

Alleged Unauthorised Development
Addington 05/00033/UNAWKS
Downs

Location: Valrosa, London Road, Addington, West Malling, Kent

1. Purpose of Report:

1.1 To report alleged unauthorised development at the above site being:

- the erection of halogen security lighting on metal poles approximately 2 metres in height at the front and within the curtilage of the property;
- the unauthorised change of use from highway grass verge to tarmac hard standing;
- the unauthorised erection of a two storey “temporary” office and restroom facility;
- change of use of the bungalow known as “Valrosa” from a residential dwelling to a sales office;
- erection of 3 flag poles and large hanging sign to the front of the verge area being used to fly flags advertising the Big Motoring World car sales at the site.

2. The Site:

2.1 The site is within the countryside, lying within the Metropolitan Green Belt and outside the rural settlement confines of Addington Clearway. The site is on the southern side of London Road and forms part of a mixed grouping of residential and commercial premises. The area on the Northern side of the road is undeveloped and is within a Special Landscape Area. The site does fall within the area covered by policy P6/18 of TMBLP which identifies the site as being suitable for redevelopment within the green belt.

3. History (most recent):

3.1 TM/94/0271AT Approved 26.05.1994
Display of replacement illuminated box signs.

3.2 TM/94/0231AT Refused 05.04.1994; Appeal Allowed 13.09.94 - a one year temporary Express Consent granted
Erection of 4 nos. flag poles.

3.3 TM/95/0014LDCE Certified 05.05.1995
Lawful Development Certificate Existing for vehicle sales with provision of servicing and repair and breakdown facilities and full range of vehicle services including hire.

4. Alleged Unauthorised Development:

- 4.1 Without planning permission halogen spotlights have been erected; change of use of the grass verge to hardstanding for vehicles; the unauthorised erection of a two storey office and rest room facility; change of use from residential to office accommodation; the erection of 4 flagpoles to the front and the flying of advertising flags; the erection of a large hanging sign.

5. Determining Issues:

- 5.1 It was brought to the attention of this Authority in October 2004 that works were being undertaken at the site. Initially, it was noted that the grass verge had been replaced by the new hardstanding.
- 5.2 A site visit was undertaken and a meeting was arranged with the proprietor on 15 December to discuss making an application for the change of use at the front of the property.
- 5.3 During a tour of the site, after the meeting, it became apparent new floodlighting at the site had been erected and the owner was advised that these would require planning permission.
- 5.4 At the same visit it was brought to the attention of the owner that we considered further breaches were occurring in the form of the erection of the new portable office and restroom facilities, the adverts and the flag poles;
- 5.5 A letter was sent to the owner on 18 March requesting the submission of a planning application in respect of the breaches with a view to ensuring that if permission were granted any necessary conditions could be imposed to ensure a degree of control. A set of planning application forms was sent with the letter.
- 5.6 The owner met the Area Planning Officer at the Gibson Building after receiving the letter and advice was provided regarding the applications that were sought.
- 5.7 A site meeting was arranged for 11 April 2005 at which the breaches were outlined and a time scale of 3 months to submit the application was agreed. The owner employed a planning agent and a further meeting was held on site on 6 July between the agent and the Area Planning Officer. Agreement was reached that planning applications would be submitted and an application for advertisement consent would be made. Further contact has been sporadic, the agreed retrospective applications have not been made and this Authority has had no formal opportunity to consider the unauthorised development.
- 5.8 It is now time to consider enforcement action against all the breaches of planning control that are occurring on the site at this time. I feel it is appropriate to identify those breaches where it is expedient to take action and those breaches where there is a breach but where it is not expedient to take action.

