

Alleged Unauthorised Development

Aylesford
Aylesford

08/00246/UNAWKS

571949 157541

Location: 10 Ffinch Close Ditton Aylesford Kent ME20 6ET

1. Purpose of Report:

- 1.1 To report for action a breach of planning control consisting of the construction of a lean-to side extension without the necessary planning permission.

2. The Site:

- 2.1 The premises are an extended linked detached house on the south side of the turning area at the eastern end of Ffinch Close, a residential cul-de-sac of similar linked detached and semidetached houses with generally open plan front gardens. A Public Right of Way (MR481) abuts the eastern side and southern rear boundaries of the property. These boundaries are defined by an approximately 1.8m high close boarded fence. The front garden is open plan, but the rear garden is enclosed by fences. There is an existing conservatory extension on the rear elevation. There are existing outbuildings in the rear garden including a large timber shed, a compound to house dog kennels and a timber summer house adjacent to the rear boundary.

3. History:

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|-----|--|-----------------------|-------------------|
| 3.1 | MK/4/59/124 | Grant with Conditions | 17 June 1959 |
| | Outline application for residential development. | | |
| 3.2 | MK/4/60/276 | Grant with Conditions | 21 July 1960 |
| | Erection of dwellings. | | |
| 3.3 | MK/4/65/87 | Grant with Conditions | 15 September 1965 |
| | Layout of Phase IV 136 houses, 197 garages and access roads, as amended. | | |
| 3.4 | 91/11518/TPOC | Grant with conditions | 25 October 1991 |
| | Fell Weeping Willow (TPO 12.02.14) | | |
| 3.5 | TM/04/04364/FL | Grant with conditions | 28 January 2005 |
| | Single storey rear extension and first floor extension above garage. | | |
| 3.6 | TM/06/02020/FL | Refused | 18 August 2006 |
| | Two storey rear extension, first floor side extension, single storey front extension and new garden wall | | |
| 3.7 | TM/06/03358/FL | Approved | 19 January 2007 |
| | Rear two storey extension to kitchen and bedroom and second storey extension above garage with tiled pitched roof. | | |

- 3.8 TM/08/02181/FL Refused 30 October 2008
Retrospective application for lean-to extension to side.
- 3.9 TM/08/02181/FL Undetermined
Demolition of lean-to extension to side and construction of lean-to extension.
Resubmission of application TM/08/02181/FL.
- 3.10 05/00241/UNAUTU 07 July 2005
Alleged unauthorised business use (not in breach of planning control).
- 3.11 07/00082/UNAWKS 07 September 2007
Alleged unauthorised structure (removed).

4. Alleged Unauthorised Development:

- 4.1 A lean-to extension has been constructed on the side wall of the house, between the wall and the side boundary fence abutting the public right of way. The extension is the full length of the house, 9.9m long x 1.43m wide. The structure has been built to fill in the narrow strip of land between the side wall and the boundary fence and comprises of a single pitch clear plastic sheet roof on a timber frame utilising the existing 1.88m close boarded boundary fence as the main walls, but with plastic sheets filling in the area between the fence and roof on the end elevation facing Ffinch Close. The highest part of the roof is fixed to the side wall of the house 1.13m above the top of the fence, so the height to the top of the roof is 3.01m. The lower part of the roof structure extends beyond the fence by about 200mm at the eaves.
- 4.2 The building requires planning permission because it extends beyond a wall of the dwellinghouse that fronts a highway and forms a side elevation of the original dwellinghouse. The structure is not permitted development under either the "old" or the recently amended General Permitted Development Order.
- 4.3 A retrospective application to retain the lean-to extension was refused planning permission on 30 October 2008 under application reference TM/08/02181/FL. The unauthorised extension does not have the necessary planning permission and is unlawful and consequently in breach of planning control.

5. Determining Issues:

- 5.1 Saved Policy P4/12 of TMBLP requires that residential extensions are in keeping with the character of the building and the street scene, and that residential extensions should respect the residential amenity of neighbouring properties. Policy CP24 of the TMB Core strategy requires good design and quality in new developments, and a respect for the site and its surroundings. Therefore the main determining issue is the impact of the extension on the dwelling and the street scene as a whole.
- 5.2 The site is within the built confines of the urban settlement of Ditton and so there is a presumption in favour of residential development, subject to it being appropriate to the scale and character of the settlement. The appearance of the structure and the

materials used in its construction are out of keeping with the residential area. Because of the materials used, the appearance and the location of the structure on the boundary fence, the extension creates an alien feature within the residential street scene and is detrimental to the visual amenity of the area.

- 5.3 Retrospective planning permission has been refused on the grounds that the design of the extension is out of character with the existing dwelling and will have a detrimental visual impact to the appearance of the locality and is contrary to Saved Policy P4/12 of the Tonbridge and Malling Borough Local Plan, 1998 and Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007. A new application was submitted on 26 November 2008 for the demolition of the existing unauthorised side extension and its replacement with a similar extension constructed of brick. This application (TM/08/03554/FL) is still under consideration, but even if the revised proposal is acceptable there is no guarantee that the approved proposal will be constructed. It is therefore appropriate to issue an Enforcement Notice requiring the removal of the unauthorised development.

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, she 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 a lean-to extension on the eastern side elevation of the dwellinghouse

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 construction of the lean-to side extension was completed in April 2008 and was therefore completed less than four years ago. The design of the extension is out of character with the existing dwelling and has a detrimental visual impact to the appearance of the locality and is contrary to Saved Policy P4/12 of the Tonbridge and Malling Borough Local Plan 1998 and Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007. The Local Planning authority has refused to grant retrospective planning permission for the development because planning conditions could not overcome the 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 eastern side wall of the dwellinghouse all parts of the lean-to extension fixed on the side wall of the house and fixed to the boundary fence in the location as shown hatched black on the plan attached to the Enforcement Notice and make good the wall of the house and the fence.

Period For Compliance

3 calendar months 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.

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