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- 3.4 TM/93/1067/FL      Approved      16.11.93  
Shop unit and staff flat (Implemented scheme)
- 3.5 TM/90/1112/RM      Approved      06.02.91  
Details pursuant to planning permission TM/89/1380 for erection of shop with staff accommodation.
- 3.6 TM/89/1380/OA      Approved      04.04.90  
Outline application incorporating means and siting for two storey detached building with shop unit on ground floor and accommodation for staff over.
- 3.7 Enforcement Records: Whilst there is an extensive enforcement history relating to this site, the first record of any enforcement complaint relating to the erection of this rear extension was made in March 2007.
- 3.8 Aerial Photographs: The rear extension is visible on aerial photographs from 1999 and 2003.

#### **4. Consultees:**

- 4.1 PC: No objection.
- 4.2 KCC Highways: Raise no objection.
- 4.3 DHH: No response.
- 4.4 Private Reps: 14/0S/0X/2R. Two letters have been received objecting on the following grounds:
- Structure was originally constructed without planning permission;
  - Storage structure should have been removed under planning permission TM/93/1067/FL;
  - Replacement structure will be taller than existing;
  - Low lighting on building will have a negative impact on neighbouring properties;
  - Long history of non compliance on this site, including current breaches;
  - Originally refused of highway safety grounds and out of character with a residential area.
- 4.5 Press Notice & A8 Site Notice: No response.

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**5. Determining Issues:**

- 5.1 The main issues to be considered are whether this proposal is appropriate and whether it harms the residential amenity of adjoining residential properties.
- 5.2 The Pinions pet shop has a long and complex planning history and I intend to set out its planning context and how it affects the determination of this application. Full planning permission was granted in 1993 for a new shop unit and flat - TM/93/1067/FL. This followed an earlier outline and reserved matter application. The 1993 planning application essentially allowed for a new shop subject to the existing shop, stores and other buildings being removed and the thatched building being turned into domestic accommodation for No.429 London Road. None of the submitted plans show any buildings or stores in the position of the current proposal. Condition 9 of the planning permission TM/93/1067/FL only bites against those buildings which stood at the time of the application. It does not apply to any future buildings or extensions on the site.
- 5.3 In May 1994 planning permission (TM/94/172/FL) was granted for a detached 4 bay garage block for occupants of the flat in the position of the proposed store. This planning permission was not implemented. From planning records, there does not appear to have been any structures on this part of the site.
- 5.4 In April 1995 planning permission (TM/94/1484/FL) was refused for a storage area of a similar size as currently sought. None of the plans indicate any former buildings on this site and no reference is made to removal of any existing buildings within the Borough Council's determination of the case. That application was refused on highway grounds relating to increased use of existing access, inadequate parking and turning facilities. The decision was appealed against, but dismissed in January 1996. The Inspector also made reference to the commercial development would harm the visual amenities of the locality. Interestingly the Inspector refers to the site containing four small wooden sheds used for storage behind the recently constructed new shop unit.
- 5.5 Since the appeal decision in January 1996, there have been no planning applications submitted for development on this rear part of site. However, an extension to the pet shop of almost identical size to the refused scheme appears on aerial photographs from 1999. Therefore, it appears that the extension was constructed between 1996 and 1999. This very large extension was constructed without the benefit of planning permission. No complaints were made in respect of potential enforcement during its construction or subsequent use until a recent enquiry in March 2007 questioning its planning status. Given that the building was built more than four years ago it has become lawful through the passing of time. Therefore, the physical presence of the building cannot be questioned.
- 5.6 The rear extension lies within the retail planning unit of planning permission TM/93/1067/FL. The storage carried out within the building is ancillary storage to the retail sales of the pet shop and therefore, there has not been change in use of

the land, as it has remained as retail. As such the lawful use of the extension is retail.

- 5.7 The unauthorised but lawful extension is the baseline against which to judge this current proposal.
- 5.8 The visual impact of the existing development is minimal, as it barely visible from any public vantage points. Only a small section of the front of the structure side is visible from London Road. The proposed replacement structure covers the same footprint and apart from a slight overall increase in height will have no greater impact than the existing building. The existing building varies in height from 2.9m from the front of the extension, i.e., where it connects to the existing shop to 2.5m at the rear of the extension, i.e., bottom of the garden. The proposed building is to be a uniform 2.9m height and therefore, the proposed extension will be 0.4m (1 foot 4 inches approximately) taller than the existing towards the rear. It should also be noted that the rear section of building is lower than the existing ground levels by approximately 0.5m. Therefore, the increase in height is marginal and will have no greater impact on the visual amenity of the locality. Such an increase would also not result in any significant overbearing or oppressive impact on the boundary with No. 439 London Road, Aylesford.
- 5.9 In highway terms, this proposal is a replacement store, not a new building. Whilst objections were previously raised in 1994 in relation to the increase in retail storage, circumstances have moved on, as the existing building is now lawful. KCC Highways have raised no objections to this proposal and make no reference to any existing highway problems.
- 5.10 The proposed replacement extension will not result in the loss of any privacy due to the existing boundary treatment. The proposal will not result in significant change in terms of loss of light given the marginal increase in height at the rear section.
- 5.11 Matters relating to use of the flat for storage and the omission of a front boundary fence required by conditions in relation to the earlier permission are subject to continuing enforcement investigations.
- 5.12 In light of the above considerations, I find this proposal acceptable.

## **6. Recommendation:**

- 6.1 **Grant Planning Permission** as detailed with the following submitted details subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2. All materials used externally shall accord with the approved plans, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

3. No development shall take place until details of external lighting have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

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