

Report to Planning and Environment Committee

To: Chair and Members
Planning and Environment Committee

From: Scott Mathers, MPA, P. Eng.,
Deputy City Manager, Planning and Economic Development

Subject: Heritage Alteration Permit application by R. Bryson for 27
Bruce Street, Wortley Village-Old South Heritage
Conservation District, HAP23-015-L, Ward 11

Date: Monday May 23, 2023

Recommendation

That, on the recommendation of the Director, Planning and Development, the application under Section 42 of the *Ontario Heritage Act* seeking retroactive approval for the replacement of the front porch on the heritage designated property at 27 Bruce Street, within the Wortley Village-Old South Heritage Conservation District, **BE REFUSED**.

It being noted that the porch alterations do not comply with the policies and guidelines of the *Wortley Village-Old South Heritage Conservation District Plan*.

Executive Summary

The property at 27 Bruce Street contributes to the cultural heritage value or interest of the Wortley Village-Old South Heritage Conservation District. Front porches are an important part of the heritage character of the Wortley Village-Old South Heritage Conservation District. The covered front porch on the property was removed and replaced without obtaining a Building Permit or Heritage Alteration Permit approval. A Heritage Alteration Permit application was received seeking retroactive approval for removal of the previous front porch, and replacement with a new front porch consisting of pre-finished vinyl (plastic) materials. Plastic materials are not supported within the policies and guidelines of the *Wortley Village-Old South Heritage Conservation District Plan and Guidelines*. The alterations that were completed are inappropriate and do not suitably conserve the heritage character of the property. Staff met with the owner to discuss potential compromise resolutions that would bring the porch into better compliance with the policies and guidelines of the *Wortley Village-Old South Heritage Conservation District Plan and Guidelines*. Staff have identified compromise opportunities with the owner to bring the porch into better compliance with the policies and guidelines of the Wortley Village-Old South Heritage Conservation District. However, the owner was unwilling to consider a compromise resolution and wishes to pursue their application seeking retroactive approval. Staff do not support the retroactive Heritage Alteration Permit application. Staff would be better able to support an application that removes the vinyl (plastic) materials of the porch in favour of traditional painted wood materials to bring the porch back into compliance with the policies and guidelines of the *Wortley Village-Old South Heritage Conservation District Plan and Guidelines*.

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 27 Bruce Street is located on the south side of Bruce Street between Brighton Street and Edward Street (Appendix A).

1.2 Cultural Heritage Status

The property at 27 Bruce Street is located within the Wortley Village-Old South Heritage Conservation District, which was designated pursuant to Part V of the Ontario Heritage Act by By-law No. L.S.P.-3439-321 in 2015. The property is identified as a “B”-rated property within the *Wortley Village-Old South Heritage Conservation District Plan and Guidelines*. A- and B-rated properties within the Wortley Village-Old South Heritage Conservation District Plan are properties that are fine examples of an architectural style, exhibit unique qualities or details, are well maintained examples of a modest architectural style, and/or contribute to the streetscape because of its sequence, grouping or location.

1.3 Description

The property at 27 Bruce Street is in an area south of the Thames River that was set aside as a Crown Reserve extending from the Coves east to what is now High Street and from the Thames River south to Base Line Road in Westminster Township. The early surveys of Westminster Township included Simon Zelotes Watson’s survey in 1810, which laid out the roads and 2 concessions through the northern portion of Westminster Township. A later survey began in 1824, when Mahlon Burwell, the Deputy Surveyor was instructed to survey the Wharncliffe Highway (now Wharncliffe Road) through the Crown Reserve to the west of the Forks of the Thames. The survey was intended to connect London Township with the Commissioners Road. On either side of the Wharncliffe Highway, Burwell surveyed lots ranging from 10 to 144 acres in size.

