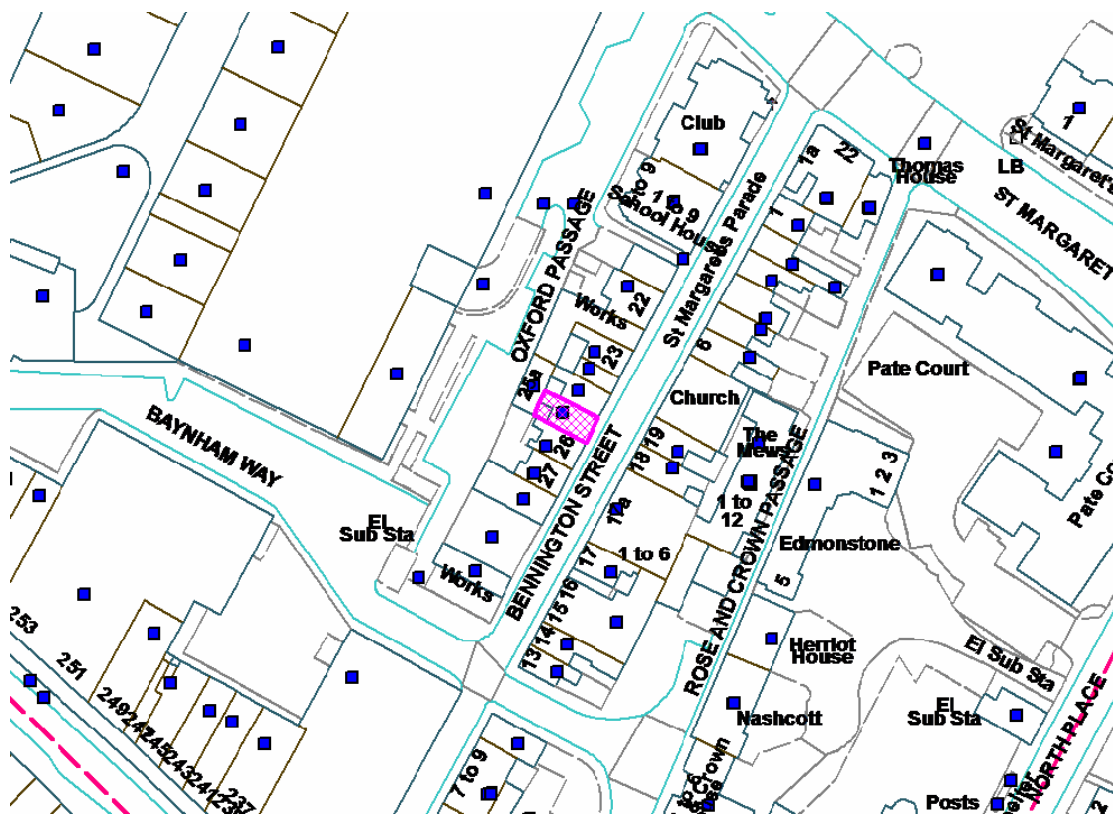


<b>APPLICATION NO:</b> 14/00297/FUL	<b>OFFICER:</b> Mrs Lucy White
<b>DATE REGISTERED:</b> 7th March 2014	<b>DATE OF EXPIRY:</b> 2nd May 2014
<b>WARD:</b> St Pauls	<b>PARISH:</b>
<b>APPLICANT:</b>	Mr Martin Burnett
<b>AGENT:</b>	No agent used
<b>LOCATION:</b>	25 Bennington Street, Cheltenham
<b>PROPOSAL:</b>	Replacement of existing shopfront and door with timber sliding sash window and timber entrance door

**RECOMMENDATION:** Refuse



This site map is for reference purposes only. OS Crown Copyright. All rights reserved Cheltenham Borough Council 100024384 2007