- 5.9 Firstly there is the question of the change of use of the bungalow from domestic to office use. The bungalow is set with the middle of a commercial site. The lawfulness of this use being recognised by way of a Lawful Development Certificate. Should an application have been made for the change in use of the bungalow I consider that there are no planning grounds which could be raised to object to the proposals. For this reason I do not believe that it is expedient to take enforcement action to seek the cessation of the use of the former bungalow as an office.
- 5.10 There is a large building to the rear of the site. From the evidence I have before me it would appear that this building has been on site for more than four years and it would appear to have been used by the previous occupier of the site. For this reason it would appear that the building is immune from enforcement action.
- 5.11 It is also clear that adjacent to the aforementioned building two large potable office type buildings have been placed. They are placed one on top of the other. These structures have been on site for approximately one year and are a development which requires the benefit of planning permission from this Authority. The site falls within the Metropolitan Green Belt and it is felt that the development is an inappropriate development. For this reason the development is contrary to Policies MGB 3 and RS5 of the Kent Structure Plan 1996, policies SS9 and SS7 of the Kent and Medway Deposit Structure Plan 2003 and policy P2/16 of the TMBLP 1996. As mentioned this site does fall within the green belt but is identified under Policy P6/18 as being suitable for redevelopment, however this development does nothing to visually enhance the area, increases the built coverage on the site and does not meet the other criteria set out in P6/18, so is contrary to policy P6/18 of the TMBLP 1996. For these reasons I believe it is expedient to take enforcement action to seek the removal of the unauthorised development.
- 5.12 It is also clear that a number of lighting columns have been erected at the site. Again these columns are a development which requires the benefit of planning permission from this Authority. Again the policies previously referred to apply. In addition, the scale and nature of the lighting is such that it causes harm to residential and rural amenity, contrary to policy P3/18 of TMBLP. I believe it is expedient to take enforcement action to seek the removal of the unauthorised lighting columns.
- 5.13 The owner of the site has also terraced an area of grass bank to the front of the site, on land that forms part of the public highway. Planning permission is required from this Authority for this development which involves a change of use of part of the highway verge and operational development including the provision of a tarmac surface. Again for the reasons and policies mentioned above I do not believe that planning permission would be forthcoming. I believe, that unless the Highway Authority is prepared to take action to remove this unauthorised development within a specified period, it is expedient to issue an enforcement notice against the land owner, the Highway Authority, and the owner of the site who has carried out the work.

- 5.14 Four flag poles and a structure to hold a large hanging sign have been erected at the site. These structures and the adverts that are attached to the flag poles and the hanging sign are adverts that require the benefit of Express Consent from this Authority. No such Consent exists and I believe that should an application have been submitted it would have been refused. I therefore believe it is expedient to take prosecution action in the Magistrate's Court to seek the removal of the unauthorised adverts.
- 5.15 For the above reasons I believe that it is expedient to serve a number of enforcement notices to seek the cessation of the breaches of planning control and to take prosecution action to seek the removal of the unauthorised adverts.

6. Recommendation:

- 6.1 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 two portable office buildings

Reasons For Issuing The Notice

It appears to this Authority that the above breach of planning control has occurred within the last 4 years. The site falls within the Metropolitan Green Belt and the development constitutes inappropriate development in the Green Belt by virtue of the provisions of PPG2: Green Belts, policy MGB3 of the Kent Structure Plan 1996 and policy SS9 of Kent and Medway Structure Plan 2003. It is also contrary to the provisions of policy RS5 of the Kent Structure Plan 1996 and policy SS7 of Kent and Medway Structure Plan 2003 because it does not fall within any of the categories identified in those policies as development which might, in principle, be acceptable in rural areas. For similar reasons, it is contrary to policy P2/16 of Tonbridge and Malling Borough Local Plan. The development does not fulfil the criteria set out in policy P6/18 of the Tonbridge and Malling Borough Local Plan. The reason for taking enforcement action is to remedy the injury to amenity.

Requirement

To remove from the site the two portable office buildings shown hatched on plan TMBC 2.

Period For Compliance

One calendar month from the date the Notice takes effect.

6.2 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 number of lighting columns.

