

Report to London Advisory Committee on Heritage

To: Chair and Members
London Advisory Committee on Heritage
From: Gregg Barrett, Director, Planning and Development
Subject: Heritage Alteration Permit application by J. Forbes at 827
Elias Street, Old East Heritage Conservation District
Date: Wednesday June 9, 2021

Recommendation

That, on the recommendation of the Director, Planning and Development, with the advice of the Heritage Planner, the application under Section 42 of the Ontario Heritage Act seeking retroactive approval for the removal and replacement of the windows and front door on the heritage designated property at 827 Elias Street, within the Old East Heritage Conservation District, **BE REFUSED**.

Executive Summary

Alterations were undertaken to the heritage designated property at 827 Elias Street, located within the Old East Heritage Conservation District prior to obtaining Heritage Alteration Permit approval. The alterations included the removal and replacement of two double-hung wood windows, an arched front window, and the front door on the front façade of the dwelling. As the alterations commenced prior to obtaining Heritage Alteration Permit approval, this Heritage Alteration Permit application has met the terms and conditions for referral requiring consultation with the London Advisory Committee on Heritage (LACH). This Heritage Alteration Permit application seeks retroactive approval for the removal and replacement of two double-hung wood windows, an arched front window, and the front door. The recommended action is to refuse the application, as the windows and door are not sufficiently compatible with the policies and guidelines of the Old East Heritage Conservation District.

Linkage to the Corporate Strategic Plan

This recommendation supports the following 2019-2023 Strategic Plan areas of focus:

- Strengthening Our Community:
 - Continuing to conserve London's heritage properties and archaeological resources.

Analysis

1.0 Background Information

1.1 Location

The property at 827 Elias Street is located on the south side of Elias Street, between English Street and Ontario Street (Appendix A).

1.2 Cultural Heritage Status

The property at 827 Elias Street is located within the Old East Heritage Conservation District, which was designated pursuant to Part V of the Ontario Heritage Act by By-law No. L.S.P.-3383-111. The Old East Heritage Conservation District came into force and effect on September 10, 2006. The property is noted as a C-ranked property within the Old East Heritage Conservation District. C-ranked properties are described within the Old East Heritage Conservation District Study as being "of value as part of the environment" (Section 4.2).

1.3 Description

The existing dwelling at 827 Elias Street was constructed in circa 1900. The dwelling is a two-storey vernacular buff brick dwelling and demonstrates many of the architectural elements that are commonly found on Elias Street and elsewhere within the Old East Heritage Conservation District.

The buff brick dwelling includes a covered front porch with wood posts, rails, and spindles. The fenestration on the house includes a fixed first floor window with a curved arched transom, and the second storey includes two symmetrical windows with brick voussoirs. The gable peak of the dwelling appears to have been clad with aluminum siding. The east side of the dwelling includes a cross gable dormer (Appendix B).

2.0 Discussion and Considerations

2.1 Legislative and Policy Framework

Cultural heritage resources are to be conserved and impacts assessed as per the fundamental policies in the *Provincial Policy Statement* (2020), the *Ontario Heritage Act*, *The London Plan* and the *Official Plan* (1989 as amended).

2.1.1 Provincial Policy Statement

Heritage Conservation is a matter of provincial interest (Section 2.d, *Planning Act*). The *Provincial Policy Statement* (2020) promotes the wise use and management of cultural heritage resources and directs that “significant built heritage resources and significant cultural heritage landscapes shall be conserved” (Policy 2.6.1, *Provincial Policy Statement* 2020).

“Significant” is defined in the *Provincial Policy Statement* (2020) as, “resources that have been determined to have cultural heritage value or interest.” Further, “processes and criteria for determining cultural heritage value or interest are established by the Province under the authority of the *Ontario Heritage Act*.”

Additionally, “conserved” means, “the identification, protection, management and use of built heritage resources, cultural heritage landscapes and archaeological resources in a manner that ensures their cultural heritage value or interest is retained.”

