

ENFORCEMENT REPORT

Reference and Site:

16/50241 – Land at 45 Kings Road, Windsor, SL4 2AD

Contravention:

- The erection of a rear extension in breach of conditions and not in accordance with approved plans.

Person(s) responsible:

- Ms Anna Louise Friel

Relevant Planning History:

- 14/00088/FULL - Single storey rear extension, front extension below entrance stair, first floor extension to form first floor ensuite shower room, 1 new window to rear, lowering of existing lower ground floor level and refurbishment of existing ground floor bathroom and general redecoration of property. Approved 26 March 2014
- 14/00093/LBC - Single storey rear extension, front extension below entrance stair, first floor extension to form first floor ensuite shower room, 1 new window to rear, lowering of existing lower ground floor level and refurbishment of existing ground floor bathroom and general redecoration of property. Approved 26 March 2014

ENFORCEMENT HISTORY

N/A

SITE AND SURROUNDINGS

Number 45 Kings Road, Windsor forms part of Brunswick Terrace, a series of 13 properties dating from around 1800 with a grade II listing. The properties fall within the Inner Windsor Conservation Area and hold a prominent position, the rear backing on to the Long Walk.

History:

Following a complaint to the Council about the rear extension not being built in accordance with approved plans an Enforcement Officer and Senior Conservation Officer carried out a detailed site visit with the landowner and architect in attendance.

During the site visit it was noted that by Officers that it appeared planning permission and Listed Building Consent (14/00088/FULL and 14/00093/LBC) had been implemented. It was also noted on site that no pre-commencement conditions attached to the LBC had been discharged.

Enforcement and Conservation Officers formed the opinion that the development of the rear extension was not built in accordance with approved plans and crucially materials used, in part, were not appropriate for the building.

Following communication with the agent the Council wrote to the landowner, via the agent, to carry out remedial works to address the issues and then submit a fresh application to retain the development. 2 months were given for this.

Following the expiry of 2 months a further letter was sent to the land owner, via the agent, seeking confirmation of remedial works and for access to inspect the same. The response was that an application was being prepared.

Comments:

No remedial works have been carried out and no application has been submitted.

The reasons for taking formal enforcement action and addressing each potential ground of appeal are set out below.

(a) that the building is not of special architectural or historic interest;

The building was built early in the 18th Century at its conception and has been subsequently added to through different periods with many features of the building remaining in tact, both internally and externally, which are of special historic or architectural interest. In the LPA's opinion the Listing is valid and remains extant.

(b) that the matters alleged to constitute a contravention of section 9(1) or (2) have not occurred;

Following a site visit Officers noted the rear extensions have been constructed. It is Officer opinion that the LBC has been implemented but is null and void as no pre-commencement conditions had been discharged and the development is not in accordance with approved plan, and therefore all works to the building are contrary to Section 7 of the Act and constitute a contravention of Section 9 (1 and (2).

(c) that those matters (if they occurred) do not constitute such a contravention .

In the LPA's opinion the works do constitute a contravention by the alteration to the building which affects its special interest.

(d) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building, that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter, and that the works carried out were limited to the minimum measures immediately necessary;

The primary reason for the carrying out of the works appears to have been to facilitate the extension of the building. There is no evidence that they were of an urgent nature and no urgent work notice was served on the LPA.

(e) that listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted;

In the opinion of the Conservation Officer LBC should not be granted for the extension as built as materials used and the completed design is not acceptable for the building. As Heritage assets are irreplaceable, any harm or loss (e.g. historic fabric) requires clear and convincing justification. This has not been the case in this instance and therefore listed building consent should not be granted for the identified contravention of Section 7

(f) that copies of the notice were not served as required by section 38(4); .

N/A

(g) except in relation to such a requirement as is mentioned in section 38(2)(b) or (c), that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;

N/A – works are required by Section 38 (2) (b)

(h) that the period specified in the notice as the period within which any step required by the notice is to be taken falls short of what should reasonably be allowed;

Timeframe agreed by Officers and is reasonable to carry out the identified works.

