

Alleged Unauthorised Development

Wrotham

11/00349/UNAWKS

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Wrotham

Location: The Gables Nursing Home Gravesend Road Wrotham
Sevenoaks Kent TN15 7QD

1. Purpose of Report:

- 1.1 To report a breach of planning control consisting of, without planning permission, the construction of extensions to the rear of the building including 2 no. flat roof two storey extensions (ground and first floor), a further two storey rear projecting extension (ground and basement level) with a contiguous single storey extension (basement level) with brick enclosed balcony above.

2. The Site:

- 2.1 The site is a large detached building originally a single dwelling house, but now used as a nursing home situated on the south side of Gravesend Road (A227), Wrotham approximately 280 metres north east of its junction with the A20 London Road. The site slopes down from Gravesend Road to the south. There are large residential properties in extensive grounds to the west, east and north, with a block of woodland between the southern boundary and Pilgrims Way beyond. The original building has dressed ragstone with buff brick detailing on the ground floor with red clay tile hanging to the first floor. Later extensions have red brick walls with red tile hanging to the first floor elevations. The roof is mainly pitched with red tiles and many gables, but with part flat roof over modern extensions to the front. There is a belt of mature trees fronting Gravesend Road, but the remaining grounds on the south side are generally unkempt and overgrown with weeds.

3. History (selected):

- 3.1 TM/06/03771/FL Approved 12.01.2007
Refurbishment and extensions.
- 3.2 TM/06/03049/FL Withdrawn 10.11.2006
Refurbishment and extension of existing residential care home including additional on-site parking and new external access to outdoor areas.
- 3.3 TM/99/01418/FL Granted with Conditions 15.09.1999
Extensions and alterations.
- 3.4 TM/95/51040/FL Granted with Conditions 18.10.1995
Erection of 10 bed extension together with ancillary accommodation to existing nursing home.

- 3.5 TM/92/10409/FUL Grant with Conditions 22.06.1992
Variation of condition (ii) of consent TM/87/0362 (TM/87/11752/FUL) to allow use of 5 further beds (previously used by staff) for long term patients.
- 3.6 TM/88/10411/FULL Refused 30.09.1988
Deletion of condition (v) of TM/88/0362 (TM/87/11752/FUL) (submission of details of retaining wall)
- 3.7 TM/87/11752/FUL Granted with Condition 12.06.1987
Conversion of dwelling to form Nursing Home and construction of two storey side extension, car park and alteration to access.

4. Alleged Unauthorised Development:

- 4.1 Without planning permission, the construction of extensions to the rear of the building including 2 no. flat roof two storey extensions (ground and first floor), a further two storey rear projecting extension (ground and basement level) with a contiguous single storey extension (basement level) with brick enclosed balcony above. In the absence of the necessary planning permission, these extensions are unlawful and constitute a breach of planning control that is liable to enforcement action.

5. Determining Issues:

- 5.1 The premises have operated as a nursing home following the grant of planning permission in 1987. The operators, who had a short lease, went into Administration in early September 2011. The freehold owners of the property are also in Administration. The Nursing Home is currently operated by a management company appointed by the Administrators. There has been an extensive marketing campaign, but no offers have been received for the sale of the home as a going concern. The Administrators have therefore taken the decision to close the home and alternative arrangements are being made to re-home the residents in consultation with the appropriate authorities. The property will then be sold on the basis of a vacant possession. It is expected that most interest will be related to the purchase of the site with a view to re-development.
- 5.2 In late September 2011, the Council was informed of an alleged breach of planning control at the premises. Investigations identified a significant breach of planning control consisting of the construction of the development as described in paragraph 4.1 above. These extensions are not those approved by planning permission TM/06/03771/FL and have not been the subject of any other planning application. However, a small extension to fill in a recess on the front elevation that was included as part of planning permission TM/06/03771/FL has been carried out.
- 5.3 In light of the previous permission, the Administrators were advised on a without prejudice basis, that there might be scope to retain part of the extensions. It was considered that subject to any application showing that very special circumstances exist, the retention of two flat roofed two storey extensions (ground and first floor)

and part of the two storey projecting extension (basement and ground floor) and the contiguous basement may be acceptable with the demolition of the unacceptable part of the extensions and appropriate mitigation works to ensure that those parts that are retained match the materials of the existing building. An agent appointed by the Administrators subsequently indicated that an application would be prepared and an appropriate period of time was agreed to allow for the preparation and submission of this application. However in the absence of any submission, and following further enquiries, the Administrators advised the Council on the 20 February 2012 that the premises were operating at a significant loss and that there had been no interest in purchasing the home as a going concern and that a decision had therefore been taken to close the Nursing Home. Our enforcement investigation has been coincidental to the operators and owners going into Administration and the subsequent decision to close the home rather than a contributory factor to those circumstances.