2.1.2 Ontario Heritage Act

The Ontario Heritage Act enables municipalities to protect properties of cultural heritage value or interest. Properties of cultural heritage value can be protected individually, pursuant to Section 29 of the Ontario Heritage Act, or where groups of properties have cultural heritage value together, pursuant to Section 41 of the Ontario Heritage Act as a Heritage Conservation District (HCD). Designations pursuant to the Ontario Heritage Act are based on real property, not just buildings.

2.1.2.1 Contravention of the Ontario Heritage Act

Pursuant to Section 69(1) of the *Ontario Heritage Act*, failure to comply with any order, direction, or other requirement made under the *Ontario Heritage Act* or contravention of the *Ontario Heritage Act* or its regulations, can result in the laying of charges and fines up to \$50,000 for an individual and \$250,000 for a corporation.

When amendments to the *Ontario Heritage Act* in Bill 108 are proclaimed in force and effect, the maximum fine for the demolition or removal of a building, structure, or heritage attribute in contravention of Section 42 of the *Ontario Heritage Act* will be increased to \$1,000,000.

2.1.2.2 Heritage Alteration Permit

Section 42 of the *Ontario Heritage Act* requires that a property owner not alter, or permit the alteration of, the property without obtaining Heritage Alteration Permit approval. The *Ontario Heritage Act* (OHA) enables Municipal Council to give the applicant of a Heritage Alteration Permit:

- a) The permit applied for;

- b) Notice that the council is refusing the application for the permit; or,
- c) The permit applied for, with terms and conditions attached. (Section 42(4), *Ontario Heritage Act*)

Municipal Council must make a decision on the heritage alteration permit application within 90 days or the request is deemed permitted (Section 42(4), *Ontario Heritage Act*).

2.1.3 The London Plan/Official Plan

The London Plan is the new official plan for the City of London (Municipal Council adopted, approved by the Ministry of Municipal Affairs and Housing with modifications, and the majority of which is in force and effect). *The London Plan* policies under appeal to the Local Planning Appeal Tribunal (Appeal PL170100) and not in force and effect are indicated with an asterisk throughout this report. *The London Plan* policies under appeal are included in this report for informative purposes indicating the intent of Municipal Council but are not determinative for the purposes of this application.

The policies of *The London Plan* found in the Key Directions and Cultural Heritage chapter support the conservation of London's cultural heritage resources for future generations. To ensure the conservation of significant cultural heritage resources, including properties located within a Heritage Conservation District, the policies of *The London Plan* provide the following direction:

*Policy 594_ * Within heritage conservation districts established in conformity with this chapter, the following policies shall apply:*

- 1. The character of the district shall be maintained by encouraging the retention of existing structures and landscapes that contribute to the character of the district.*
- 2. The design of new development, either as infilling, redevelopment, or as additions to existing buildings, should complement the prevailing character of the area.*
- 3. Regard shall be had at all times to the guidelines and intent of the heritage conservation district plan.^a*

Policy 596_ A property owner may apply to alter a property within a heritage conservation district. The City may, pursuant to the Ontario Heritage Act, issue a permit to alter the structure. In consultation with the London Advisory Committee on Heritage, the City may delegate approvals for such permits to an authority.

2.1.4 Old East Heritage Conservation District

A number of goals and objectives have been established to provide a framework for the protection and preservation of the unique heritage features in the Old East Heritage Conservation District (*Old East Heritage Conservation District Conservation Plan*, Section 3.2). The dwellings within the Old East Heritage Conservation District are described within the *Old East Heritage Conservation District Conservation and Design Guidelines* as having fairly narrow front façades, and as a result elements such as doors and windows take up proportionally large amounts of space and contribute substantially to the heritage appeal of the buildings. Further, the repetition of specific window shapes including arched windows, keyhole windows, and rectangular double-hung windows are noted for their continuity within the Old East Heritage Conservation District. Retaining the shape, size, and proportion of window is an important aspect of conserving the heritage character of the district.

