



**CYNGOR**  
**Sir Ddinbych**  
**Denbighshire**  
**COUNTY COUNCIL**

Heading:

ENF/2013/00010  
 GRAIG VILLA, ABRAHAMS LANE,  
 DENBIGH. LL16 3SS

Graham Boase  
 Head of Planning & Public Protection  
 Denbighshire County Council  
 Caledfryn  
 Smithfield Road  
 Denbigh  
 Denbighshire LL16 3RJ



The Site



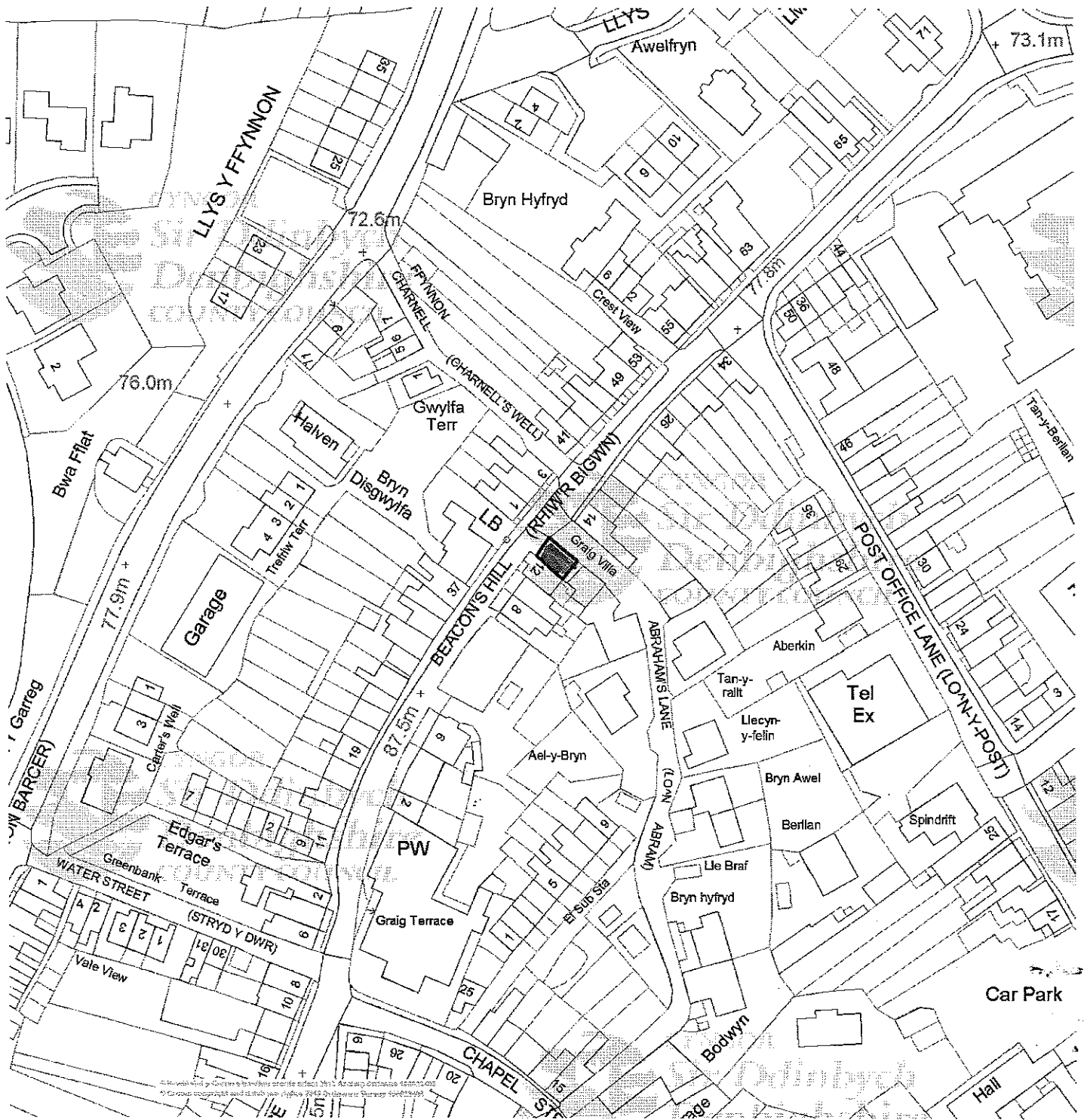
Date 26/6/2013

Scale 1/1250

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## **PLANNING ENFORCEMENT REPORT**

**REFERENCE:** ENF/2013/00010

**LOCATION:** Graig Villa, Abrahams Lane, Denbigh

**INFRINGEMENT:** Unauthorised Development - installation of uPVC windows and door in Conservation Area covered by Article 4(2) Direction

