

Alleged Unauthorised Development

Aylesford
Burham Eccles
Wouldham

07/00447/UNAWKS

572793 160531

Location: 222 - 224 Bull Lane Eccles Aylesford Kent ME20 7HW

1. Purpose of Report:

- 1.1 To report a breach of planning control consisting of the installation of three air conditioning condenser units on the external rear or north-western wall of these premises.

2. The Site:

- 2.1 The site lies within a predominantly residential area within the confines of the rural settlement of Eccles. The premises are a two storey office building with rendered walls situated on the northern corner of the junction of Cork Street with Bull Lane. The premises front onto Bull Lane with a Church to the north and a recently constructed terrace of three houses (10, 12 & 14 Cork Street) close to the rear or north-western side. Cork Street is adjacent to the south-western side with houses abutting the footway on the south side of Cork Street. The premises are being converted to offices with planning permission, but are occupied by the applicant company.

3. History (most relevant):

- 3.1 TM/05/02799/FL Grant with Conditions 15.11.2005
Change of use and external alterations including high level windows, first floor extension and changing roof space.
- 3.2 TM/06/00024/FL Grant with Conditions 25.04.2006
Revised scheme (TM/05/02799/FL) for extension to footprint and first floor accommodation from residential to offices and extension to first floor above existing.
- 3.3 TM/06/01711/RD Granted 27.06.2006
Revised details pursuant to condition 2 of planning permission TM/05/02799/FL (Extension to footprint and first floor conversion from residential to offices and extension to first floor above existing) in respect of roof tiles.
- 3.4 TM/06/02590/RD Granted 13.09.2006
Details of boundary treatment to be erected along the eastern side of the roof terrace submitted pursuant to condition 4 of planning permission TM/05/02799/FL: Extension to footprint and first floor conversion from residential to offices and extension to first floor above existing.

3.5 07/00447/UNAWKS

The alleged breach of planning control was drawn to the owner's attention by letter dated 31 December 2007, which invited the owner to remove the unauthorised development or seek retrospective planning permission. A reminder was sent on 5 February 2008. The owner acknowledged receipt of the initial letter in a telephone conversation on 6 February 2008. Further reminders were sent by letter on 26 February 2008 and 12 March 2008 and in a telephone conversation on 3 April 2008. However no action has been taken to remove the unauthorised units and a retrospective planning application has not been submitted.

4. Alleged Unauthorised Development:

4.1 Without planning permission the installation of three air conditioning condenser units and associated brackets, pipes and cables at first floor level on the exterior of the north-western or rear elevation of the building.

5. Determining Issues:

5.1 The main determining issue is whether the unauthorised development will be unacceptably detrimental to the visual and residential amenity of the locality.

5.2 There is a 1 metre gap between the rear wall of the building on which the units have been installed and the side wall of the adjacent house (10 Cork Street), which is set back from Cork Street by about 5.8 metres. This building front's onto Cork Street and the units are installed at first floor level on projecting brackets fixed to the face of the wall and overhang the land to the front of the adjacent residential property. It is alleged that the units encroach over the property boundary and overhang land in separate ownership. The units are within about 4 metres of the front bedroom windows of the adjacent dwellinghouse and within 8 – 15 metres of other residential properties on the opposite side of Cork Street. The units are visually prominent and intrusive in the street scene, especially when viewed from the west.

5.3 The owner has been invited to make a retrospective planning application, but has not applied. The failure to submit a retrospective planning application with technical details of the units installed has denied the Local Planning Authority the opportunity to properly assess the possible detrimental impact of the noise and liquid discharge on the adjacent houses. However, the units are so close to houses that there is good reason to believe that harmful effects may occur to human health and are likely to impact on the aural amenity of the nearby houses to an unacceptable degree, particularly during the summer months when bedroom windows are open. It is alleged that the units may discharge condensate onto the adjoining property, but this has not been substantiated.

5.4 The DHH is concerned to safeguard the aural amenity of nearby residents with regard to noise emitted from the air conditioning condenser units. He has no information on the technical specification of the equipment but in view of the very limited spatial separation between the condenser units and windows to habitable

rooms in the adjoining dwelling he has no doubt that noise from their operation is likely to cause significant detriment to residential amenity such as would lead him to recommend that any application for planning permission for their siting and operation should be refused.

- 5.5 The installation of the air conditioning units is not well designed or located and detrimental to visual and residential amenity by way of their appearance and location contrary to the principles of sustainability contained in Policy CP1 of the Tonbridge and Malling Core Strategy 2007.
- 5.6 The development is contrary to Policy CP24 of the Tonbridge and Malling Core Strategy 2007, which requires that all development must be well designed and of a high quality in terms of detailing, scale and appearance and respect its site and surroundings.
- 5.7 The failure to either submit an application or to respond to the Council's letters has also curtailed the opportunity for informal discussion about ways of minimising harm to amenity caused by the units. The building is occupied by a building company and any requirement to remove the units would not have any unreasonable effect on the continued operation of the business or result in any loss of employment or any need to relocate. The owners were made aware of the Council's concerns over five months ago and while the alterations to the building were continuing. I do not believe that a requirement to remove the units would, therefore, have any detrimental impact on the continued business operations or viability of the occupier company.

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 installation of three air conditioning condenser units and associated fixing brackets, pipes and cables at first floor level on the exterior of the north-western or rear elevation of the building.

Reasons For Issuing The Notice

It appears to the Local Planning Authority that the above breach of planning control has occurred within the last four years. The installation of the air conditioning units was completed less than four years ago. The unauthorised development because of its poor quality design and the number, size, scale and location of the units results in a prominent and incongruous feature that detracts from the appearance of the building and the residential area and is detrimental to the residential and visual amenity of the locality. Because of the very limited spatial separation between the condenser units and windows to habitable rooms on the adjacent dwellinghouse, it is considered that noise from their operation is likely to cause significant and unacceptable detriment to aural and residential amenity of nearby residents. The unauthorised development is therefore contrary to Policies CP1 and CP24 of the Tonbridge and Malling Core Strategy 2007. The Local Planning Authority does not consider that planning permission should be given because planning conditions could not overcome the policy objections to the development. The service of the Enforcement Notice is required to ensure the proper planning of the area and to remedy a serious injury to the amenity of the residential area.

Requirement

Dismantle and remove from the exterior of the rear, north-western wall of the building, all air conditioning condenser units and all associated fixing brackets, pipes, cables, fixtures and fittings and fill and make good all holes in the wall.

Period For Compliance

28 days 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