(i) that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose;

N/A

(j) that steps required to be taken by virtue of section 38(2)(b) exceed what is necessary to alleviate the effect of the works executed to the building;

All steps are necessary and are required to ensure the effect of the unauthorised works are remedied to alleviate the current effect the works have on the building.

(k) That steps required to be taken by virtue of section 38(2)(c) exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the listed building consent had been complied with.

All steps are necessary to ensure the works carried out are remedied.

Recommendation:

Issue a Listed Building Enforcement Notice

Requirements:

- i. **demolish the rear ground floor extension or;**
- ii. **rebuild the rear extension strictly in accordance with approved plans attached to Listed Building consent 14/00093/LBC - Single storey rear extension, front extension below entrance stair, first floor extension to form first floor ensuite shower room, 1 new window to rear, lowering of existing lower ground floor level and refurbishment of existing ground floor bathroom and general redecoration of property. Approved 26 March 2014**

The period of compliance shall be 2 months.

The reasons for serving this Notice are as follows:

The Local Planning Authority considers it expedient to take enforcement action in this instance for the following reasons:

The building has been subject to extensive works without appropriate consent and the result of these works harms the historic fabric of the special architectural and historic interest of the building, which requires Listed Building consent as set out under Section 7 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The development continues to affect the historic and architectural interest of the rear elevation of the building. The unauthorised works are therefore contrary to Policy LB2 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating Alterations adopted June 2003) and the principles of Part 12 of the NPPF.

The Panel are recommended by the Borough Planning Manager to endorse enforcement action.

REFERRED TO PANEL BY:

Jenifer Jackson,
Borough Planning Manager
Town Hall, St Ives Road,
Maidenhead, Berkshire, SL6 1RF
Date:



Allotment Gardens

23

14

18 to 22

35

20.7m

Grove Road

Kings Road

26

47

57

St Marys

Cottages

36

Title

Add Team Name

Drawn by:

Date: 20/09/2016

Site:

Ref:

Scale: 1:500

Projection: OSGB1936 National Grid



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ENFORCEMENT REPORT

Reference and Site:

15/50425 - 2 - 4 Whites Lane, Datchet, Slough, SL3 9AN

Contravention:

Without planning permission the erection of a building, the formation of hardstanding and the storage of vehicles.

Person(s) responsible:

Mr Mohammed Azram of 7 Langley Broom, Langley, Slough, SL3 8NB

Relevant Planning History:

463405 Change of use from two cottages to four self-contained flats. (Retrospective) Permitted 15.03.85

463414 Single storey rear extension, side entrance porches, new roof and internal alterations Permitted 15.03.85

07/01920/FULL - Construction of 2 x 2 bedroom flats and 2 x 1-bedroom flats following demolition of existing. Approved 06.09.2007

Site and Surroundings:

The site is located on the northern outskirts of the village of Datchet, within a small cul-de-sac leading off the Slough Road (B376) close to the M4 motorway. There are other houses along the cul-de-sac and along Slough Road. The site lies within the Green Belt.

History:

Following a complaint to the Council about the formation of hardstanding, storage of cars and the erection of a building the enforcement team opened an investigation. Following various site visits it was established that a concrete hardstanding had been laid on land to the south west of the residential flats to facilitate the storage of vehicles, some of which appear to not be road worthy. A building has also been erected in the north eastern corner of the site.

On 31 December 2015 a Section 16 Requisition for Information Notice was served on the occupants of the flats. On 11 January 2016 the notice was returned by Network Property Design and it was established that Mr Mohammed Azram of 7 Langley Broom, Langley, Slough, SL3 8NB is the landowner. On 24 February 2016 the Council wrote to Network Property Design inviting an application to regularise the development or carry out remedial works. No response was received from Network Property Design.

Following contact with Mr Azram officers were advised a new planning agent, H.P.S Hd Design Services, had now been instructed to resolve the planning issues. On 5 May 2016 a planning application for *Construction of outbuilding and hardstanding (retrospective)* was submitted to the

Council. This was invalid on receipt and returned. Despite requests to re-submit the application this has not been done.