London was selected as the new administrative capital in the London District in 1826 resulting in the eventual arrival of numerous government officials. Several of the officials were granted or purchased land in the Crown Reserve in what would become known as London South. Among the officials who received land grants was Colonel John Baptist Askin, a War of 1812 veteran, and the Clerk of the Peace for London District. Askin’s estate extended from modern day Tecumseh Avenue East to Askin Street and from Wortley Road to Wharncliffe Road South. A portion of the Askin Estate is depicted on the 1855 “Map of the City of London Canada West” prepared and drawn by Samuel Peters. London South remained a part of Westminster Township until it was annexed by the City of London in 1890.

The property at 27 Bruce Street is included within the lands that were originally set aside for John Baptist Askin’s mansion, known as “Woodview.” A “Plan of the Woodview Estate” was surveyed into building lots by Samuel Peters in 1876 and registered as Plan 343 in the Registry office. The lots were generally surveyed into smaller lots to be about 84 feet in width, by 260 feet in depth. The property at 27 Bruce Street is located on Lot 22, Block A in Plan 343.

Built in 1893, the dwelling on the property at 27 Bruce Street is a one-and-a-half storey cottage. The buff brick dwelling includes a hipped roof with a central gable peak. A covered porch spans the entirety of the front facade, previously consisting of traditional painted wood details including square spindles set in between a top and bottom rail, turned wood posts, and decorative brackets. The adjacent property at 29 Bruce Street is nearly identical to the house on the subject property at 27 Bruce Street. A review of the 1912 revised 1922 Fire Insurance Plan confirms that both properties appear to have always had a porch spanning the front façade (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*, and *The London Plan*.

2.2 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.”

2.3 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.

2.3.1 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.

2.3.2 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* 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*).

2.4 The London Plan

The London Plan is the official plan for the City. 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.*

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.

2.5 Wortley Village-Old South Heritage Conservation District Plan and Guidelines

The *Wortley Village-Old South Heritage Conservation District Plan and Guidelines* include policies and guidelines related to alterations to properties located within the Wortley Village-Old South Heritage Conservation District. Porches within the Wortley Village-Old South Heritage Conservation District are recognized for their social, architectural, and historic importance. The *Wortley Village-Old South Heritage Conservation District Plan* notes that all porches “deserve to be carefully conserved using adequate research to determine the original character and identify appropriate conservation and restoration techniques” (Section 8.2.5).

The guidelines included in Section 8.3.1.1 (Recommended Practices and Design Guidelines) for alterations provide a framework for considering porch restoration projects:

- a) *Research the original style and appearance of the building to determine “authentic limits” of restoration or alteration so that the appropriate style is maintained;*
- b) *In the absence of historical data, use forensic evidence available from the building itself to suggest appropriate restoration or alteration;*
- c) *Seek similar properties (same age, same design, same builder, same architect) for evidence of details that may still exist as samples for reconstruction;*
- d) *Avoid “new” materials and methods of construction if the original is still available. In some cases, after careful research, substitute materials may perform better than original materials, but beware of using materials that have not been tested for years in a similar application;*
- e) *Conserve; retain and restore heritage attributes wherever possible rather than replacing them, particularly for features such as windows, doors, porches and decorative trim;*
- f) *Where replacement of features (e.g. doors, windows, trim) is unavoidable, the replacement components should be of the same style, size, proportions and material whenever possible.*
- g) *Incorporate similar building forms, materials, scale and design elements in the alteration that exist on the original building.*
- h) *Avoid concealing or irreversibly altering heritage attributes of property, such as entrances, windows, doors and decorative details when undertaking alterations;*
- i) *If in doubt, use discretion and avoid irreversible changes to the basic structure and architectural style.*
- j) *Keep accurate photographs and other records, and sample of original elements that have been replaced.*

The guidelines included within Section 9.5 (Porches and Verandahs) of the *Wortley Village-Old South Heritage Conservation District Plan and Guidelines* includes direction specific to porch projects:

