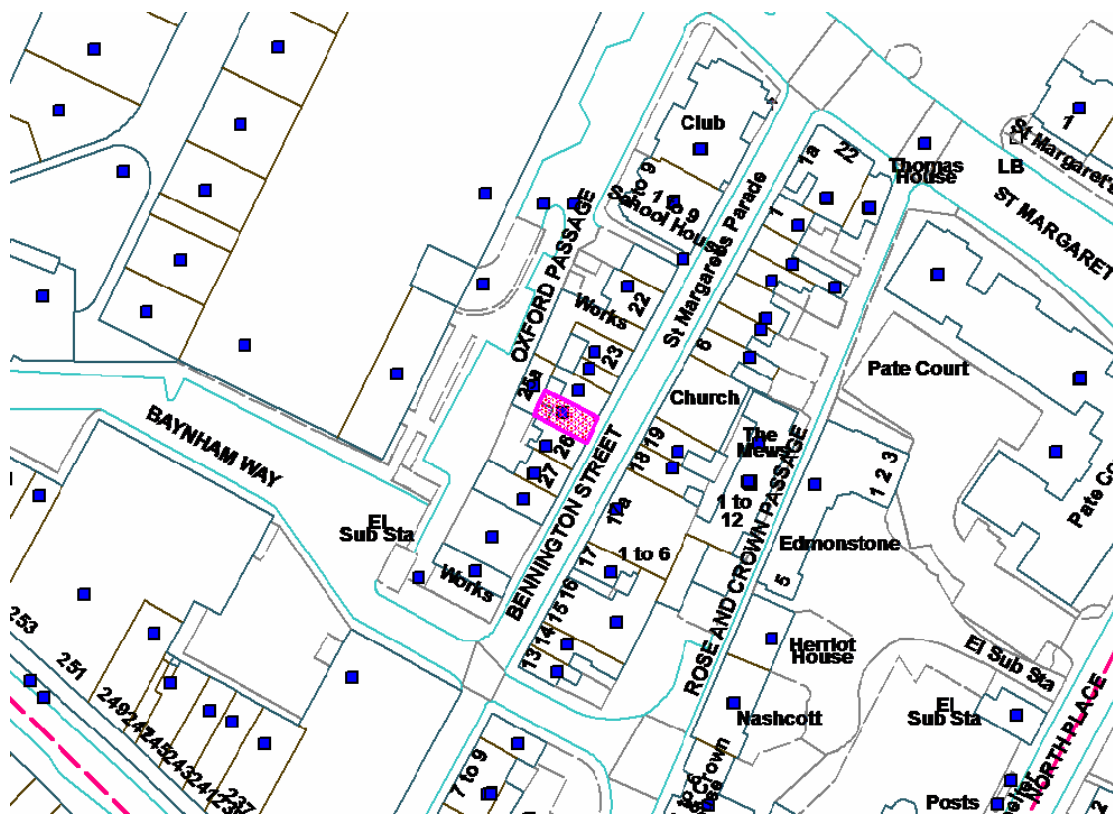


APPLICATION NO: 14/00298/FUL	OFFICER: Mrs Lucy White
DATE REGISTERED: 7th March 2014	DATE OF EXPIRY: 2nd May 2014
WARD: St Pauls	PARISH: None
APPLICANT:	Mr Martin Burnett
AGENT:	None used
LOCATION:	25 Bennington Street, Cheltenham
PROPOSAL:	Replacement sliding sash UPVC windows in first floor (front elevation) - RETROSPECTIVE APPLICATION

RECOMMENDATION: Refuse



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1** This application is before Committee because of the lengthy planning history and recent appeal and subsequent on-going discussions with the applicant to resolve a number of persistent breaches of planning control. There has also been interest from Councillor Walklett and Councillor Ryder.
- 1.2** The applicant seeks retrospective planning permission for two UPVC sliding sash windows in the first floor front elevation.
- 1.3** This is one of two planning applications for proposed development at 25 Bennington Street before Committee; the other relates to the removal of the historic shop front (ref 14/00297/FUL). Although the two applications have been submitted separately, to some extent, they should be considered in conjunction with each other since there are a number of common issues.
- 1.4** Planning permission was granted in 2011 for the change of use of the ground floor of the building from A1 use to create a self contained residential unit at ground and basement levels. The alterations also involved the erection of a single storey rear extension (ref 11/00238/COU). The first floor was already in residential use and has also recently been converted into a two bedroom flat, incorporating the loft space. This application also included proposals to remove the existing historic shop front and fascia and replace with a modern sliding sash window. Following discussion with the applicant it was agreed that the shopfront window would be retained but reduced slightly in width to allow for reasonable internal access to the two flats.
- 1.5** A condition was also attached to the above planning consent to ensure that the two first floor windows (which were annotated on the submitted drawings to be replaced), were replaced with timber sliding sash windows. However, the applicant has replaced the old windows with UPVC windows. Consequently, a Breach of Condition Notice was served on 24th June 2013.
- 1.6** A second application to replace the existing shop front and fascia with a UPVC sliding sash window and a new timber entrance door was refused by the Planning Committee in November 2012 and subsequently dismissed at appeal (ref:12/01359/FUL).
- 1.7** Whilst the above appeal was in progress, the applicant also attempted to seek approval for the retention of the UPVC windows by requesting that the first floor windows be considered as part of the appeal. However, because the first floor windows did not form part of the original refused application and had not been subject to formal consultation, the Planning Inspectorate was unable to consider the first floor windows under this appeal.
- 1.8** In summary, planning permission was granted for the replacement of the first floor windows on the front elevation with timber sliding sash windows in 2011. The windows were replaced as part of the conversion of the property to two flats but were replaced with UPVC windows, not timber sliding sash. A Breach of Condition Notice was served on 24th June 2013. This is the first application seeking approval for the retention of the unauthorised UPVC windows.
- 1.9** The application site is a late 19th Century, two storey, mid-terraced property and is shown on the 1884 map of the town. It previously had a ground floor A1/A2 use with residential accommodation above but planning permission was granted in 2011 for the change of use of the ground floor and basement to a residential unit. This permission has been implemented; therefore there is no longer a retail use of the building.