## **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** This is one of two planning applications for 25 Bennington Street before Committee; the other relates to the retention of replacement UPVC first floor windows on the front elevation (ref 14/00298/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.
- 1.3** The applicant proposes the replacement of the existing shop front and fascia with a sliding timber sash window and a new timber entrance door.
- 1.4** This is an almost identical proposal to an application refused in 2012 which was subsequently dismissed at appeal (ref 12/01359/FUL). The only difference between the two is that the material proposed for the sliding sash window was not specified on the application details.
- 1.5** Planning permission was also 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 level. 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 initially included proposals to remove the existing historic shop front and fascia and replace them with a smaller, modern sliding sash window. Following discussion with the applicant it was agreed that the historic shopfront would be retained but reduced slightly in width to allow for reasonable internal access to the two flats.
- 1.6** In summary, this is the third application submitted by the applicant proposing the removal the existing historic shop front window and fascia, the previous two having been refused (and the latter dismissed at appeal).
- 1.7** The application site is a late 19<sup>th</sup> 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.
- 1.8** 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.
- 1.9** 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.
- 1.10** 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)

#### **14/00298/FUL PCO**

Replacement sliding sash UPVC windows in first floor (front elevation) -  
RETROSPECTIVE APPLICATION

## 3. POLICIES AND GUIDANCE

### Adopted Local Plan Policies

CP 1 Sustainable development  
CP 4 Safe and sustainable living  
CP 7 Design  
TP 1 Development and highway safety

### Supplementary Planning Guidance/Documents

Residential Alterations and Extensions (2008)  
Shop front design guide SPD (2007)  
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**

*25<sup>th</sup> March 2014*

### Comments:

1. 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.

2. In addition this existing shopfront window was included in a shopfront survey produced by the Civic Society in 1989. In this survey it was considered to be a shopfront of historic interest (ie grade A). Although, this survey document from 1989 has never received any formal adoption by the Council; none the less it is a useful starting point in accessing the historic value of the town's shopfronts. It was also used as evidence in the recent planning appeal (see below).
3. This property received planning permission (11/00238/COU) on 19<sup>th</sup> April 2011 for the conversion and extension of this property into residential accommodation at ground and basement level. This application originally was for the total removal of the shopfront and its replacement with a smaller window and the total removal of the fascia. However planning and conservation officers expressed their concerns at the total loss of the shopfront window and fascia, and consequentially following negotiations during the application process, the application was revised to include the adaptation of the shopfront window and the retention of the fascia. On the basis that this window was retained and adapted, planning permission was granted for the change of use. A pre-commencement condition was attached to the permission, which required a method statement to be submitted to and agreed by the Council planning department, for the proposed alterations and repairs to the window prior to the commencement of work on site. However the applicant (Mr Burnett) failed to submit this method statement but still commenced the building work on the property, and to date this method statement has yet to be submitted in an acceptable form to the Council's planning department.
4. Then the applicant (Mr Burnett) applied for planning permission (12/01359/FUL) to totally remove the shopfront window and totally remove the fascia, and replace them with a sliding sash window of 1m wide. This application was refused by the planning committee of Cheltenham Borough Council, and the applicant (Mr Burnett) appealed this refusal. However his appeal was dismissed by the Planning Inspector in 2013.
5. However there are a number of pertinent points in the appeal inspector's decision notice dated 20<sup>th</sup> November 2013 which remain very relevant to the current application.
6. These points made by the Inspector are as follows:
  - i. *"I therefore consider that the existing shop front has historic merit in the context of the character and appearance of the Conservation Area"*.
  - ii. *"The presence of unsympathetic alterations in the street does not diminish the need to retain features, including a timber shop front at the appeal site, which continue to provide a clear historic link to the past mix of uses and maintain the local distinctiveness of this area. The total removal of the timber shop front and replacement with the proposed smaller window would therefore be harmful to the character and appearance of the Conservation Area"*.
  - iii. *"There appears to be agreement that there are structural problems with the beam above the existing window. However, the Council have stated that this could be resolved without having to remove the window and I have not received decisive evidence to suggest otherwise"*.