- *Removal or substantial alteration to the size, shape and design of existing porches is strongly discouraged.*
- *Do not remove or cover original porches or porch details, except for the purpose of quality restoration. Prior to executing any repairs or restoration, photograph the existing conditions and research to determine whether the existing is original or an appropriate model for restoration. Use annotated photographs or drawings or sketches to represent the intended repairs.*
- *When restoring a porch that is either intact or completely demolished, some research should be undertaken to determine the original design which may have been much different from its current condition and decided whether to restore the original.*
- *For the structural elements of the porch, use the best of current technology including secure footings extending below frost and pressure treated wood for wood framing;*
- *For decorative elements such as gingerbread fretwork or trim, wood is still the best choice to recreate the original appearance, but using improved technology such as waterproof glues and biscuit joiners and liquid preservatives and best quality paints to protect the finished product.*
- *Fibreglass and plastic versions of decorative trim should be avoided. Poor interpretation of the scale and design of applied decoration detracts from the visual appearance and architectural coherence of porches and verandahs.*

3.0 Financial Impacts/Considerations

None.

4.0 Key Issues and Considerations

4.1. Heritage Alteration Permit application (HAP23-015-L)

A complaint was received by the City in September 2022, regarding the removal of the front porch on the heritage designated property, located at 27 Bruce Street in the Wortley Village-Old South Heritage Conservation District. Building staff investigated the complaint and confirmed that the porch on the subject property had been removed and replaced without obtaining a Building Permit. No Heritage Alteration Permit had been obtained. An Order to Comply was issued under the *Building Code Act* for the property, directing the owner to submit an application for a Building Permit for the covered front porch. As the *Ontario Heritage Act* is applicable law, a Building Permit for a heritage designated property can not be issued prior to the issuance of a Heritage Alteration Permit.

The owner of the property began consultation with heritage staff beginning in January 2023. Staff have reviewed the current design of the front porch and associated drawings. A site visit was completed by staff, where the current porch and its vinyl (plastic) material was inspected. Staff have also met on site with the owner to review the current porch noting that the porch is currently non-compliant with the policies and guidelines included within the *Wortley Village-Old South Heritage Conservation District Plan and Guidelines*. In consultation with the owner, staff have encouraged the owner to submit an application that seeks to remove the plastic components of the porch and replace those components with new wood components in order for staff to provide a positive review of the application.

A complete Heritage Alteration Permit application was received by the City on March 13, 2023. The application is seeking retroactive approval for the removal of the previous traditional wood porch and retroactive approval for the new covered porch that consists of pre-finished vinyl (plastic) posts and railings, and pressure-treated wood deck (Appendix C).

Although the replacement porch has been designed in a manner that somewhat reflects the overall size and scale of the previous porch, the pre-finished vinyl (plastic) material used for the posts and railings are not compliant with the policies and guidelines of the *Wortley Village-Old South Heritage Conservation District Plan and Guidelines*.

Vinyl/plastic porch materials are inauthentic materials that do not sufficiently reproduce the historic appearance, texture, and finish of materials such as wood, and as a result are not supported within the Wortley Village-Old South Heritage Conservation District. In addition, the pre-assembled nature of the railing systems do not sufficiently replicate the traditional construction styles that can be seen on porches elsewhere within the area, including the adjacent property at 29 Bruce Street.

Porch replacements have been the subject of previous Heritage Alteration Permit applications. In a similar example, a complaint was received regarding the replacement of the front porch on the property at 330 St. James Street, designated under Part V of the *Ontario Heritage Act* within the Bishop Hellmuth Heritage Conservation District. An inspection by staff confirmed that the front porch of the dwelling had been replaced with vinyl (plastic) materials without Heritage Alteration Permit approval, or a Building Permit. A Heritage Alteration Permit application seeking retroactive approval for the use of vinyl (plastic) was refused by Municipal Council: <https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=82840>. A subsequent Heritage Alteration Permit application presented a compromise that included removal of the new vinyl (plastic) railing and replacement with a painted wood railing in a traditional style in compliance with the *Bishop Hellmuth Heritage Conservation District Plan*, but retention of the existing vinyl (plastic) decking and porch skirt was later presented: <https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=81563>. This approach was supported by staff, the London Advisory Committee on Heritage, and approved with terms and conditions by Municipal Council. The alterations were completed in 2021 in compliance with the approved Heritage Alteration Permit.