Reasons for Issuing The Notice

It appears to this Authority that the above breach of planning control has occurred within the last 4 years. The site falls within the Metropolitan Green Belt and the development constitutes inappropriate development in the Green Belt by virtue of the provisions of PPG2: Green Belts, policy MGB3 of the Kent Structure Plan 1996 and policy SS9 of Kent and Medway Structure Plan 2003. It is also contrary to the provisions of policy RS5 of the Kent Structure Plan 1996 and policy SS7 of Kent and Medway Structure Plan 2003 because it does not fall within any of the categories identified in those policies as development which might, in principle, be acceptable in rural areas. For similar reasons, it is contrary to policy P2/16 of Tonbridge and Malling Borough Local Plan. The development does not fulfil the criteria set out in policy P6/18 of the Tonbridge and Malling Borough Local Plan. The lighting causes material harm to residential and rural amenity and is thus contrary to policy P3/18 of Tonbridge and Malling Borough Local Plan. The reason for taking enforcement action is to remedy the injury to amenity.

Requirement

To remove from the land all lighting columns as shown by the letter "X" on plan TMBC 2.

Period For Compliance

One calendar month from the date the Notice takes effect.

- 6.3 In the event that the Highway Authority does not, within one month of being advised of this resolution, commence action to secure the removal of this unauthorised development, 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 engineering operation to hard surface a grass verge.

Reasons For Issuing The Notice

It appears to this Authority that the above breach of planning control has occurred within the last 4 years. The site falls within the Metropolitan Green Belt and the development constitutes inappropriate development in the Green Belt by virtue of the provisions of PPG2: Green Belts, policy MGB3 of the Kent Structure Plan 1996 and policy SS9 of Kent and Medway Structure Plan 2003. It is also contrary to the provisions of policy RS5 of the Kent Structure Plan 1996 and policy SS7 of Kent and Medway Structure Plan 2003 because it does not fall within any of the categories identified in those policies as development which might, in principle, be acceptable in rural areas. For similar reasons, it is contrary to policy P2/16 of Tonbridge and Malling Borough Local Plan. The development does not fulfil the criteria set out in policy P6/18 of the Tonbridge and Malling Borough Local Plan. The reason for taking enforcement action is to remedy the injury to amenity.

Requirement

To remove from the land the tarmac surface and the reinstatement of the grass bank.

Period for Compliance

One calendar month from the date the Notice takes effect.

- 6.4 In the event that the Highway Authority does not, within one month of being advised of this resolution, commence action to secure the removal of this unauthorised development, 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 the change of use of highway verge to car parking area

Reasons for Issuing The Notice

It appears to this Authority that the above breach of planning control has occurred within the last 10 years. The site falls within the Metropolitan Green Belt and the development constitutes inappropriate development in the Green Belt by virtue of the provisions of PPG2: Green Belts, policy MGB3 of the Kent Structure Plan 1996 and policy SS9 of Kent and Medway Structure Plan 2003. It is also contrary to the provisions of policy RS5 of the Kent Structure Plan 1996 and policy SS7 of Kent and Medway Structure Plan 2003 because it does not fall within any of the categories identified in those policies as development which might, in principle, be acceptable in rural areas. For similar reasons, it is contrary to policy P2/16 of Tonbridge and Malling Borough Local Plan. The development does not fulfil the criteria set out in policy P6/18 of the Tonbridge and Malling Borough Local Plan. The reason for taking enforcement action is to remedy the injury to amenity.

Requirement

To cease the use of the land as car parking to remove the tarmac surface and reinstate the grass verge

Period For Compliance

One calendar month from the date the Notice takes effect.

6.5 Further Proceedings

In the event of any of the above Enforcement Notices 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 (s).

- 6.6 Should, within 21 days of the date that the owner is made aware that the unauthorised adverts should be removed, the adverts remain in situ, **prosecution action** in the Magistrates Court be taken under Section 224 of the Town and Country Planning Act 1994 subject to the Chief Solicitor being satisfied to the evidence.

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