- iv. *“There is also no decisive evidence submitted to suggest that the previous planning permission for residential use of this property could not be implemented”.*
7. It is noted that there are inconsistencies between the two submitted proposed elevations drawings in the current application. However the proposed elevation drawing at scale 1:100 does relate accurately to the proposed plan and therefore it is this elevation drawing which I have considered as the accurate submitted information.
8. Therefore the current application is absolutely identical to the previous refused application (12/01359/FUL) which was refused by the Planning Committee of Cheltenham Borough Council on 22<sup>nd</sup> November 2012, with this refusal decision being endorsed by the Planning Inspector decision on 20<sup>th</sup> November 2013.
9. The applicant (Mr Burnett) has not submitted any written justification why this historic shopfront window has to be replaced or is beyond repair. Neither did he submit a method statement for the adaptation of the shopfront window prior to starting work on site, in order to discharge the planning condition which was attached to the original planning permission for the conversion work to this property. In addition the Planning Inspector also made the comment that he considered that there is also no decisive evidence submitted to suggest that the previous planning permission for residential use of this property could not be implemented.
10. The application also proposes to replace the existing historic front door with a new timber door, but no information has been submitted to confirm what kind of new door is proposed. However it is accepted that this could be conditioned.
11. Summary
- i. This current application is completely identical to the previously refused application for planning permission (12/01359/FUL), and completely identical to the previous planning appeal dismissed on 20<sup>th</sup> November 2013.
- ii. No decisive evidence has been submitted to suggest that the previously granted planning permission for change of use (including the retention of the shopfront and fascia), can not be implemented.
- iii. This shopfront window and the fascia have historic merit and the Planning Appeal Inspector has also reached that conclusion.
- iv. This application building has been identified as positive in the conservation area appraisal for the area (adopted Feb 2007).
- v. This shopfront window has been identified as being positive in the shopfront survey produced by Cheltenham Civic Society in 1989 and although this survey has no statutory weight none the less it is a confirmation of Cheltenham’s shopfront heritage.
- vi. The Council adopted a Shopfront Design Guide as a Supplementary Planning Document on 23<sup>rd</sup> February 2007. In that SPD section 2.2 the following advice is given – *“While there are few original shopfronts in Cheltenham, there are some fine period replacements dating from the late 19<sup>th</sup> and early 20<sup>th</sup> centuries which contribute to the character of the town*

*and should not be removed. It is advisable to check with the Conservation Officer whether the shopfront you propose altering is one of these.”*

- vii. This application for a new window replacing the historic window does not comply with Action OT3 of the Management Plan of the Old Town Character Appraisal.
- viii. The proposed total loss of the historic window will not preserve or enhance the appearance or character of the conservation area.
- ix. This application does not comply with Local Plan policy CP7, national legislation in the Planning (Listed Buildings and Conservation Areas) Act 1990 section 72(1), and national policies in the NPPF in particular sections 60, 131, 132, and 134.

**CONCLUSION:** Refuse

**Refusal reason:**

The proposed total removal of the timber shopfront and its replacement with the proposed smaller window, and the total removal of the timber fascia would both be harmful to the character and the 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 policy CP7 of the Adopted Cheltenham Borough Local plan.

## 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 principle of the loss of an historic shopfront and the subsequent impact of the shopfront alterations upon the character and appearance of the conservation area.

### 6.3 Design and layout

- 6.4 The property has an historic shopfront which, although not exactly known, probably dates from the late 19<sup>th</sup> century. The shopfront window has been identified on a survey of Cheltenham’s shopfronts carried out by the Civic Society in 1989. In this survey it was considered to be a shopfront of historic interest (i.e. grade A). Although this survey document has never received any formal adoption by the Council, it is a useful starting point in assessing the historic value of the town’s

shopfronts. It was also used as evidence in the recent planning appeal relating to this site (see paragraph 6.15 below).

**6.5** As outlined at the start of the report, planning permission was granted in 2011 for the change of use of the ground floor and basement to a self contained residential unit (ref: 11/00238/COU). During the process of determining this application, lengthy discussions took place with regard to the retention of the historic shopfront window. Initially, the applicant proposed the removal of the shopfront and its replacement with a modern sash bedroom window. It was finally agreed that, although the majority of the historic shopfront and fascia would be retained, it would be altered (reduced in width) to allow the conversion scheme to be satisfactorily implemented.

**6.6** A planning condition was attached to the above planning permission which stated that:-

*Prior to the commencement of development, A Method Statement outlining the full details (including finish, colour and glazing options) of all of the alterations and repair to the existing ground floor shop front, shall be submitted to and approved in writing by the Local Planning Authority. The shop front alterations/repair shall be carried out strictly in accordance with the approved Method Statement and retained as such thereafter.'*

**6.7** However, the above planning permission was implemented prior to the submission of a Method Statement for the shopfront alterations and discharge of the other pre-commencement conditions.