With regards to the subject property at 27 Bruce Street, staff would be more supportive of a Heritage Alteration Permit application that seeks to replace the post cladding and railings with a traditional painted wood material, consistent with the policies and guidelines of the Wortley Village-Old South Heritage Conservation District. The drawings that were submitted for the Heritage Alteration Permit application include a design that is appropriate for a porch reconstruction project, with the exception of the vinyl (plastic) porch materials. The existing drawings could be utilized provided that the pre-finished vinyl details on the drawings are replaced with painted wood.

4.2 Recommendation for Additional Consultation and Compromise

The Community Advisory Committee on Planning (CACP) was initially consulted on this Heritage Alteration Permit application at its meeting held on April 12, 2023. The CACP encouraged staff and the owner to continue working together to reach a compromise that could be supported by staff.

On April 18, 2023, City heritage and building staff met with the owner to identify approaches that could be supported by staff and resolve the non-compliant issues related to the porch. Staff and the owner discussed a potential compromise that included the removal of the new plastic railings and replacement with a painted wood railing in a traditional style, and the wrapping of the existing posts with wood. The grade of the surrounding garden beds could be raised to address potential grade height requirements for the railings. This approach would not result in the removal of any structural components of the porch. Staff indicated this approach could be supported as it brings the porch into better compliance with the policies and guidelines for the Wortley Village-Old South Heritage Conservation District.

The owner has since advised that they are unwilling to pursue this compromise and wish to continue with the previously submitted Heritage Alteration Permit application seeking retroactive approval for the porch that was constructed without Heritage Alteration Permit or Building Permit approval.

Conclusion

The property at 27 Bruce Street contributes to the cultural heritage value or interest of the Wortley Village-Old South Heritage Conservation District, designated pursuant to Part V of the *Ontario Heritage Act*. The proposed Heritage Alteration Permit seeks retroactive approval for the removal of the front porch and the construction of a new front porch with pre-finished vinyl (plastic) materials. The staff recommendation is to refuse the application as the proposed alterations are not consistent with the *Provincial Policy Statement* as it fails to conserve the significant built heritage resource at 27 Bruce Street, does not conform to the policies *The London Plan*, and does not conform to the policies and guidelines of the *Wortley Village-Old South Heritage Conservation District Plan and Guidelines* for porch alterations. Efforts to find a compromise resolution with the owner have been unsuccessful.

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Recommended by: Scott Mathers, MPA, P.Eng.
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Appendices