The *Old East Heritage Conservation District Conservation and Design Guidelines* provides guidance for alterations and replacement of and installation of windows within the Heritage Conservation District:

^a Policy 13.3.6 of the *Official Plan* (1989, as amended) contains very similar policy language applicable to Heritage Conservation Districts. Specifically, Policy 13.3.6.iii: "regard shall be had at all times to the guidelines and intent of the Heritage Conservation District Plan."

Section 3.6 Doors and Windows – The replacement of original wood framed windows by vinyl or aluminum clad windows is discouraged. If this is the only reasonable option, the replacement windows should mimic the original windows with respect to style, size and proportion, with a frame that is similar in colour, or can be painted, to match other windows.

Section 4.3.1.c. Guidelines for Alterations – Seek similar properties (same age, same design, same builder) for evidence of details that may still exist as samples for reconstruction.

Section 4.3.1.f Guidelines for Alterations – Where replacement of features (e.g. doors, windows, trim) is unavoidable, the replacement components should be of the same general style, size and proportions.

2.2 Heritage Alteration Permit (HAP21-042-L)

Complaints about unapproved alterations to the property at 827 Elias Street were brought to the attention of the City in March 2021. A Heritage Alteration Permit application was received on May 27, 2021. The applicant has applied for a Heritage Alteration Permit seeking retroactive approval for:

- Removal of the existing front door;
- Removal of the existing arched window on the front of the dwelling;
- Removal of two wood, double-hung windows on the second storey on the front of the dwelling;
- Installation of a new fibre glass front door;
- Installation of a new vinyl arched window; and,
- Installation of new vinyl casement windows with brick moulds on the second storey.

As the alterations commenced prior to obtaining Heritage Alteration Permit approval, this application has met the terms and conditions for referral requiring consultation the London Advisory Committee on Heritage (LACH).

Per Section 42(4) of the *Ontario Heritage Act*, the 90-day timeline for this Heritage Alteration Permit application will expire on August 25, 2021.

3.0 Financial Impact/Considerations

None.

4.0 Key Issues and Considerations

Door and window removal, replacement or additions on street facing facades are identified as a class of alterations that requires Heritage Alteration Permit approval in Table 7.1 of the *Old East Heritage Conservation District Conservation Plan*.

The review of the window replacements included within this Heritage Alteration Permit application considers the direction outlined in Section 3.6. of the *Old East Heritage Conservation District Conservation and Design Guidelines* as well as the recommended practices and design guidelines that are outlined in Section 4.2 of the *Old East Heritage Conservation District Plan*.

In general, the *Old East Heritage Conservation District Conservation Plan* supports an approach to “‘restore’ wherever possible rather than ‘replace’, particularly for features such as windows, doors, porches, and decorative trim...Where replacement of features (e.g.- doors, windows, trim) is unavoidable, the replacement components should be of the same general style, size, and proportions.” (Section 4.2). Further, Section 3.6 of the *Old East Heritage Conservation District Conservation and Design Guidelines* states “The replacement of original wood framed windows by vinyl or aluminum clad window is discouraged. If this is the only reasonable option, the replacement windows should

mimic the original windows with respect to style, size and proportion, with a frame that is similar in colour, or can be painted, to match other windows.”

The replacement door and windows on the dwelling at 827 Elias Street consist of elements that are not consistent or compatible with the policies and guidelines for the Old East Heritage Conservation District. The existing door that was removed from the dwelling did not appear to be an original feature of the dwelling, however, the modern fibre glass replacement door includes a design style that is not sufficiently compatible with the dwelling and character of the Old East Heritage Conservation District. Likewise, the style of the replacement windows are not compatible. In particular, the undivided casement windows and the arched window are not sufficiently similar in style, size, and proportions, as directed in the *Old East Heritage Conservation District Conservation and Design Guidelines*. A visual guide to style and design elements compatible with dwellings within the Old East Heritage Conservation District as shown in the *Old East Heritage Conservation District Conservation Plan* is shown in Appendix C, to demonstrate styles more sufficiently compatible.