**6.8** Instead, whilst the conversion works were taking place, the applicant submitted a second application to totally remove the historic shopfront and fascia and replace it with a sliding sash window (including a new entrance door). Various discussions and a site meeting took place between the applicant (and his appointed surveyor), the Conservation Officer and the Council's Building Control Officer to discuss the condition of the existing shopfront and lintel and whether it was capable of reasonable repair and re-use. The conclusion reached by Council Officers was that the window frame and supporting lintel were not beyond repair. On the planning application form, the applicant made reference to compliance with Health and Safety Regulations, UV values and SAP tests. However, this was not specified in any detail and did not provide a suitable argument in favour of the removal of the historic window.

**6.9** The shopfront window is clearly historic and the applicant has not challenged that conclusion or provided substantive evidence refuting its age and historic significance. As a consequence, the applicant was unable to provide adequate justification for the shopfront's removal and this second application for the removal of the shopfront was refused by the Planning Committee on 22nd November 2012 and subsequently dismissed at appeal in November 2013.

**6.10** Unfortunately, despite the fact that the majority of the conversion works have already been undertaken and there has been a previous planning refusal and dismissed appeal, the applicant has still failed to comply with the conditions attached to the original consent in 2011 (11/00238/COU). A satisfactory Method Statement has still not been submitted nor has an application to discharge the remaining conditions relating to the approved application.

**6.11** A written statement was provided by the applicant following the appeal decision but this related to a newly created and unacceptable shopfront. The condition requiring

the submission of a Method Statement refers to the retention and modification of the historic shopfront and fascia, not its replacement.

- 6.12** The historic shopfront has, however, been retained during the building works on site pending the outcome of the previous appeal and current application/s.
- 6.13** Section 131 of the NPPF states that in determining planning applications, local planning authorities should take account of the '*desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation*'. At section 132 it further comments that '*as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification*'.
- 6.14** In addition, the proposed development does not comply with Action OT3 of the Management Plan of the Old Town Character Appraisal.
- 6.15** Section 2.2 of the Council's SPD Shopfront Design Guide (2007) provides the following advice:-

*While there are few original shopfronts in Cheltenham, there are some fine period replacements dating from the late 19<sup>th</sup> century and early 20<sup>th</sup> centuries which contribute to the character of the town and should not be removed. It is advisable to check with the Conservation Officer whether the shopfront you propose altering is one of these.'*

- 6.16** There are a number of examples in Cheltenham where a traditional and/or historic shopfront has been retained following a change of use to residential, for example at No 6 Suffolk Parade. There is no evidence to suggest that this shopfront window (reduced in width) could not form a suitable ground floor window for a dwelling and the width of the altered window (2 metres) is not excessive for a bedroom or lounge window. Condition 06 of the approved application also allowed for alternative glazing to be considered should there be problems satisfying building regulations.
- 6.17** The Conservation Officer considers that there are a number of pertinent points in the appeal Inspector's decision letter dated 20th November 2013 which remain relevant to the current application. These are as follows and are taken directly from the Inspector's decision letter (which is attached to this report for reference):-

*"I therefore consider that the existing shop front has historic merit in the context of the character and appearance of the Conservation Area".*

*"The presence of unsympathetic alterations in the street does not diminish the need to retain features, including a timber shop front at the appeal site, which continue to provide a clear historic link to the past mix of uses and maintain the local distinctiveness of this area. The total removal of the timber shop front and replacement with the proposed smaller window would therefore be harmful to the character and appearance of the Conservation Area".*

*"There appears to be agreement that there are structural problems with the beam above the existing window. However, the Council have stated that this could be resolved without having to remove the window and I have not received decisive evidence to suggest otherwise".*

*"There is also no decisive evidence submitted to suggest that the previous planning permission for residential use of this property could not be implemented".*



**6.18** There has been no change in circumstances since the appeal decision and therefore the above statements made by the appeal Inspector still apply. The current application is identical to the scheme dismissed at appeal other than the applicant has specified the material proposed in the current application.

**6.19** The applicant has still failed to submit an acceptable Method Statement for the alterations to the retained shopfront and neither has he submitted an acceptable written justification why this historic shopfront window has to be replaced or is beyond repair. Similarly, the appeal Inspector reached the same conclusion that there was no decisive evidence submitted to suggest that the previous planning permission for residential use of the property could not be implemented with the existing shopfront retained.