Appendix A Property Location
Appendix B Images
Appendix C Drawings

Appendix A – Property Location

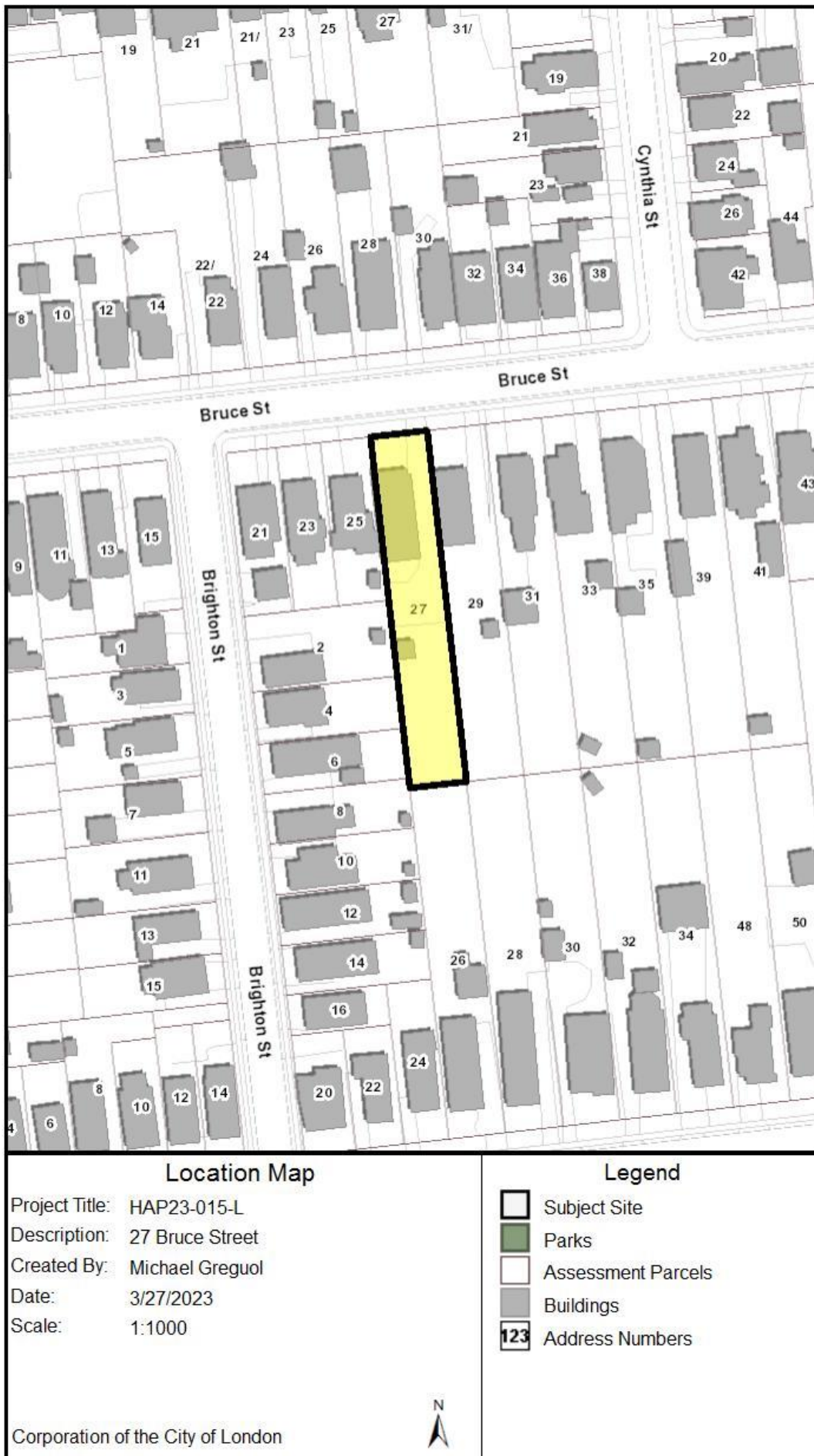


Figure 1: Location Map showing the subject property at 27 Bruce Street.

Appendix B – Images



Image 1: Photograph submitted with the Heritage Alteration Permit application showing the previous porch prior removal without Heritage Alteration Permit or Building Permit approval. The porch posts and railings consisted of wood materials. The decorative brackets have also been removed.



Image 2: Photograph submitted with the Heritage Alteration Permit application showing the porch with vinyl-clad (plastic) posts and vinyl railings, with pressure-treated decking.



Image 3: Photograph submitted with the Heritage Alteration Permit application demonstrating the need for repairs to the porch at 27 Bruce Street. This photograph also documents the turned posts and bracket detail of the former porch.



Image 4: Photograph showing detail of the vinyl (plastic) porch materials used for the replacement of the porch at 27 Bruce Street within the Wortley Village-Old South Heritage Conservation District.



Image 5: Photograph showing detail of the vinyl (plastic) porch materials used for the replacement of the porch at 27 Bruce Street within the Wortley Village-Old South Heritage Conservation District.



Image 6: Photograph showing detail of the vinyl (plastic) porch materials used for the replacement of the porch at 27 Bruce Street within the Wortley Village-Old South Heritage Conservation District.



Image 7: Photograph showing detail of the vinyl (plastic) porch materials used for the replacement of the porch at 27 Bruce Street within the Wortley Village-Old South Heritage Conservation District.



Image 8: Photograph showing detail of the vinyl (plastic) porch materials used for the replacement of the porch at 27 Bruce Street within the Wortley Village-Old South Heritage Conservation District.

