

## **Alleged Unauthorised Development**

**Aylesford**  
Aylesford

**05/00287/UNAWKS**

**573096 158965**

Location: 4 Forstal Road Aylesford Kent ME20 7AU

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

- 1.1 To report the unauthorised creation of a patio area at first floor level (on the roof of a single storey part of the building) and the installation of a second set of patio doors in place of a window in the rear elevation, giving access to this patio.

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

- 2.1 The site is a flat above a tea shop on the southern side of Forstal Road opposite the junction with Rochester Road

### **3. History:**

There is a long planning history to this site the most relevant being:

- 3.1 TM/04/03833/FL Approved 22.12.2004  
Extension and alteration of existing first floor flat.
- 3.2 TM/05/00596/FL Refused 19.04.2005  
Revised scheme for extension and alteration of existing first floor flat.

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

- 4.1 Without planning permission the unauthorised creation of a patio area, erection of balustrading and the installation of a second set patio doors in place of a window in the rear elevation.

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

- 5.1 In June of this year we were made aware that a patio area was being created at this site. The patio is on the flat roof area, the roof being over 2 Forstal Road. This patio area covers over half of the flat roof area.
- 5.2 When planning permission was granted for the extension and alteration of the existing first floor flat a small patio area was shown. From the plans this patio area measured 9.5 square meters. The patio that has been created measures 19.6 square meters which has resulted in most of the flat roof area being covered by the patio and bringing the patio area closer to neighbouring properties. A recent site inspection has also revealed that a second set of patio doors has been installed

leading from a bedroom on to the unauthorised part of the patio. The approved patio area can be accessed from a set of patio doors approved under permission TM/04/03833/FL. A balustrade has also been erected around the unauthorised patio.

- 5.3 The development that has been undertaken is very similar to the plans that were submitted with application TM/05/00596/FL. This application was refused on the grounds that the development would lead to an unacceptable level of overlooking towards the adjacent properties resulting in a loss of privacy for occupants, detrimental to the residential amenities that they could reasonably expect to enjoy and contrary to the aim of policy P4/12. As stated earlier in the report this application was refused on 19<sup>th</sup> April 2005. The formation of the patio on the flat roof, the erection of the balustrade, and the insertion of the patio doors all constitute building operations that materially affect the external appearance of the building. They are therefore development that requires planning permission. No relevant permitted development rights apply to this property.
- 5.4 As permission has been refused for a development very similar to that that has been created I believe that it is expedient to take enforcement action to seek the removal of the unauthorised patio doors and that they be replaced with a window and the reduction in size of the patio area to that approved under planning permission TM/04/03833/FL

## 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.

## 6.2 Breach Of Planning Control Alleged

Without planning permission the creation of a patio area together with a surrounding balustrade, and the installation of patio doors in place of a window in the rear elevation.

### Reasons For Issuing The Notice

It would appear to this Authority that the above breach of planning control has occurred within the last four years. The development gives rise to an unacceptable level of overlooking towards adjacent properties resulting in the loss of privacy for

occupants, detrimental to the residential amenities that they could reasonably expect to enjoy and contrary to aim of policy P4/12 of the Tonbridge and Malling Borough Local Plan 1998.

### **Requirement**

1. To reduce the patio area to the size approved under planning permission TM/04/03833/FL as shown on plan TMBC 2 by removing the decking/surface of which the patio has been formed and to remove the balustrading around the unauthorised patio and to re-erect the balustrading around the approved patio area.
2. To remove the patio doors shown hatched on plan TMBC 3 and to replace it with a window as shown cross hatched on plan TMBC 4

### **Period For Compliance**

One calendar month from the date the notice becomes effective.

### **6.3 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: Richard Edmonds