

TONBRIDGE & MALLING BOROUGH COUNCIL

AREA 2 PLANNING COMMITTEE

08 July 2015

Report of the Director of Planning, Housing and Environmental Health and Director of Central Services

Part 1- Public

Matters for Information

ENFORCEMENT ACTION IN CONNECTION WITH DEVELOPMENT AT LAND REAR OF 19 – 29 STATION ROAD, BOROUGH GREEN – UPDATE REPORT

To update Members on enforcement action taken using emergency powers in connection with the development on land to the rear of 19 – 29 Station Road, Borough Green.

1.1 Introduction

- 1.1.1 Planning permission was granted for the development of this site for residential purposes under reference TM/12/02970/FL. The planning permission was subject to a number of restrictive conditions including a requirement on the developer to formally submit details of the slab levels of the building. These details were formally submitted and approved but it became clear that the development subsequently under construction was being constructed almost 1m above the approved slab level, with the prospect of significant increases in height of the development overall.
- 1.1.2 Due the potential for harm that could arise from this deviation in slab level, it was considered appropriate to issue a Temporary Stop Notice on 21 May 2015. This was served in order to ensure that unauthorised works did not continue to progress on site whilst officers took the opportunity to assess the implications of the construction to date and establish whether any remedial action could be negotiated in order to overcome the potential harm arising from the increased height of the slab level. The Notice took immediate effect but the temporary nature of such Notices meant that it only had effect until 18 June 2015.
- 1.1.3 During this period, the developer complied with the Temporary Stop Notice and stopped all works on site and a meeting was held with a view to negotiating an appropriate solution. However, the developer indicated that the development, in their view, had to be constructed at the current level to enable a sufficient fall and flow to enable the drainage system to operate efficiently. Technical discussions have been held in this respect with the

Council's own Building Inspectors who have advised that there are other technical solutions that could be adopted to resolve this issue other than simply increasing the slab level. It should be noted, that following the commencement of the development, the developer did not approach the Council to explain that such a problem had been encountered, instead choosing to simply carry on with the works.

- 1.1.4 At this time, officers also considered whether the design of the building could be amended in such a way that could compensate for the increased height of the slab level, such as a reduction in the ridge height and accommodating the first floor rooms within the roof space for example. Each scenario explored by officers created a different issue of its own, in terms of either visual impact or concerns regarding residential amenity, given the highly constrained nature of the site. It was therefore concluded that the only way the development could be undertaken in an acceptable way was to accord with the previously approved plans and levels.
- 1.1.5 Having exhausted all potential avenues for resolving this matter during the period of the Temporary Stop Notice, the decision was taken that the only remaining course of action was to use the emergency powers of the Director of Central Services to serve an Enforcement Notice requiring the removal of the unauthorised development. The Enforcement Notice was served on 18 June 2015 in order to coincide with the expiry of the Temporary Stop Notice. If no appeal is lodged by the developer, the Notice will become effective on 21 July 2015 with a period for compliance of three months.
- 1.1.6 We have reported this matter to the Committee in view of the potentially serious nature of the breach of planning control and the significant extent of the works required by the Enforcement Notice to rectify the unauthorised situation.

FOR INFORMATION