

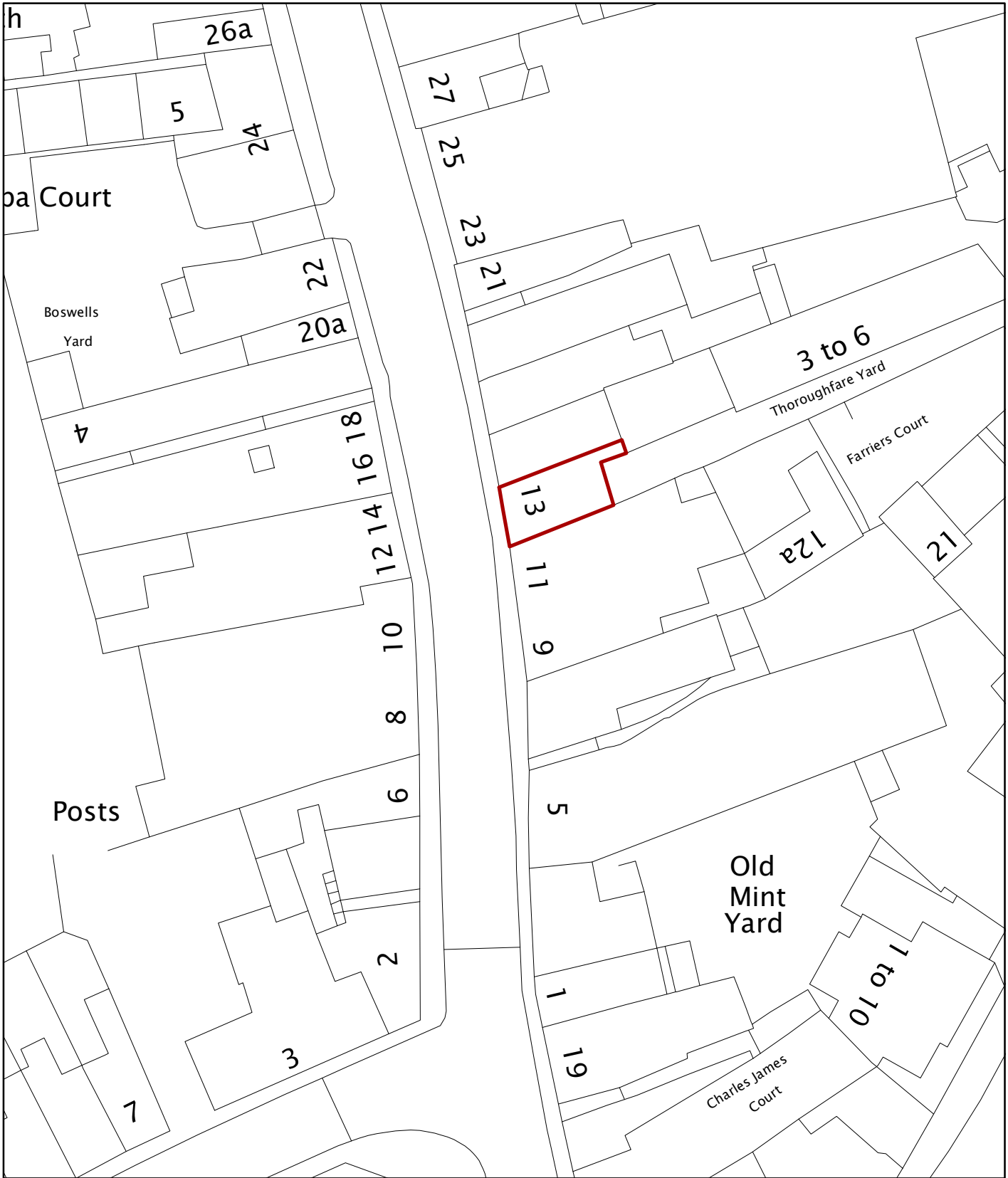
**Report to** Planning applications committee  
12 April 2018  
**Report of** Head of planning services  
**Subject** Enforcement Case 15/00046/CONSRV/ENF – 13  
Magdalen Street, Norwich, NR3 1LE

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**Item**

**4(i)**

<b>SUMMARY</b>	
<b>Description:</b>	Unauthorised replacement of 4 windows to front Elevation and two windows to the rear elevation with unsuitable windows.
<b>Reason for consideration at committee:</b>	Enforcement action recommended.
<b>Recommendation:</b>	Authorise enforcement action up to and including prosecution in order to: <ul style="list-style-type: none"><li>• Remove the unauthorised windows and replace with windows of appropriate design and material for a locally listed building in the city centre conservation area – including vertical sliding sash windows with four pane (two over two) design.</li></ul>
<b>Ward:</b>	Mancroft
<b>Contact officer:</b>	Samuel Walker <a href="mailto:samuelwalker@norwich.gov.uk">samuelwalker@norwich.gov.uk</a>