### **RELEVANT PLANNING POLICIES AND GUIDANCE**

DENBGHSHIRE LOCAL DEVELOPMENT PLAN  
Policy RD 1 – Sustainable Development and Good Design  
SPG 13 – Conservation Areas

#### **GOVERNMENT GUIDANCE**

Planning Policy Wales 2002  
Technical Advice Note (Wales) 9: Enforcement of Planning Control  
Circular 61/96 Planning and the Historic Environment

#### **HUMAN RIGHTS CONSIDERATIONS**

The provisions of the Human Rights Act 1998 are taken into account when considering taking enforcement action against unauthorised development. In this instance the matter in question relates to the right of the owner of a dwelling to install uPVC replacement windows and door and in so doing failing to enhance or preserve the character and appearance of the Conservation Area. This right is outweighed when balanced against the general public interest and the impact that the development will have on the amenity of the area. No specific human rights issues have been raised by the owner of the property or any other interested party.

### **1. BACKGROUND INFORMATION**

- 1.1 Graig Villa, Abraham's Lane, Denbigh holds a corner plot in a terrace of dwellings on Abraham's Lane and on Beacons Hill. It is a three storey stone built residential property located within the Denbigh Conservation Area.
- 1.2 The Denbigh Conservation Area has the additional constraint upon development provided by a Direction under Article 4(2) of the Town and Country Planning (General Permitted Development) Order 1995. This direction effectively took away householder permitted development rights for all dwelling houses located within the Conservation Area. The effect of the Direction is that planning permission is now required for any development previously permitted by Schedule 2, Part 1, 2 and 31 of the General Permitted Development Order 1995, where the works front a highway or open space.
- 1.2 On the 20 September 2012, as a result of a complaint a Planning Compliance Officer undertook a site visit, which revealed that four uPVC windows and a door had been installed on the elevation fronting Abraham's Lane and five uPVC windows had been installed on the elevation fronting Beacons Hill. The windows are of contemporary style and there is evidence to confirm that the new windows had been inserted during the summer of 2012.

- 1.3 This class of development requires planning permission, but no application has been submitted. However, it is considered that should such an application have been submitted, it would not have been recommended for approval on the grounds that the modern materials and design would have been out of character with the appearance of the Conservation Area and thereby harming the intensions and principles of the Denbigh Townscape Heritage Initiative.
- 1.4 A review of a photographic survey of the Denbigh Conservation Area undertaken during October 2008, revealed that the original windows were of traditional timber sliding sash style and the door was of timber material and panelled design.
- 1.5 On the 25 September 2012, the Officer forwarded a letter to the owner of Graig Villa outlining the breach of planning control caused by the removal of traditional style timber windows and a door and the insertion of uPVC windows and a door. The options open to the owner were set out; either reinstate the original windows, or submit an application for planning permission, which in the case of a refusal would allow an appeal.
- 1.6 On the 29 October 2012, the owner of Graig Villa confirmed that he had elected to submit an application for planning permission. As the application had not been received by the 6 December 2012, a reminder was forwarded to the owner. He responded on the 8 January 2013, advising that he had been hospitalised, but would submit an application as soon as he could.
- 1.7 Following a further reminder an application for planning permission to retain the uPVC windows and door was submitted on the 16 May 2013; code 01/2013/0616/INV. Unfortunately the application did not include all required material and was classed as 'invalid'. The applicant has not responded to a request to validate the application by the submission of outstanding material.

## **2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE**

- 2.1 The unauthorised development has been carried out within the last four years.
- 2.2 The use of contemporary materials and design for the windows and door in the Denbigh Conservation Area is out of character with the predominant use of traditional materials and consequently this development does not comply with Policy RD 1 (i).
- 2.3 The modern uPVC material and design does not preserve or enhance the character or appearance of the Conservation Area and is therefore also contrary to Policy RD 1 (iii) and SPG 13.
- 2.4 The use of conditions as part of any grant of planning permission for the retention of the unauthorised windows and door would not remove these objections.

## **3. RECOMMENDATION**

- 3.1 That authorisation be granted for the following:
  - (i) Serve an Enforcement Notice to secure the removal of the unauthorised uPVC windows and door and their replacement with traditional timber sliding sash style windows and timber panelled door similar to those removed. (Compliance period 12 months)
  - (ii) Instigate prosecution proceedings, or the appropriate action under the Planning Acts against the person, or persons upon whom any Enforcement Notice, or other such Notice is served, or against whom legal action is taken should they fail to comply with the requirements of the Enforcement Notice.