#### **6.20 Other considerations**

**6.21** Prior to the submission of this application, various discussions and a meeting took place between Council Officers and the applicant to discuss, in detail, the outstanding matters relating to the previous planning consent in 2011 and a way forward for the applicant to resolve the persistent breaches in planning control relating to this site. In particular, the applicant was given advice on the content and expected level of detail required for the Method Statement. Mr Burnet has also been advised to appoint an engineer to design a solution for the support of the beam above the shopfront. It was also suggested that a Joinery firm would be able to advise him on the repair of the rotten timber sections of the window frame by splicing in sections of new timber. Alternatively, the Conservation Officer has suggested that Mr Burnett may consider repairing the rotten timber sections by using a resin system for timber repair which would mean the window could be repaired in-situ.

**6.22** However, despite all this advice, the applicant has chosen to submit an identical application to the one refused in 2012 and dismissed at appeal in 2013.

**6.23** There are also inconsistencies between the two submitted proposed elevation drawings in the current application. However, the proposed elevation drawing at scale 1:100 does correspond with the proposed floor plan and therefore it is this elevation drawing which has been considered.

**6.24** The applicant also proposes the replacement of the existing historic front door with a new timber door but no further details have been submitted. Whilst this aspect of the proposals is less contentious, the detail of the design of the new door would need written approval but this could be adequately dealt with via a planning condition.

## **7. CONCLUSION AND RECOMMENDATION**

**7.1** The proposed total loss of this historic shopfront window and fascia and their replacement with a modern sash window would not preserve or enhance the appearance or character of the Conservation Area. The applicant has not provided proper justification for their loss and no decisive evidence has been submitted to suggest that the previously granted planning permission for the change of use to residential cannot be implemented with the retention of the shopfront and fascia. This conclusion and also the historic merit of the existing shopfront and its

contribution to the character and appearance of the conservation area were also reached by the appeal Inspector.

- 7.2** This is an identical application to the one previously refused by Planning Committee in 2012 and dismissed at appeal in 2013. There has been no change in circumstances in relation to the applicant, the structural condition and fabric of the building and the Council's opinion with regards the principle of removing this shopfront. The Council has taken a consistent approach when determining all previous similar proposals for this site. The appeal decision is also a material consideration which must be afforded considerable weight in the determination of this application.
- 7.3** In light of all the above, the proposed development is contrary to Policy CP7 (design) of the Local Plan, the Planning (Listed Buildings and Conservation Areas) Act 1990 Section 72 (1) and national policy set out in the NPPF and it is recommended that planning permission be refused for the following reasons.

## **8. REFUSAL REASONS**

- 1 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 building's historic shopfront, which dates from the later part of the 19th century, has also been identified as positive in a shopfront survey produced by Cheltenham Civic Society. This shopfront is a fine example of a late 19th century historic shopfront which contributes to the character and appearance of this part of the conservation area and which should not be removed without justification.

The applicant has not provided proper justification for its removal. This historic shopfront window and fascia are considered an important heritage asset and as such, the proposed total removal of the timber shopfront and its replacement with a smaller UPVC sliding sash window and the total removal of the timber fascia would both be harmful to the character and the 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 policy CP7 of the Cheltenham Borough Local plan.

## **INFORMATIVES**

- 1 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 regarding the total loss of the existing shopfront and timber fascia.

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

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## Appeal Decision

Site visit made on 24 September 2013

**by Andrew Dawe BSc(Hons) MSc MPhil MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 20 November 2013**

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**Appeal Ref: APP/B1605/A/13/2198061**

**J&R Printers, 25 Bennington Street, Cheltenham, Gloucestershire GL50 4EF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Martin Burnett against the decision of Cheltenham Borough Council.
  - The application Ref 12/01359/FUL, dated 5 September 2012, was refused by notice dated 22 November 2012.
  - The development proposed is to remove existing shop face window and replace with sliding sash window in keeping with the area; also replace door in keeping with surrounding area.
- 