Conclusion

The windows and door previously installed prior to obtaining Heritage Alteration Permit approval are not consistent with the *Old East Heritage Conservation District Conservation and Design Guidelines*. In particular, the casement windows in the second storey of the dwelling and the new front door are styles that are not compatible with the guidelines for the Old East Heritage Conservation District. The alterations seeking retroactive approval should not be permitted.

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Planning, Urban Design, and Heritage
Recommended by: Gregg Barrett, AICP, Director, Planning and Development

Appendices

Appendix A Property Location
Appendix B Images
Appendix C Old East Heritage Conservation District Conservation Plan, Design
Guidelines (Windows and Doors)

Sources

Corporation of the City of London. *Old East Heritage Conservation District Conservation Plan* 2005.
Corporation of the City of London. *Old East Heritage Conservation District Conservation and Design Guidelines*. 2005.
Corporation of the City of London. *Register of Cultural Heritage Resources*. 2019.
Corporation of the City of London. *2019-2023 Strategic Plan*.
Corporation of the City of London. *The London Plan*. 2019 (consolidated).
Ontario Heritage Act. 2019, c.9, Sched. 11. Retrieved from
<https://www.ontario.ca/laws/statute/90o18>.

Appendix A – Property Location

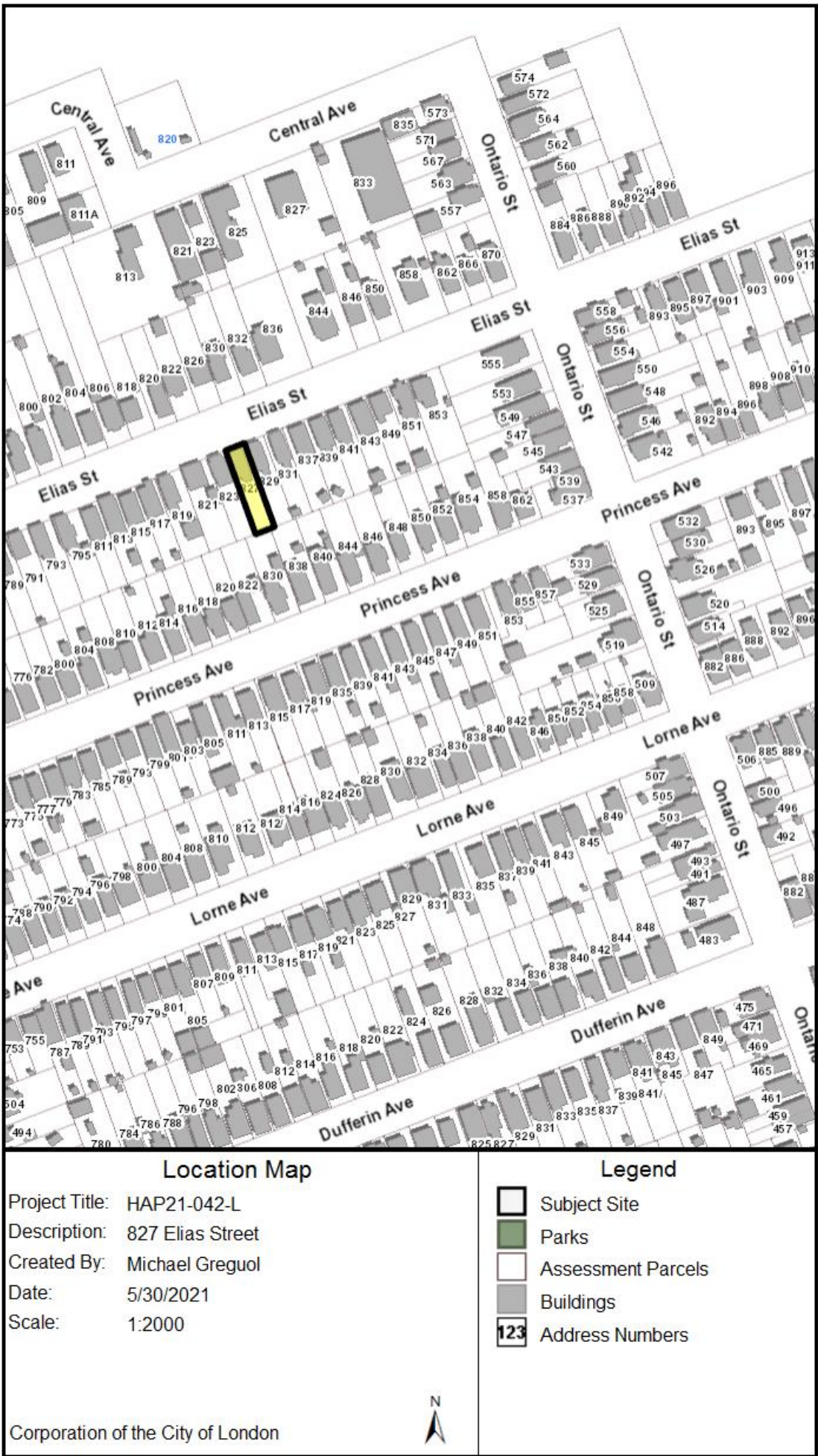


Figure 1: Property Location Map showing the subject property at 827 Elias Street, located within the Old East Heritage Conservation District.

Appendix B – Images



