not have.

Reason for consideration at Committee: Enforcement action recommended.

Recommendation: Authorise enforcement action up to and including prosecution in order to secure the replacement of the uPVC casement windows with windows of a similar character and appearance to the original windows. The replacement door with a traditional timber door design, and the reinstatement of a front boundary wall.

Ward: Nelson

Contact Officer: Ali Pridmore

INTRODUCTION

The Site

1. The site at 39 Neville Street is a c1900 brick built mid-terrace two-storey dwelling house located within the Heigham Grove Conservation Area. The building is on the Council's List of buildings of Local Interest. The Heigham Grove Conservation Area appraisal summarises the character and appearance of the Heigham Grove conservation area as being "predominantly an area of 19th Century residential development, ranging from streets of small Victorian terraced houses to more substantial villas set within leafy surroundings..
2. The house is typical of c1900 residential terrace development on Neville Street.

Planning History

3. The property was made subject to an Article 4 direction on 6th June 2011, which was confirmed by Cabinet on 22nd July 2011.

Purpose

4. The installed windows and door require planning permission as the premises does not have the same permitted development rights as a normal dwelling. The existing front wall was demolished without permission and should be reinstated.
5. As the replacement uPVC windows and door do not have planning permission and the installation has occurred within the last four years, it is therefore not immune from enforcement action. The existing boundary wall was demolished without permission within the last four years. The installation of the uPVC casement windows and door is classed as operational development for which planning permission would be required under section 171A(1)(a) of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991). Therefore the installation of the windows and the door, and demolition of the boundary wall, are breaches of planning control and are considered unlawful.
6. Authority is sought for enforcement action to secure the replacement of the uPVC casement windows with ones that have a similar design and appearance to the sliding sash windows that were replaced in April 2013. It is unfortunate that the existing original door which was an unusual c1900 door was removed (which matched the door to the neighbouring property) as it would be difficult to reproduce. A traditional four panel door may however be considered acceptable. A boundary wall should be built to replace the existing wall, again in suitable materials. Enforcement action is to include direct action and prosecution if necessary.

Breach

7. Replacement of the original sliding sash windows with uPVC casement style windows replacement of the front door and demolition of the boundary wall are considered operational development for which planning permission would be required under section 171A(1)(a) of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991). The replacement of windows and front door, and the demolition of the front wall, are on the principal elevation falls outside of The Town and Country Planning (General Permitted Development) Order 2005 (as amended) because 39 Neville Street is subject to an Article 4 direction as laid out in the above Order.
8. It appears to Norwich City Council that the above breach of planning control has occurred within the last four years and is not therefore immune from enforcement action. The current unauthorised development is poor design and unsympathetically installed and is therefore considered detrimental to the appearance of the locally listed building and the positive contribution that it made to the character and appearance of the Heigham Grove Conservation Area. The Council does not consider that planning permission should be given because planning conditions could not overcome these objections.

Policies and Planning Assessment

Relevant Planning Policies

National Planning Policy Framework

7 – Requiring Good Design

12 – Conserving and Enhancing the Historic Environment

Relevant policies in the Joint Core Strategy for Broadland, Norwich and South Norfolk (Adopted March 2011)

Policy 2 – Promoting good design

Relevant policies in the City of Norwich Replacement Local Plan – saved policies (Adopted November 2004)

HBE8 – Development in Conservation Areas

HBE12 – High quality of design in new developments

Other Material Considerations

Heigham Grove Conservation Area Appraisal Adopted 16 March 2011

Heigham Grove Article 4 Direction Guidance Note

Emerging policies of the forthcoming new Local Plan (submission document for examination, April 2013):

Development Management Policies Development Plan Document – Pre-submission policies (April 2013).

