

Alleged Unauthorised Development

Aylesford

11/00155/UNAUTU

573303 159110

Aylesford

Location:

73 Rochester Road Aylesford Kent ME20 7BN

1. Purpose of Report:

- 1.1 To report a breach of planning control consisting of, without planning permission, a material change of use from residential dwellinghouse and garden to a mixed use of residential dwellinghouse and garden and for the parking or storage of commercial vehicles in connection with a business use.

2. The Site:

- 2.1 The site is a detached dwellinghouse, originally a bungalow but recently extended by the addition of a first floor pursuant to planning permission TM/10/01564/FL. The dwelling is within a predominantly residential area on the south-east side of Rochester Road approximately 20 metres north-east of Powell Close. There are detached dwellings to either side and opposite the premises. The site is approximately 28 metres from the northern edge of the Aylesford Conservation Area.

3. History:

- 3.1 TM/10/01564/FL Approved 29.07.2010
Single storey front and rear extension and creation of first floor by replacing and raising the height of the roof.

4. Alleged Unauthorised Development:

- 4.1 The parking area to the front of the newly extended dwellinghouse is being used for the parking or storage of up to seven commercial vehicles fitted with access lifts and used in connection with the owners business of fitting and maintaining CCTV cameras and highway and amenity lighting. The owner and two sons are employed in the business. A study within the house is also used in connection with the business. The vehicles are either Transit sized vans or smaller Nissan vans or trucks with access lifts attached. The vehicles are under the weight that would require a Goods Vehicle Operators Licence.
- 4.2 Because of their number, size, and nature which are clearly designed for commercial purposes, the parking of these vehicles goes beyond what could be regarded as being incidental to the normal and reasonable enjoyment of the dwellinghouse as such. Although, under the Planning Acts, some business activities may be undertaken from a residential property without occasioning a material change of use, this does not apply where the nature of the activities results in a change in the overall character of the way that the premises are used. The parking of the commercial vehicles that is currently taking place has changed that residential character.

Therefore the parking of these vehicles within the curtilage of the dwellinghouse does amount to a material change of use from a residential use to a mixed use as residential dwellinghouse and garden to a mixed use of residential dwellinghouse and garden and for the parking or storage of commercial vehicles in connection with a business use. This change of use constitutes development that does require planning permission and without such permission the parking of the vehicles is taking place in breach of planning control and is consequently liable to enforcement action.

- 4.3 The use of the study within the house by the owner in connection with the administration of the business would not by itself materially affect the residential character of the property or affect the residential amenity of the area such as to justify enforcement action against this aspect of the use.

5. Determining Issues:

- 5.1 The unauthorised use is taking place within a predominantly residential area. Because of their number and commercial appearance, the parking of the vehicles has resulted in a distinct and noticeable intrusion which has impinged on the character and amenity of the neighbourhood. The activity is therefore contrary to Policy CP24 of the Tonbridge and Malling Borough Core Strategy which seeks to protect residential amenity and requires that all new development must through its scale, siting and character be designed to respect its site and surroundings. In these circumstances a planning application for a change of use to allow the parking of commercial vehicles within the curtilage of the dwellinghouse could not be supported.
- 5.2 The owner has been seeking an alternative site to park the vehicles since September 2011 and has only recently found suitable premises. The owner hopes to be able to move the commercial vehicles to these alternative premises on the 1 February 2012. Nevertheless, it is appropriate to consider appropriate enforcement action in case the commercial vehicle parking is not relocated as planned.
- 5.3 This part of Rochester Road is not subject to parking restrictions and the vehicles could, therefore be parked on the highway as a result of enforcement action. Nevertheless, the unauthorised activity does unacceptably affect public amenity and it is therefore appropriate to take enforcement action to secure the discontinuance of this unauthorised use of the residential property. However, because enforcement action will affect the viability of this small business, a longer period of compliance is also appropriate to enable a search for alternative premises to continue and to reduce the need for on street parking while this search takes place.

6. Recommendation:

In the event of the unauthorised use of the premises not ceasing by the 1 February 2012, 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, a material change of use from residential dwellinghouse and garden to a mixed use of residential dwellinghouse and garden and for the parking or storage of commercial vehicles in connection with a business use.

Reasons For Issuing The Notice

It appears to the Local Planning Authority that this breach of planning control has occurred within the last ten years. The site is within a predominantly residential area and, because of their number and commercial appearance, the parking of the vehicles has resulted in a distinct and noticeable intrusion which has impinged on the character and amenity of the neighbourhood. The activity is therefore contrary to Policy CP24 of the Tonbridge and Malling Borough Core Strategy which seeks to protect residential amenity and requires that all new development must through its scale, siting and character be designed to respect its site and surroundings. In these circumstances a planning application for a change of use to allow the parking of commercial vehicles within the curtilage of the dwellinghouse could not be supported and the imposition of planning conditions could not overcome the objections to the development. The Enforcement Notice is necessary to alleviate the nuisance and detriment to amenity resulting from the unauthorised development.

Requirement

Remove the commercial vehicles from the premises and permanently stop the use of the site for the parking or storage of commercial vehicles.

Period For Compliance

Six calendar months from the date that the Notice takes effect

Contact: Gordon Hogben