

COMMITTEE: PLANNING
DATE: 22 January 2019
SUBJECT: East Beach Hotel Replacement Windows
REPORT OF: Head of Planning

Ward(s): All

Purpose: To provide Members with an update on compliance with an enforcement notice at the above property and to seek member's views on suggested alternative materials.

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Recommendations:

1. That Members note the contents of this report.
2. Members to agree an alternative material can be used.
3. Delegate to Officers to amend the enforcement notice to allow for an alternative material to be used and also a revised timeline for compliance.

Executive Summary/Timeline of events

- Enforcement investigations began in June 2015
- The owner of the hotel submitted a planning application to retain the widows; this planning application was refused planning permission on the 22nd March 2016 for the following reason:

Because of its bulk, materials, method of opening and detailed design the replacement UPVC windows would detract from the setting and appearance of the building of local interest and the Town Centre and Seafront Conservation Area. This is contrary to Section 12 (Conserving and enhancing the historic environment) of the National Planning Policy Framework 2012; Policies B2 (Creating Sustainable Neighbourhoods) D10 (Historic Environment) and D10A (Design) of the Core Strategy 2013; and Saved Policies UHT1 (Design of New Development) UHT4 (Visual Amenity) UHT15 (Protection of Conservation Areas) and UHT18 (Buildings of Local Interest) of the Eastbourne Borough Plan 2001-2011.

- Running parallel to this planning application an enforcement investigation culminated in the Council serving an enforcement notice. This was served on the 22nd March 2016 with a compliance period concluding on the 3rd May 2016.
- The owner of the hotel appealed this decision/notice. The appeal was decided by way of an Inspectors decision letter being received on the 15th December 2016.
- In their decision letter the Inspector outlined the merits in the scheme and concluded that the windows that had been inserted had a damaging effect on the character and appearance of the site and surrounding area. Subject to minor changes the enforcement notice was upheld and required that the windows should be replaced with timber.
- The enforcement notice required timber replacement windows on the following timelines:
 - Ground floor within 1 year (by 15th December 2017)
 - First and Second Floor within 2 years (by 15th December 2018)
 - Third floor level within 3 years (by 15th December 2019)
- No timber replacement windows have been inserted and as such compliance with the notice remains incomplete. It is clear for the above schedule that as at December 2018 the ground, first and second floor replacement windows should have been installed.
- The owner is seeking that the enforcement notice is amended varied to allow for sliding sash uPVC to be installed.

1.0 Introduction

1.1 As outlined in the Executive Summary this issue has remained unresolved, despite protracted efforts by all parties.

1.2 Following the appeal decision the owner recognises that the windows as inserted are unsuitable and need to be replaced.

1.3 The owner is claiming that the insertion of timber windows is not only costly but would also require long term ongoing maintenance.

1.4 The owner claims that the replacement windows need to be provided against a backdrop of an incredibly difficult and competitive time for the local hotel trade. For the Council to insist on timber replacements the applicant claims would threaten the viability of the existing business and may force it to close.

2.0 Background

2.1 Section 173A of the Town and Country Planning Act allows Local Planning Authorities to adapt and alter enforcement notices as they see fit.

2.2 The owner has commissioned Swain Bros. a local window manufacturer and installer to price for replacement windows. These replacement windows are uPVC but are in the sliding sash form.

2.3 The uPVC replacement windows were reported to Conservation Area Advisory Committee where CAAG members debated the merits and impacts upon the character of the host property in particular and the surrounding area in general. The views of CAAG are reported below:

-CAAG Comments:- The Group agreed that the scheme as currently presented did not enhance the character and appearance of the conservation area, and the preference for sliding sash windows similar to the original remained. The Group were happy for Officers to continue discussions with the applicant to achieve a more suitable and appropriate replacement albeit in uPVC.

3.0 Assessment

3.1 It is recognised by officers that the superior solution for compliance would be appropriate timber replacements, however these have not materialised.

3.2 Given the non-compliance with the enforcement notice then the Council could pursue compliance through prosecution. This prosecution would be through the courts and in the first instance result in a financial penalty. It is clear from the owner of the hotel that one of the reasons for non-compliance to date is the financial predicament that this hotel is experiencing in this current climate.

3.3 Against this background therefore an alternative material may be considered to be a pragmatic solution to this issue. The revised details are an enhancement over that reported to CAAG have been assessed by officers and are deemed to be acceptable.

4.0 Recommendations

- 4.1 1. That Members note the contents of this report.
2. Members to agree an alternative material can be used.

3. Delegate to Officers to amend the enforcement notice to allow for an alternative material to be used and also a revised timeline for compliance. All works to be completed by the end of December 2019