A site visit on 25 July 2016 by Enforcement Officers confirmed that no remedial works have been carried out and no application is pending to regularise the matter.

Comments:

The reasons for taking formal enforcement action and addressing each potential ground of appeal are set out below.

Ground (a) – that planning permission should be granted.

Main issues and policies relevant to the planning merits.

The main strategic planning considerations applying to the site and the associated policies are:

Issue	Local Plan Policy	Compliance	
Appropriate development in the Green Belt	GB1		No (VSC)
Acceptable impact on Green Belt	GB2		No (VSC)
Impact on flood zone	F1		no

Compliance with Greenbelt policy:

The site is located within a recognised settlement in the Green Belt in which Local Plan Policy GB1 advises that development will only be approved if very special circumstances are demonstrated. Additionally, development will not be granted permission if the development employs materials that cause harm to the Green Belt and if a change of use of the land has a greater impact on the openness of the Green Belt. In this instance no very special circumstances have been forwarded for the erection of the building. The formation of concrete hardstanding is an unsympathetic material and the storage of vehicles affects the openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering planning merits on a site within the Green Belt substantial weight should be given to any harm to the Green Belt. 'Very Special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Part 9 of the NPPF and Policies GB1 and GB2 applies in this instance.

Compliance with Flood Policy

The building and formation of hardstanding will impede the free flow of flood water and will reduce the capacity to store flood water and therefore the development is contrary to Policy F1.

Ground (b) – that the breach of control alleged has not occurred.

An Enforcement Officer has visited the site and noted the development remains.

Ground (c) – that there has not been a breach of planning control.

Permitted development rights do not apply to flats and therefore the development is not permitted by Classes E and F of the Town and Country Planning (General Permitted development) Order 2015. It is the officer's opinion that the erection of a building and formation of hardstanding constitutes development under Section 55 of the Principal Act and therefore the development requires planning permission.

Ground (d) – that at the time the Enforcement Notice was issued it was too late to take enforcement action against the matters stated in the Notice.

The development was commenced in 2015.

Ground (f) that the steps required by the notice are excessive and that lesser steps could remedy any injury to amenity that has been caused.

The requirements of the Notice are the minimum the Council can stipulate to ensure the breach of planning control and resulting injury to the green belt and flood zone is remedied. Any lesser steps would continue to cause harm.

Ground (g) – that the time given to comply with the Notice is too short.

Two months is deemed by the Local Planning Authority to be a reasonable period of time for the requirements of the Notice to be complied with. The development is primarily brick and concrete and no specialist contractor or plant/machinery is required to carry out the requirements of the Notice.

Recommendation to panel

ENFORCEMENT ACTION BE TAKEN:

Enforcement Action –

1. Demolish the building identified in green on the attached plan
2. Remove from the land all materials resulting from compliance with step 1
3. Dig up all the hardstanding identified in blue outline on the attached plan
4. Remove from the land all materials resulting from compliance with step 3
5. Cease the use of land for the storage of vehicles that are either not taxed or SORN and not registered to persons currently resident on the land

The period of compliance shall be two months from the date of this Notice.

The reasons for serving this Notice are as follows:

The site is located in a recognised settlement within the Green Belt. The building, formation of hardstanding and storage of vehicles are considered to be inappropriate development and are therefore contrary to saved Policies GB1, GB2 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations Adopted in June 2003) and Part 9 of the NPPF.

Inappropriate development is by definition harmful to the Green Belt and the applicant has failed to demonstrate that any very special circumstances exist that would clearly outweigh the harm caused by reason of the inappropriateness of the development.