DM3 – Delivering High Quality Design

DM9 – Safeguarding Norwich's heritage

Procedural Matters Relating to the Development Plan and the NPPF

9. The Joint Core Strategy and Replacement Local Plan (RLP) have been adopted since the introduction of the Planning and Compulsory Purchase Act in 2004. With regard to paragraphs 211 and 215-216 of the National Planning Policy Framework (NPPF), both sets of policies have been subjected to a test of compliance with the NPPF. The 2011 JCS policies are considered compliant, but some of the 2004 RLP policies are considered to be only partially compliant with the NPPF, the policies referred to in this case are considered to be compliant with the NPPF. The Council has also reached submission stage of the emerging new Local Plan policies, and considers most of these to be wholly consistent with the NPPF.
10. As detailed in the sections above the alteration is considered to result in an unacceptable degree of harm to the appearance of the locally listed building and its positive contribution to the character and appearance of the Heigham Grove Conservation Area contrary to policy 2 of the adopted Joint Core Strategy for Broadland, Norwich and South Norfolk, saved policies HBE8 and HBE12 of the adopted City of Norwich Replacement Local Plan, the objectives of the National Planning Policy Framework and other material considerations.

Justification for Enforcement

11. The current unauthorised development is poorly and unsympathetically installed and is incongruous and out of keeping with other similar properties in the area, given the frame dimensions and casement style of the windows, the design of the door and removal of the wall. The installed windows and door, and the demolition of the boundary wall, are therefore considered to result in harm to the character and appearance of the Heigham Grove Conservation Area.
12. A letter was sent to Prolet Property Management who is the managing agent for 39 Neville Street asking them to replace or to contact the owner to arrange the replacement of the uPVC casement windows with suitable replacement sliding sash windows of a similar character and design to the originals but to no avail.
13. Norwich City Council has not invited a planning application for the current uPVC casement windows because the Council does not consider the application would be supported and the application would be recommended for refusal.

Equality and Diversity Issues

14. The Human Rights Act 1998 came into effect on 2nd October 2000. In so far as its provisions are relevant:
 - a. Article 1 of the First Protocol (the peaceful enjoyment of ones possessions), is relevant in this case. Parliament has delegated to the Council the responsibility to take enforcement action when it is seen to be expedient and in the public interest. The requirement to secure the removal of the unauthorised building works in the interests of amenity is proportionate to the breach in question.
 - b. Article 6: the right to a fair hearing is relevant to the extent that the recipient of the enforcement notice and any other interested party ought to be allowed to address the Committee as necessary. This could be in person, through a representative or in writing.

Conclusions

15. The four installed windows, the front door and the demolition of the boundary wall require planning permission and that their design does not take into account the requirement to preserve or enhance the character and appearance of the Heigham Grove Conservation Area (Section 72 Planning (Listed building and Conservation Areas) Act 1990. Guidance has been issued to assist owners and occupiers in choosing a design of window that would preserve the character and appearance of the conservation area, and this has not been taken into account by the owner. The alteration is considered to result in an unacceptable degree of harm to the appearance of the locally listed building and its positive contribution to the character and appearance of the Heigham Grove Conservation Area.
16. In recommending the authorisation of enforcement action it is also necessary to consider the merits of taking enforcement action against

the unauthorised installation of the windows, front door and demolition of the front wall. It would be possible to require the recently installed windows to be removed and the old ones reinstated. However, it is unlikely that the sliding sash windows that were removed would be reinstated by the owner as they have probably been disposed of. It is uncertain what has happened to the front door, although doors of this quality are usually resold. The option of reinstating the original windows and door should be offered to the owner of the premises as a way of demonstrating that this option is available. Alternatively double glazed sliding sash windows can be installed which closely match the original windows in design, and a tradition c1900 design of door should be installed. The boundary wall should be rebuilt with suitable materials.