- 1.10** The site lies within the Central Conservation Area and the Core Commercial Area. The building is also identified as a positive building in the Conservation Character Appraisal and Management Plan No 1 – Old Town. The property once formed part of group of buildings comprising No 24, No 25 and No 25A to the rear which were used as a print works (J and R Printers). No 24 has been converted to residential and No 25A has been used as a Graphic Design Studio.
- 1.11** There was previously a small courtyard to the rear and an outbuilding. This space is now occupied by the rear extension approved in 2011 in conjunction with the change of use to two flats.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Conservation Area
Core Commercial Area
Residents Associations

Relevant Planning History:

86/00372/PC 22nd May 1986 REF

25 Oxford Passage Cheltenham Gloucestershire - Change Of Use From Joinery Workshop To Health And Fitness Club (Including Martial Arts)

11/00238/COU 19th April 2011 PER

Change of use of ground floor A1 use to create an additional self contained unit at ground and basement level (including alterations to fenestration on the front elevation). Erection of a single storey rear extension.

12/01359/FUL 23rd November 2012 REF

Replace existing shop front and fascia with sliding sash window (incorporating replacement front door)

14/00297/FUL PDE

Replacement of existing shopfront and door with timber sliding sash window and timber entrance door

3. POLICIES AND GUIDANCE

Adopted Local Plan Policies

CP 1 Sustainable development
CP 4 Safe and sustainable living
CP 7 Design

Supplementary Planning Guidance/Documents

Residential Alterations and Extensions (2008)
Sustainable developments (2003)
Central conservation area: Old Town Character Area and Management Plan (Feb 2007)

National Guidance

National Planning Policy Framework

4. CONSULTATIONS

Heritage and Conservation

25th March 2014

- i. This building has been recognised as a positive building on the townscape map in the central conservation area (Old Town) character appraisal and management plan, which was adopted by full Council in February 2007.
- ii. This building was granted planning permission (11/00238/COU) for change of use to two residential flats on 19th April 2011. Some conditions were attached to that permission, including some pre-commencement conditions. The applicant started work without discharging any pre-commencement conditions.
- iii. In addition to pre-commencement conditions, another condition was attached which stated –

All new window frames shall be constructed in timber and comprise sliding sashes in reveals of 100mm from the face of the building unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure a satisfactory form of development in accordance with Local Plan Policy CP7 relating to design.

- iv. However the applicant has decided not to comply with this condition and has now installed UPVC windows at first floor level. He is now applying for retrospective planning permission to retain the two UPVC windows which he has installed to the front elevation at first floor level.
- v. It should be noted that there are a number of properties in the street which have either retained their original timber windows or installed new timber windows, including properties in close proximity to this application site.
- vi. In conservation areas where planning permission is required to carry out works, the desire is to preserve existing or install new architectural features which are of a traditional design and materials; thereby preserving and enhancing the character and appearance of the conservation area.
- vii. UPVC is not a traditional material, its visual appearance is different to painted timber and it is not a sustainable material. Due to its strength properties the section of a UPVC window frame tend to have to be larger than timber frames. The frames of the windows installed by the applicant are larger/wider than the timber frames to sash windows in adjacent properties.
- viii. The conservation area (Old Town) character appraisal and management plan (page 31) (adopted by Council Feb 2007), states "Some of the older buildings within the Old Town character area have been adversely affected by the use of inappropriate modern materials or details such as the replacement of original timber sash windows with UPVC, the loss of original timber front doors and the introduction of roof lights which all erode local building detail and fail to preserve or enhance the character of the conservation area".
- ix. The conservation area (Old Town) character appraisal and management plan, Action OT3 (page 31), states "ensure that unauthorised development is subject to enforcement action".

