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**Report of 11 April 2013**

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**Alleged Unauthorised Development**Tonbridge  
Castle

12/00405/WORKM

559035 146703

Location: 4 Bank Street Tonbridge Kent TN9 1BL

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**1. Purpose of Report:**

- 1.1 To report the unauthorised works undertaken at 4 Bank Street, not in accordance with the plans approved under planning permission reference TM/10/00504/FL. Planning permission was granted for the change of use from retail premises to 2 no. two bedroom dwellings. The plans included the removal of a previous single storey lean-to to the rear of the building and the construction of a new single storey extension (depth of around 1m). The remaining space to the rear of the building was shown to form a courtyard, providing outside space to store bins and cycles.

**2. The Site:**

- 2.1 The site lies within the Tonbridge Conservation Area. It is a three-storey building, with the top floor being accommodated in a Dutch gable style roof. The front (north-west) elevation fronts directly onto Bank Street. A pedestrian access to the High Street forms the north-eastern boundary.

**3. History:**

- 3.1 TM/10/00504/FL Approved 13.04.2010

Change of use from retail into 2 residential units, including single storey extension to rear of both units.

**4. Alleged Unauthorised Development:**

- 4.1 The works undertaken are not in accordance with the plans approved under planning reference TM/10/00504/FL.

**5. Determining Issues:**

- 5.1 When planning permission was granted for the conversion, extension and refurbishment works to 4 Bank Street, it was identified that the scheme as approved would bring back into use a fairly dilapidated building, which would undoubtedly have benefitted from the approved works. Unfortunately, some of the works undertaken to date have not been in accordance with the approved plans and the variations generally are not what would be expected within the CA.

- 5.2 Most notably, the new dormer window installed at second floor level within the roof slope facing Bank Street is significantly larger in size and scale than approved and the original dormer has been enlarged and altered in order to match this new dormer. Additionally instead of smaller side hung casement windows, vertical sliding sash windows have been installed in the dormers. A number of other variations to the fenestration detailing have also taken place.
- 5.3 The approved drawing also indicated that new facing brickwork would be used to “make good” around the windows that replaced the shop window on ground floor level on the Bank Street elevation, and that the bricks would match the original. The brickwork used in this and other locations does not satisfactorily match the original building in respect of colour or bond.
- 5.4 Since enforcement investigations began, the architect working on behalf of the owner has submitted a limited amount of information in attempt to rectify and regularise the works undertaken. However, the information received to date has been scant and largely inaccurate. Whilst suggestions have been made by the owners architect during this time that might overcome the unacceptable nature of some of the works undertaken below eaves level, not enough has been put forward that would overcome Officers’ significant and overriding concerns about the adverse effect the dormers and inappropriate use of materials on the front elevation have had on the appearance of the building and CA.
- 5.5 As no permission from this Authority has been correctly sought or given and the works do not benefit from the necessary permitted development rights (given the nature of the works and that the site lies within the CA), an assessment must be made as to whether it is expedient to take enforcement action.
- 5.6 TMBCS policy CP24 sets out the general criteria for all new development including a provision that development must respect the site and its surroundings and that it will not be permitted where it would be detrimental to the built environment and amenity of a locality. This is supported by policy SQ1 of the MDE DPD which states that all new development proposals should protect, conserve and where possible enhance:
- the character and local distinctiveness of the area including any historical and architectural interest and the prevailing level of tranquillity;
  - the distinctive setting of and relationship between, the pattern of settlement, roads and the landscape, urban form and important views.
- 5.7 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that there is a general duty when carrying out any functions under the Planning Acts with respect to any buildings or other land in a Conservation Area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

- 5.8 Paragraph 131 of the NPPF states that LPAs should take account of the desirability of sustaining and enhancing the significance of heritage assets (in this case the Conservation Area). Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 133 goes further in saying that where a proposed development would lead to substantial harm to a designated heritage asset, LPAs should refuse consent, unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh that harm. The Tonbridge CAA recognises that this part of the CA forms an important part of the historic core of the town and states that the retained medieval street pattern and historic buildings are a key feature.
- 5.9 The works undertaken, particularly the new dormers which are completely out of scale with the accommodating roof space, have undoubtedly cumulatively caused harm to the appearance of the building and the CA and the building as it currently stands now appears completely out of keeping with its historic setting. There is no wider public benefit that would outweigh the degree of harm caused in this case.
- 5.10 For these reasons, I consider that the works undertaken are contrary to the principles set out in Sections 7 and 12 of the NPPF and policy CP24 of the TMBCS and policy SQ1 of the MDE DPD.
- 5.11 As such, I believe it expedient to take enforcement action to require:
- Reinstatement of the pre-existing dormer in a form that accords with the approved plans in planning application TM/10/00504/FL;
  - Removal of the second dormer and construction in accordance with the approved plans on planning application TM/10/00504/FL;
  - The carrying out of remedial work to the brickwork, windows, window cills, doors and door arches/surrounds on the front and side elevations in accordance with a detailed specification to be included in the Notice.

## 6. Recommendation:

- 6.1 An Enforcement Notice **BE ISSUED**, the detailed the wording of which to be agreed with the Director of Central Services to reflect paragraph 5.11 of this report.

Contact: Gordon Hogben