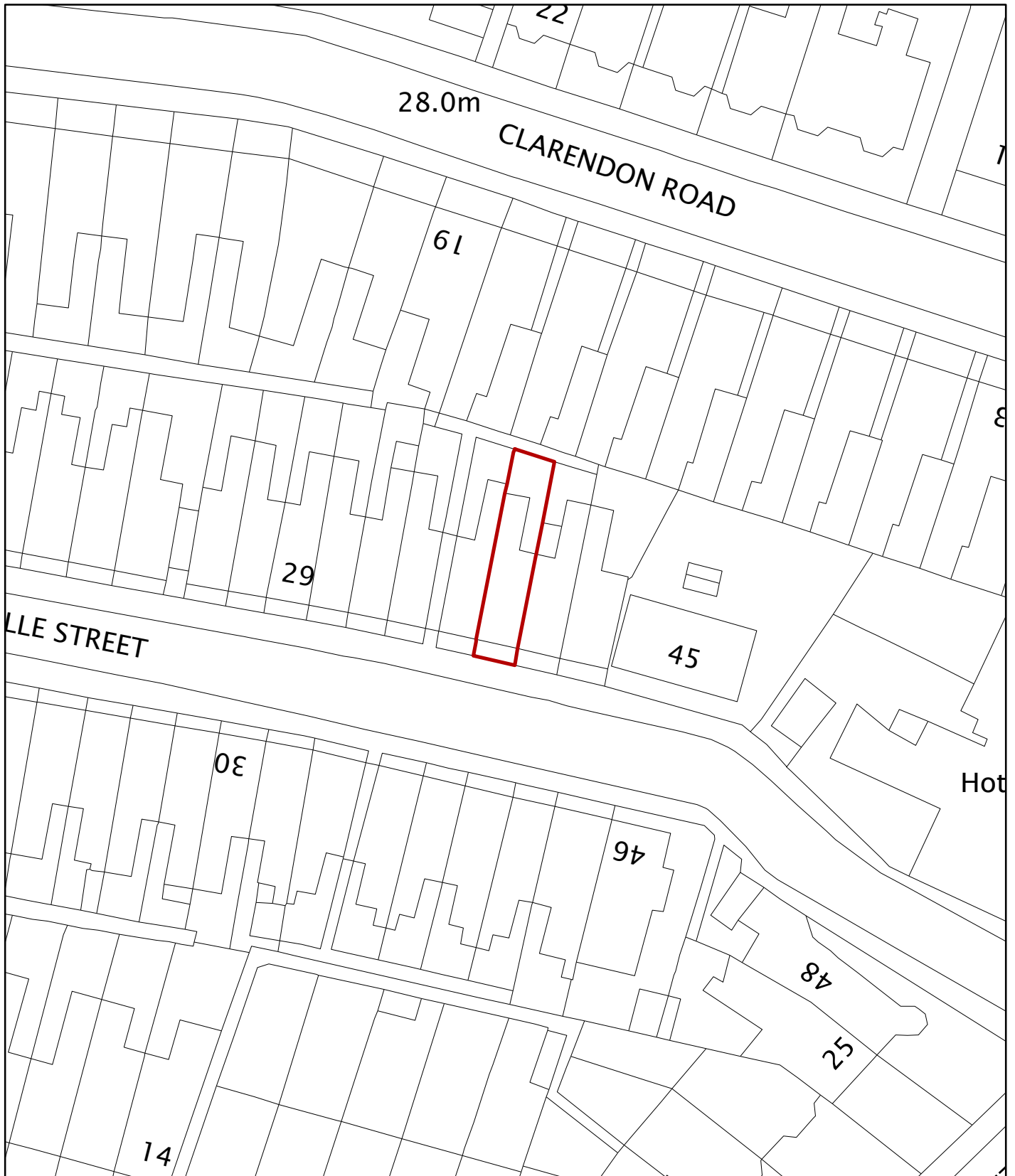
17. It is therefore necessary to ask for authorisation from the Planning Applications Committee to ensure the removal of the unauthorised windows and therefore remedy the breach of planning control.

Recommendations

18. Authorise enforcement action to ensure the replacement of the installed uPVC casement windows, front door and demolished garden wall. The replacement windows must be appropriately designed and such that they are similar in appearance to the sliding sash windows that were replaced. Unless the original front door can be reinstated, a traditional c1900 door would be considered acceptable. The wall should be reinstated to its existing height. Planning Applications Committee are also asked to authorise the taking of direct action and / or prosecution to ensure the windows are replaced by ones more appropriate to the setting of the locally listed building and the Heigham Grove Conservation Area.

References

Relevant correspondence: see Uniform Enforcement File 13/00148/CONSRV/ENF and Civica file EH13/20449



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Planning Application No 13/00148/CONSRV/ENF
 Site Address 39 Neville Street

Scale 1:500



NORWICH
 City Council

PLANNING SERVICES