- x. In addition the conservation area (Old Town) character appraisal and management plan (page 30), states “The Council will refuse planning permission or other consents for proposals which fail to meet these criteria for : the extension or alteration of a building where the change would damage the character or appearance of the conservation area.”
- xi. The imposed condition attached to the granted change of use application (11/00238/COU) which required that all new windows to be installed should be constructed in timber, also ensures that a sustainable material (i.e. timber) is to be used. This condition is therefore in accordance with the Councils policy on sustainable development and in particular Local Plan policy CP1.
- xii. The application building has already been identified as a positive building in the conservation area and therefore an appropriate condition requiring all new windows frames to be constructed in timber, had been imposed. However the applicant has failed to recognise this condition or carry out the conversion work in accordance with this condition, and he has failed to use a sustainable material (i.e. timber). Instead he has installed unauthorised UPVC windows.
- xiii. Therefore it follows that this application to retain the two unsuitable UPVC windows at first floor level, is contrary to the advice set out in the conservation area (Old Town) character appraisal and management plan, and is contrary to the Local Plan policies CP1, CP3, CP7 and the NPPF.

CONCLUSION: Refuse

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	4
Total comments received	0
Number of objections	0
Number of supporting	0
General comment	0

5.1 Comments Received

- 5.2 A total of 4 local residents were notified of the proposals and a site notice displayed outside the property. There have been no letters of representation received following the statutory consultation exercise.

6. OFFICER COMMENTS

6.1 Determining Issues

- 6.2 The key considerations are the design and materials of the first floor replacement windows and their impact upon the character and appearance of the existing building and wider conservation area.

6.3 Design and layout

- 6.4 As outlined at the start of this report, planning permission was granted for change of use of the ground and basement floors to residential use as part of a scheme to convert this property into two self-contained flats. The upper floors were already in residential use. Since planning permission is required to replace windows in flats,

the proposed replacement of the first floor windows on the front elevation was annotated as such on the submitted drawings.

- 6.5 A pre-commencement condition was added to this consent (11/00238/COU) requiring the replacement windows to be timber and sliding sash to ensure the preservation and enhancement of the Conservation Area:

All new window frames shall be constructed in timber and comprise sliding sashes in reveals of 100mm from the face of the building unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure a satisfactory form of development in accordance with Local Plan Policy CP7 relating to design”.

- 6.6 However, the windows were replaced with UPVC sliding sash windows (and prior to the discharge of the other pre-commencement conditions relating to the shopfront and Playspace contributions).
- 6.7 The Conservation Officer comments that there are a number of properties in the street which have either retained their original timber windows or installed new timber windows, including properties in close proximity to this application site. Where planning permission is required to carry out works in conservation areas, the desire is to preserve existing or install new architectural features which are of a traditional design and materials; thereby preserving and enhancing the character and appearance of the conservation area.
- 6.8 UPVC is not a traditional material; its visual appearance is different to painted timber and it is not a sustainable material. Due to its strength properties the section of a UPVC window frame tends to be larger than timber frames. The frames of the UPVC windows installed at 25 Bennington Street are larger/wider than the timber frames of sash windows in adjacent properties.
- 6.9 The Central Conservation Area (Old Town) Character Appraisal and Management Plan (page 31) states – *“Some of the older buildings within the Old Town character area have been adversely affected by the use of inappropriate modern materials or details **such as the replacement of original timber sash windows with UPVC, the loss of original timber front doors and the introduction of roof lights which all erode local building detail and fail to preserve or enhance the character of the conservation area.**”* Further, Action OT3 of this document (page 31), states – *“ensure that unauthorised development is subject to enforcement action and at page 30, states – “The Council will refuse planning permission or other consents for proposals which fail to meet these criteria for : the extension or alteration of a building where the change would damage the character or appearance of the conservation area.”*
- 6.10 The Conservation Officer points out that No 25 Bennington Street has already been identified as a positive building in the conservation area and therefore there was proper justification for imposing a condition requiring all new windows frames to be constructed in timber. However, the applicant has failed to carry out works to this property in accordance with the approved drawings and related conditions.

7. CONCLUSION AND RECOMMENDATION

- 7.1 The Conservation Officer concludes that this application to retain the two unsuitable UPVC windows at first floor level, is contrary to the advice set out in the

conservation area (Old Town) character appraisal and management plan, and is contrary to the Local Plan policies CP1, CP3, CP7 and the NPPF. It is therefore recommended that retrospective planning permission be refused for the following reasons.

8. REFUSAL REASON

No 25 Bennington Street lies wholly within the Central Conservation Area and has been identified as a positive building in The Old Town Character Area Appraisal and Management Plan No. 1 (2007). The retention of these unauthorised UPVC windows, by virtue of the uPVC material, would harm the character and appearance of the conservation area. Accordingly, the proposals are contrary to section 72(1) of the Planning (Listed Buildings & Conservation Areas) Act 1990, national policy set out in the NPPF and PPS5 (Planning for the Historic Environment) and policies CP1, CP3, and CP7 of the Adopted Cheltenham Borough Local plan.

INFORMATIVES

In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

In this instance, having had regard to all material considerations, the authority cannot provide a solution that will overcome the Council's concerns with the material chosen for the replacement windows and their impact on the character and appearance of the Conservation Area.

As a consequence, the proposal cannot be considered to be sustainable development and therefore the authority had no option but to refuse planning permission.