

## **Alleged Unauthorised Development**

**Trottscliffe  
Downs**

**05/00211/UNAUTU**

**564135 159977**

Location: Rose Farm Cottage Addington Lane Trottscliffe West Malling  
Kent ME19 5DW

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### **1. Purpose of Report:**

- 1.1 To report an alleged breach of planning control relating to the erection, without planning permission, of a picket fence around the front garden of a Listed Building.

### **2. The Site:**

- 2.1 The site is a Grade II Listed detached cottage which has recently undergone extensive renovations including extensions to the side and rear elevations. The premises are situated on the eastern side of Addington Lane fronting Trottscliffe village green in the centre of the Conservation Area.
- 2.2 The houses on either side have fences or hedges that are set back some distance from the road. The George PH on the opposite side of the green is set back from the road with an open forecourt. This part of the Conservation Area therefore has an open aspect with central green areas around the junction of Addington Lane/Taylor's Lane and Ford Lane.

### **3. History (relevant):**

- 3.1 TM/05/01678/FL Refused 27.07.2005  
Picket fence around front garden (retrospective).
- 3.2 TM/05/00114/LB Approved 01.04.2005  
Listed Building Application: Two storey flank and rear extensions, renovations and replacement of windows.
- 3.3 TM/05/00595/ORM Approved 30.03.2005  
Additional side porch and revised front porch (revision to planning permission TM/04/00980/FL [two storey flank and rear extensions and detached car port]).
- 3.4 TM/04/00982/LB Approved 27.08.2004  
Listed Building Application: Two storey flank and rear extensions, renovations and replacement of windows.
- 3.5 TM/04/00980/FL Approved 27.08.2004  
Two-storey flank and rear extensions and detached carport.

#### **4. Alleged Unauthorised Development:**

- 4.1 A white painted timber picket fence has been erected around three sides of the central part of the front garden between a parking area to the left side and a vehicular access to the right. There is a central opening to allow access to the stepped path leading to the front door. The fence is erected on the back edge of the kerb and abuts the highway.
- 4.2 Rose Farm Cottage is a grade II listed building and therefore the usual permitted development rights relating to fences do not apply. The erection of this fence within the curtilage of the listed building does require the benefit of express planning permission. Retrospective planning permission was refused on the 27 July 2005 (application: TM/05/01678/FL) following consideration by this Committee on the 20 July 2005. The erection and retention of the fence is therefore without planning permission and in breach of planning control.
- 4.3 A small part of the fence encroaches into a vision splay to the drive on the right side of the cottage required by condition 5 of planning permission TM/04/00980/FL. This vision splay of 2m x 2m requires no obstruction over 0.6m in height. The fence breaches this condition because at each corner the fence is between 1m and 1.4m above the level of the carriageway (the maximum heights being the corner posts).

#### **5. Determining Issues:**

- 5.1 Although there is a breach of condition relating to the vision splay both drives slope up from the highway and this has the effect of reducing the actual obstruction of vision. Approaching vehicles or pedestrians can see cars or other vehicles positioned on the elevated drive and drivers of vehicles on the drives can see approaching vehicles and pedestrians in both directions. Action in respect of the breach of condition would not be expedient in these circumstances.
- 5.2 This is an important listed building around the focal point of the village green. The fencing, by virtue of its design, siting and appearance, is considered to harm the character and visual amenity of the streetscene and the Conservation Area.
- 5.3 The fence, by virtue of its design, siting and appearance, also harms the setting of the listed building.
- 5.4 It is therefore appropriate to take action to protect the amenity of both the listed building and Conservation Area.

## **6. Recommendation:**

An Enforcement Notice **be issued** as set out below and copies **be served** on all interested parties.

The Notice to take effect not less than 28 days from the date of service, subject to:

- The concurrence of the Chief Solicitor, he being authorised to amend the wording of the Enforcement Notice as may be necessary.
- In the event of an appeal against the Notice the Secretary of State and the appellant to be advised that the Local Planning Authority is not prepared to grant planning permission for the development the subject of the Enforcement Notice.

### **Breach Of Planning Control Alleged**

Without planning permission, the erection of a timber picket fence around part of the front garden of this Grade II Listed Building within the designated Trottscliffe Conservation Area.

### **Reasons For Issuing The Notice**

It appears to the Council that the above breach of planning control has occurred within the last four years. The fence concerned was completed less than four years ago. The fencing, by virtue of its design, siting and appearance, is considered to harm the character and visual amenity of the streetscene and the wider locality, which is a designated Conservation Area, Special Landscape Area and Area of Outstanding Natural Beauty. Accordingly, the development is contrary to Policies RS1, ENV3, ENV4 and ENV17 of the Kent Structure Plan and policies P3/5, P3/6, P4/4 and P4/11 of the Tonbridge & Malling Borough Local Plan. In addition the fencing, by virtue of its design, siting and appearance, is considered to harm the setting and character of the property which is a Grade II Listed Building. Accordingly, the development is contrary to Policy ENV19 of the Kent Structure Plan and policy P4/3 of the Tonbridge & Malling Borough Local Plan. The development is contrary to development plan policies and harmful to the visual amenities of the area. The Council does not consider that planning permission should be given, because planning conditions could not overcome these objections to the development. Consequently retrospective planning permission to retain the fence has been refused under application reference TM/05/01678/FL. The reasons for taking enforcement action is to remedy the injury to amenity caused by the unauthorised development.

### **Requirement**

Remove all parts of the fence marked A-D on the plan attached to the Enforcement Notice from the land.

### **Period For Compliance**

Two calendar months from the date that the Notice takes effect.

## 6.2 Further Proceedings

In the event of the Enforcement Notice not being complied with and subject to satisfactory evidence, the Chief Solicitor **be authorised** to commence any proceedings which may be necessary under Section 179 of the Town and Country Planning Act 1990 (as amended) to secure compliance with the Enforcement Notice.

Contact: Gordon Hogben