The development impedes the free flow of flood waters and therefore is contrary to Policy F1 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations Adopted in June 2003)

Recommend by the Enforcement Team

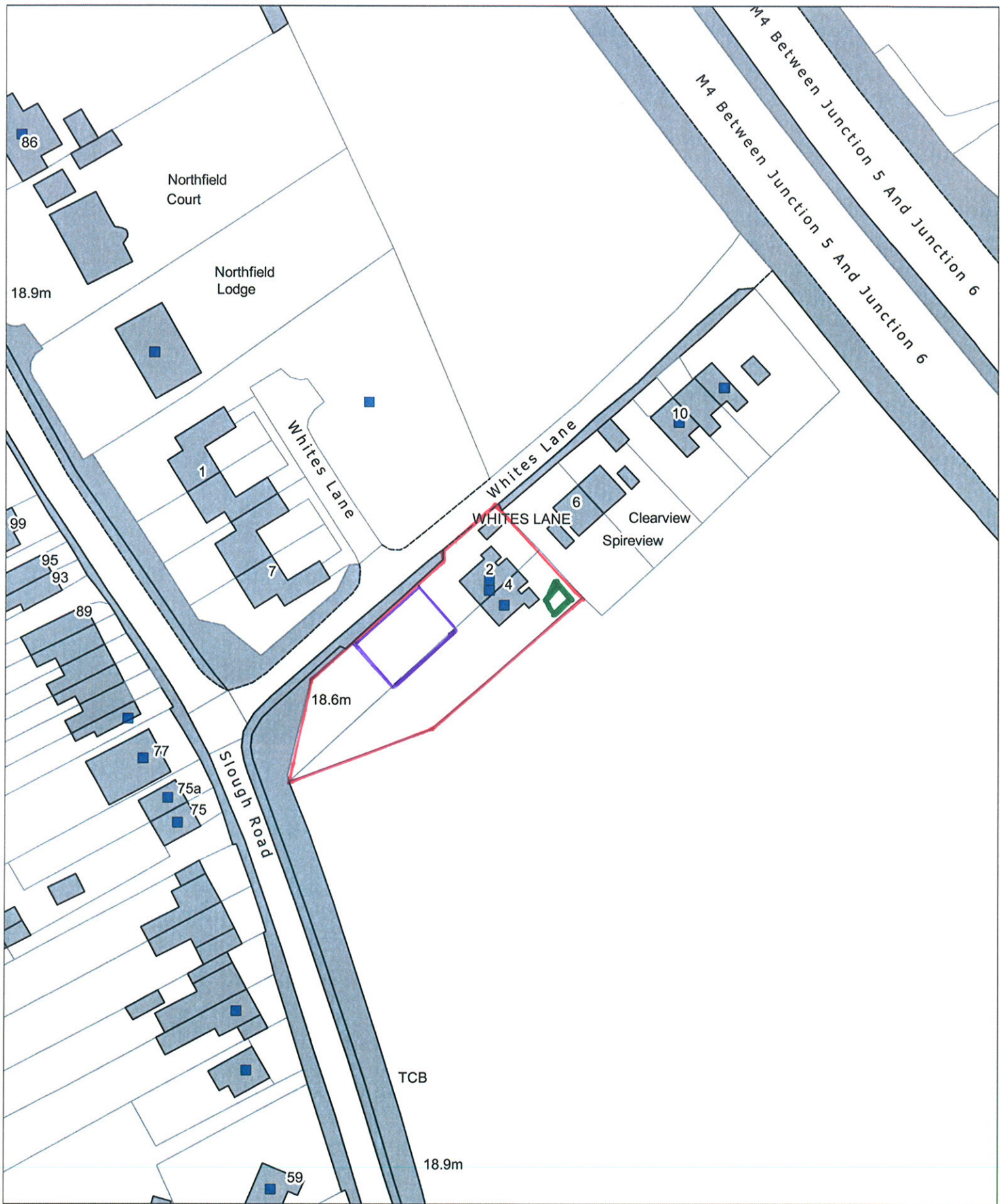
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Dated: 8 September 2016

Recommended by the Borough Planning Manager



Dated: 8 September 2016



Enforcement Notice

Enforcement Ream
Arron Hitchen

Date: 18 August 2016

Site: Land at 2-4 Whites Lane

Ref: 15/50425

Scale: 1:1,000

Projection: OSGB1936 National Grid



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