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Planning Application No 15/00046/CONSRV/ENF  
 Site Address 13 Magdalen Street

Scale 1:500



**NORWICH**  
 City Council  
 PLANNING SERVICES



## **The site**

1. The site is located to the east of Magdalen Street, between the junctions with Colegate to the south and St Saviours Lane to the North. The subject property is a three storey locally listed building, description as follows: *C19. 3 storeys, painted brick, Pantiles. 4 sashes. Modern shopfront. Right-hand entrance to Thoroughfare Yard.*
2. The prevailing character of the area is predominantly retail at street level with residential use at upper floors. In terms of neighbouring uses, Magdalen Street is predominately commercial, with a number of restaurants nearby;
3. It is within the city centre conservation area and nearby a number of locally and statutory listed buildings, including the adjoining buildings to the north.

## **Relevant planning history**

4. There is no relevant planning history.

## **The breach**

5. Without planning permission carrying out the following operations:
  - i) The removal of six number single glazed, vertical sliding sash windows of white painted timber construction (probably original to property); and
  - ii) The installation of uPVC double glazed casement windows – (top hung outward opening), with trickle vents. The replacement of the windows constitutes development and no permitted development rights would apply in this case. No planning consent has been granted for the works and it appears that the breach of planning control has occurred within the last four years and is not therefore immune from enforcement action.
6. The unauthorised white PVCu windows have caused harm to the conservation area.

## **Relevant policies and Planning Assessment**

### National Planning Policy Framework:

- Statement 1 Building a strong and competitive economy
- Statement 7 Requiring good design
- NPPF7 Requiring good design
- NPPF12 Conserving and enhancing the historic environment

### Joint Core Strategy for Broadland, Norwich and South Norfolk adopted March 2011 amendments adopted Jan. 2014 (JCS):

- JCS2 Promoting good design

### Norwich Development Management Policies Local Plan adopted Dec. 2014 (DM Plan):

- DM1 Achieving and delivering sustainable development
- DM3 Delivering high quality design

- DM9 Safeguarding Norwich's heritage

### **Justification for enforcement**

7. The unauthorised development by virtue of the window design, frame dimensions, opening mechanism would result in less than substantial harm to the character of the City Centre Conservation area and the setting of adjacent Locally and Statutory Listed Buildings, contrary to policies DM3 and DM9 and paragraph 134 of the National Planning Policy Framework.
8. In 2015, the breach was noticed by a senior officer during the works being carried out, one of the original timber sash windows remained in place at this time. The installers were advised that the works required formal consent, which had not been obtained. It was strongly advised that works ceased and that the windows that had been removed without authorisation should be stored safely, however this advice was not taken. It is noted that the landlord advised that this information was not relayed to him by the operatives.
9. On 20 August 2015 enforcement officers attended site. Subsequent discussions with the landlord progressed; an application to replace the unauthorised windows with a more appropriate alternative was invited.
10. On 12 October 2015 a site meeting was held between the landlord and a conservation officer to discuss appropriate proposals, it is noted that the landlord was unwilling to change the windows and informed officers of his intention to apply for retrospective consent for the windows as installed. The conservation officer advised that this would be unlikely to receive approval. No application was received. The planning development manager advised it is expedient to seek authorisation for enforcement action.
11. Officers attended site on 23 February 2018 along with an agent representing the Landlord's agent; advice was given that an application to regularise the unauthorised windows would be unlikely to be granted approval; again an invitation to submit an application to replace the unauthorised windows with a more appropriate alternative was invited. No application has been received.

### **Equality and diversity Issues**

12. 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.

### **Conclusion**

13. For the reasons outlined above, it is considered that the unauthorised replacement of the timber sash windows with uPVC top hung casement windows is out of character for the subject property, they have a detrimental impact on the character and appearance of the property, street scene and setting of the neighbouring listed buildings (locally and statutory) The development is not considered acceptable.
14. It is therefore necessary to ask for authorisation from the planning applications committee to authorise enforcement action to secure the replacement of the unauthorised windows and therefore remedy the breach of planning control.

### **Recommendation**

That the committee authorises enforcement action to secure the removal of the unauthorised uPVC top opening casement windows and replacement with vertical sliding sash windows in keeping with the original design for the subject property and the prevailing character of the area; including the taking of direct action that may result in referring the matter for prosecution if necessary.