### Decision

1. The appeal is dismissed.

### Procedural matters

2. On the Planning Appeal form the appellant has indicated in section F that the reason for the appeal is that the Council has refused to approve any matter required by a condition on a previous planning permission. However, the planning application which is the subject of this appeal relates to a completely different proposal in terms of the design of the ground floor front elevation. I have therefore treated the reason for this appeal as being that the Council refused planning permission for the development.
3. The appellant has also requested in a fax dated 25 June 2013 that unauthorised UPVC first floor front windows are considered as part of this appeal. I note that the description of development does not refer to these windows on either the application form or the Council's decision notice. Even if, as stated by the appellant, they were referred to in a Council meeting, they would not have been subject to the formal consultation which would be necessary. Therefore, in the interests of fairness and openness, the first floor windows can not be considered under this appeal.
4. The appellant has raised issues concerning the Council's Conservation Officer in relation to this case, however these issues have not formed part of my deliberations which are focussed upon the planning merits of the case.

### Main Issue

5. The main issue is whether the proposed development would preserve or enhance the character or appearance of the Central Conservation Area.

## Reasons

6. 25 Bennington Street is located within the Central Conservation Area and more specifically within the Old Town character area. This character area includes a variety of different buildings and uses, forming the historic commercial core of the Conservation Area. The variety of uses contributes to the special interest of the area. Whilst there is a large proportion of residential use within Bennington Street, I noted at my site visit that there are also other uses including a number of retail units and a taxi office at the end nearest the High Street. These units generally have timber shop fronts. I noted that No 25, located within the more residential end of the street, was in the process of conversion to residential use, and also retained a timber shop front.
7. The retention of a timber shop front at No 25, whilst flanked by more conventional residential facades, provides a visual link to the past mix of uses along the street which is an important characteristic of the Conservation Area. I am aware that as part of the planning permission for the conversion of No 25 to residential flats it was agreed that part of the original shop front could be removed to allow for the conversion. However, this current proposal intends the removal of all reference to the original shop front.
8. There is some dispute between the parties as to the age of the existing window proposed to be replaced. However, it appears from the evidence submitted that whilst the glazing materials and certain materials used to support the existing structure may be more modern, this does not prove that the shop front generally, including the timber frame, is of an equally more modern design. Furthermore, the Council have drawn attention to documentary evidence indicating that the property had been in commercial use dating back to at least the early part of the twentieth century. The building is also recorded as being a positive building within the Conservation Area character appraisal and I note the importance attached to it by a survey carried out by the Civic Society in 1989. I therefore consider that the existing shop front has historic merit in the context of the character and appearance of the Conservation Area.
9. I acknowledge that a number of the properties along Bennington Street have been altered, particularly in relation to the current use of UPVC window frames in many cases. However, I also note the Council's statement that, where it has control, the installation of UPVC windows is not normally considered appropriate in the Conservation Area as it can detract from its appearance. The appellant has drawn attention to No 17 having had UPVC windows approved and a replacement aluminium sliding door to No 29. In relation to Nos 17 and 29 the Council confirm that it has not approved such alterations. In respect of UPVC windows elsewhere in the street the Council highlight that these could either have been installed as permitted development or without planning permission and I have no evidence to suggest otherwise.
10. The presence of unsympathetic alterations in the street does not diminish the need to retain features, including a timber shop front at the appeal site, which continue to provide a clear historic link to the past mix of uses and maintain the local distinctiveness of this area. The total removal of the timber shop front and replacement with the proposed smaller window would therefore be harmful to the character and appearance of the Conservation Area.
11. For the above reasons the proposed development would fail to preserve the character and appearance of the Central Conservation Area and would be

contrary to policy CP7 of the Cheltenham Borough Local Plan Second Review. Amongst other things, this policy requires that development will only be permitted where it respects the character of the locality and that alterations to existing buildings will be required to avoid causing harm to the architectural integrity of the building.