- 5.4 The property is within the Metropolitan Green Belt and the Kent Downs Area of Outstanding Natural Beauty. The planning history shows that there have been significant extensions to the property following permissions in 1987 and 1995 resulting in over 100% extension in volume compared to the original building. The bulk and mass of the approved 1995 extensions are significant, but the extensions as approved were well designed and integrated well with the original building. The current PPG2 (1995), does not list extensions to or redevelopment of institutions as an “appropriate” form of development in the MGB. As such any proposal for extension to an institution of this nature would require a case of Very Special Circumstances. In light of the significant extensions permitted to the original building, such a case of Very Special Circumstances would need to be very strong if it were to override the potential harm to openness which could result from significant further extensions.
- 5.5 The 2006 withdrawn scheme (TM/06/03049/FL) would have represented a 100% increase on the volume of the building at that time. The applicant was advised that permission was likely to be refused. The later 2006 approval (TM/06/03771/FL), was a modest scheme of small scale and limited extension to the then existing building including a limited infill two storey extension to the front and three small single storey extensions to the rear (one being a conservatory on raised a raised wall). The infill extension to the front has been implemented. The area where the small rear additions were approved has been subsumed within the current unauthorised development.
- 5.6 In light of the current MGB policy, the size, scale, bulk and mass of the unauthorised additions is unlikely to be capable of justification by any case of Very Special Circumstances within the MGB. In addition, the poor design of the part two storey, part single storey rear projecting extension is also contrary to Policy CP24 due to the form, scale, bulk and mass which do not respect the site or its surroundings. There is also harm to the AONB as the poor design of the extension is contrary to Policy CP7. A further case of exceptional circumstances in addition to that required to satisfy

MGB policy would therefore need to be advanced to override these further policy objections. It is not considered that such an overriding set of circumstances could be advanced in respect of the retention of the unauthorised extensions as they exist.

- 5.7 In these circumstances it is appropriate to consider further enforcement action. According to the Approved Inspector (our own Building Control Service has had no involvement in the works) the works commenced on 02.10.2008 and the development is therefore not exempt from enforcement action under the 4 year rule (Section 171B (1) of the Town and Country Planning Act 1990). The extensions are not completed internally and the works have not been formally signed off by the Approved Inspector. Nevertheless to prevent the works becoming lawful without proper control over its size, appearance and use, it is appropriate to issue an enforcement notice at this time. Although, as indicated in paragraph 5.3 above, it is conceivable that part(s) of the unauthorised works may be acceptable, with modifications, in the absence of a detailed scheme and without a fully argued case seeking to demonstrate very special circumstances, it is not possible to come to a reasoned conclusion on the acceptability of such a modified scheme, or what it might consist of. This situation is made more complex by the apparent intention to close the existing business operating from the premises. In the light of this, I consider that the only realistic option is to serve an Enforcement Notice in relation to the unauthorised works in their entirety.

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 construction of extensions to the rear of the building including 2 no. flat roof two storey extensions (ground and first floor), a further two storey rear projecting extension (ground and basement level) with a contiguous single storey extension (basement level) with brick enclosed balcony above.

Reasons For Issuing The Notice

It appears to the Council that, from the evidence before it, this breach of planning control has occurred within the last four years. The site lies within the Metropolitan

Green Belt and the Kent Downs Area of Outstanding Natural Beauty. There is a general presumption against inappropriate development within the Green Belt unless it can be shown that very special circumstances exist. In addition development will not be permitted which would be detrimental to the natural beauty and quiet enjoyment of the Area of Outstanding Natural Beauty, including its landscape, wildlife and geological interest other than in exceptional circumstances where development is essential to meet local social or economic needs. Any such development must have regard to local distinctiveness and landscape character, and use sympathetic materials and appropriate design. It is the Council's view that, in the light of these policies, the size, scale, bulk and mass of the unauthorised additions cannot be justified by any case of very special circumstances within the Metropolitan Green Belt. It is also considered that the poor design of the rear extensions causes harm to the Area of Outstanding Natural Beauty contrary to Policy CP7 of the Tonbridge and Malling Borough Council Core Strategy. In addition, the poor design of the extensions is also contrary to Policy CP24 of the Tonbridge and Malling Borough Council Core Strategy. Therefore an application to retain the unauthorised development as it currently exists could not be supported because the imposition of conditions could not overcome all the objections to the unauthorised development. The Enforcement Notice is necessary to alleviate the nuisance and detriment to amenity resulting from the unauthorised development and to safeguard the openness of the Metropolitan Green Belt.

Requirement

1. Demolish all parts of the 2 no. flat roof two storey extensions (ground and first floor), the two storey rear projecting extension (ground and basement level) and the contiguous single storey extension (basement level) with brick enclosed balcony above, in the location shown on the plan attached to the Notice.
2. Repair and make good the rear walls of the existing building in a good and proper workmanlike manner using good quality and suitable matching materials and building methods appropriate to the existing building and in accordance with the current Building Regulations.
3. Remove all the arisings from the demolition from the site.
4. Where the foundations to the rear extensions are removed, reinstate the ground level to match the adjoining ground level and surface materials and leave the site in a neat, tidy and safe condition.

Period For Compliance

Three calendar months from the date when the Notice takes effect.

Contact: Gordon Hogben