

6o E/13/0012/B – First floor windows inserted into flank elevation of property in breach of conditions at 7a Currie Street, Hertford, Herts, SG13 7DA

Parish: HERTFORD CP

Ward: HERTFORD CASTLE WARD

RECOMMENDATION:

That the Director of Neighbourhood Services, in consultation with the Director of Finance and Support Services, be authorised to take enforcement action under section 187A and/or section 172 of the Town and Country Planning Act 1990 and any such further steps as may be required to secure compliance with conditions 2 and 3 of planning permission 3/11/1411/FP in respect of the first floor flank windows.

Period for compliance: 2 months

Reasons why it is expedient to issue an enforcement notice and/or Breach of Condition Notice:

1. The inserted windows on the first floor in breach of conditions 2 and 3 of planning permission 3/11/1411/FP do not adequately prevent the overlooking of, and consequential loss of privacy to, the adjacent residential properties. As such, the installed windows are detrimental to the residential amenities of the adjacent dwellings and contrary to policy ENV1 of the East Herts Local Plan Second Review April 2007.

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1.0 Background:

- 1.1 The site is shown on the attached Ordnance Survey extract. It comprises a long thin plot of land previously the site of B1 workshops, but converted to provide a single unit of residential accommodation at both ground floor (5b) and first floors (7A) Currie Street.
- 1.2 Planning permission was originally refused in 2008 under 3/07/1140/FP to convert the building from B1 to residential, however, the appeal against the refusal was allowed. That permission lapsed in June 2011 and a further application, 3/11/1411/FP, was submitted in August 2011. The application was approved subject to conditions, including the following:-

Condition 2:

The planning permission to be carried out in accordance with the approved drawings NH/460/01, NH/460/02 (which indicated three

individual, two pane casement windows on the northern flank elevation)

Condition 3:

The proposed window openings in the flank elevation shall be fitted in accordance with the specification and detail shown on drawing NH/460/02 with obscured glass and shall be permanently retained in that condition unless otherwise agreed in writing by the Local Planning Authority.

- 1.3 The detail and specification of the drawing NH/460/02 stated that only the right hand casement of the first floor flank windows (as seen from inside the building) would open (approximately 20 degrees) and would be obscure glazed except for the bedroom window at the western end of the flank elevation which should be obscure glazed with a full right hand opening (as this is an escape window).
- 1.4 In January 2013, the enforcement team was informed of the insertion of two unauthorised windows at the property. In place of the two approved casement windows, two top hung windows had been installed which opened outwards, enabling views across the adjacent properties. A letter, dated the 22 January 2013, advised the owner/landlord that the 2 windows would need to be changed to comply with the conditions of the planning approval, or the owner should apply for a variation of the above conditions.
- 1.5 Subsequently, an application was submitted in February 2013 under reference 3/13/0328/FO to vary condition 3 of the original permission. After due consideration, however, permission was refused for the following reason:
 1. The local planning authority is not satisfied that the proposed window details, as shown on drawing no. E/0263/14B, would adequately prevent the overlooking of, and consequential loss of privacy to, the adjacent residential properties. As such, the proposal would be detrimental to the residential amenities of the adjacent dwellings and contrary to policy ENV1 of the East Herts Local Plan Second Review April 2007.

2.0 Planning History:

2.1 The relevant planning history is as follows:

3/02/0328/FP	Change of use from industrial to residential with alterations to create three flats	Approved
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3/07/1140/FP	Change of use of workshop to self contained flat with new window on ground floor provision of cycle rack and soft landscaping	Refused Allowed on appeal
3/11/1411/FP	Change of use B1 to one bedroom self contained flat with alterations	Approved

3.0 **Policy:**

3.1 The relevant policy of the Local Plan in this matter is:

ENV1 – Design and Environmental Quality.

3.2 The National Planning Policy Framework is also relevant to the consideration of this matter.

4.0 **Considerations:**

4.1 The original proposal sought to restrict the design of the new first floor windows as there was considered to be a real likelihood of overlooking and loss of privacy to the owners /occupiers of the properties at No 3, No 9 and also potentially the patio area of No 5b Currie Street.

4.2 The two inserted top hung windows are in obscure glass. However, they open outwards and do not currently operate with restrictors and the neighbours have submitted photographs clearly indicating that the unauthorised windows are operated in a full opening position which is considered to result in the overlooking of adjacent properties.

4.3 The recent application to retain the windows proposed restrictors such that the windows would only open 10 degrees. However, restrictors are moveable and there is no reliable way for the local planning authority to effectively monitor and enforce a condition that would require the restrictors to remain in place. This therefore has the continuing potential to result in the overlooking of the neighbouring properties and was not considered a reasonable or enforceable condition to impose. The proposal would not therefore have protected the amenities of the neighbouring properties. In the absence of an enforceable condition, the top hung windows are considered to be unacceptable and would lead to a loss of privacy to the adjacent residential properties.

4.4 In terms of the visual impact of the windows on the character of the building and the surrounding area, the flank wall at 7a cannot be seen from Currie Street as it is hidden behind the two storey building for the ground and first floor flats for 5a and 5c Currie Street that are sited to

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the front of the site. Therefore the unauthorised fenestration would have no adverse impact on the character and appearance of the Conservation Area.

- 4.5 However, the two unauthorised top hung windows are considered to be unacceptable due to the adverse impact of the windows and their capacity for unrestricted opening, which would have a significant adverse impact on the amenities, outlook and privacy of the neighbouring residential properties.

5.0 Recommendation:

- 5.1 It is therefore recommended that authorisation be given to issue and serve an enforcement notice and/or a Breach of Condition Notice requiring the removal of the unauthorised windows and the installation of the windows approved under 3/11/1411/FP.