Image 1: Image of the subject property at 827 Elias Street (Google Street, 2009).



Image 2: Image of the subject property at 827 Elias Street (Google Street, 2014).



Image 3: Photograph of the subject property at 827 Elias Street (Google Street, October 2020).



Image 4: Photograph of the subject property at 827 Elias Street showing the unapproved alterations to the windows and door (May 2021).



Image 5: Photograph showing detail of the unapproved front door and the arched window on the dwelling located at 827 Elias Street (May 2021).

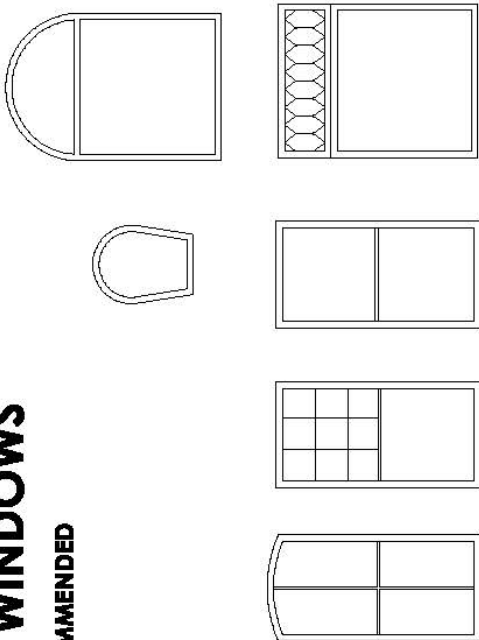


Image 6: Photograph showing detail of the casement windows on the dwelling at 827 Elias Street (May 2021).

Appendix C - Old East Heritage Conservation District Conservation Plan, Design Guidelines (Windows and Doors)

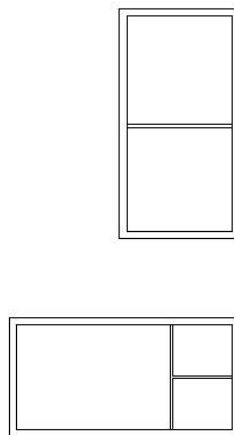
WINDOWS

RECOMMENDED



Examples of typical window styles and proportions (double hung variations, arched, leaded glass). Retain and restore whenever possible. If replacement is necessary, use the same size, style and proportion as the original.

NOT RECOMMENDED



Avoid blocking original windows or replacing them with different sizes, styles and proportions.

NOT RECOMMENDED



Avoid removing or blocking transom windows above doors.

DOORS

RECOMMENDED



Retain, repair and restore original wood doors, sidelights and transom windows above doors. If replacement is necessary, use the same size door with similar style and details as original.

Design Guidelines: Style & Design Elements



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