12. There appears to be agreement that there are structural problems with the beam above the existing window. However, the Council have stated that this could be resolved without having to remove the window and I have not received decisive evidence to suggest otherwise.
13. The appellant has raised concerns about noise and disturbance to future residents using the proposed bedroom served by the larger ground floor window which has been approved under the previous permission. However, insufficient evidence as to the extent of noise levels from the potential existing noise sources identified by the appellant has been submitted in support of the appeal, to enable me to fully assess any impacts. Notwithstanding this, I saw at my site visit that with regard to the taxi office, this was located a reasonable distance from the appeal site such that the likelihood of noise generating activity from this taking place immediately adjacent to the appeal site would be lessened. Furthermore, in terms of potential noise resulting from future developments in the area, again I have insufficient evidence as to the extent that this would cause undue noise and disturbance.
14. I understand that the proposed replacement window may offer the appellant improved thermal and noise insulation. However, notwithstanding the points made above in relation to noise, it has also been drawn to my attention by the Council that in these respects Building Regulations, whilst a separate matter from the planning application, would not be an obstacle to implementing the window as previously approved. There is also no decisive evidence submitted to suggest that the previous planning permission for residential use of this property could not be implemented. Consequently, in having regard to paragraph 134 of the National Planning Policy Framework, whilst the harm to the significance of the Conservation Area is less than substantial, there are no benefits of the proposal which are sufficient to outweigh that harm.

*Conclusion*

15. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Andrew Dawe*

INSPECTOR

<b>APPLICATION NO:</b> 14/00297/FUL		<b>OFFICER:</b> Mrs Lucy White	
<b>DATE REGISTERED:</b> 7th March 2014		<b>DATE OF EXPIRY:</b> 2nd May 2014	
<b>WARD:</b> St Pauls		<b>PARISH:</b>	
<b>APPLICANT:</b>	Mr Martin Burnett		
<b>AGENT:</b>	No agent used		
<b>LOCATION:</b>	25 Bennington Street, Cheltenham		
<b>PROPOSAL:</b>	Replacement of existing shopfront and door with timber sliding sash window and timber entrance door		

## Update to Officer Report

### 1. OFFICER COMMENTS

1.1. The applicant has submitted a set of photographs with accompanying explanatory text, received by the Council on 23<sup>rd</sup> April 2014. These photographs will be on display at the Committee meeting on 25<sup>th</sup> April. The photographs are examples of properties where an existing shop front has been recently replaced with a window opening and all are located within a conservation area.

1.2. Officers have looked at the planning history of the three properties and comment as follows:-

- Top two photographs (former turf accountants on corner of Portland Place – Pittville). Planning permission was granted in 2013 for the change of use from a bookmakers (A2) to form 2 no. self contained flats (C3) (Planning ref 13/00107/COU). Although the submitted drawings are annotated that replacement and new windows on the ground and first floors would be UPVC, a condition was added to ensure that all new window frames would be constructed in timber and comprise sliding sashes in reveals of 100mm from the face of the building. The new UPVC windows installed in this building are therefore unauthorised.

Members should note that there was not an existing shopfront on the ground floor of this building, only a customer entrance door on the corner with two blind windows either side.

- Middle photograph (6 Shurdington Road – Leckhampton). Planning permission was granted in 2013 for the change of use from A2 (recruitment agency) to a single dwelling (planning ref 13/00941/COU). The approved drawings are annotated that the ground floor new sash window shall match the existing terrace

(in scale and design). Timber windows were not requested by Officers; although the building is located within the conservation area, it was considered unreasonable in this instance to insist upon a timber window on the ground floor where there were existing UPVC windows above.

The property is listed in the Civic Society's Shopfront Survey carried out in 1989 but falls within category X of the Survey, which identifies those shopfronts as being 'not quite good enough' to be included and worthy of protection.

Further, whilst the original shopfront was old and of traditional appearance, this building was originally constructed as a dwelling and not for commercial use.

- The bottom photograph is the Old Post Office, 19 Lyefield Road West. Planning permission was granted last year for the change of use from A1 shop to a single dwelling (planning ref 13/01907/FUL). Again, this property was originally constructed as a dwelling and is semi-detached. There were no external alterations proposed as part of this application; it was simply a change of use of the property. Therefore, the removal of the shopfront and the new UPVC bay window installed on the ground floor are unauthorised works to this building.

1.3. The Enforcement Team has been notified of the above breaches in planning control which will be investigated accordingly.

1.4. The applicant also refers to the recent amendments to Planning Legislation which effect permitted development. From the 6<sup>th</sup> April 2014, planning permission is no longer required for the change of use from A1 (retail) to a single dwelling and this includes any building operations reasonably necessary to convert the building. However, properties in Conservation Areas are excluded from this permitted change.