

29 JUNE 2021 PLANNING COMMITTEE

6n ENF/2021/00046

WARD: Heathlands

LOCATION: Warehams Grange, Sutton Green Road, Sutton Green, Guildford, Surrey, GU4 7QH

DESCRIPTION: Unauthorised detached structure comprising triple garage and self-contained 'guest cottage'.

OFFICER: James Kidger

PURPOSE

To seek Committee approval for Enforcement Action and to authorise all actions necessary to remedy the breach of planning control including proceedings in the courts.

PLANNING STATUS

- Conservation Area
- Green Belt
- Locally Listed Building
- Thames Basin Heaths Special Protection Area (TBH SPA) Zone B (400m-5km)

RECOMMENDATION

1. Issue an Enforcement Notice in respect of the above land requiring the following within six months of the notice taking effect:
 - a) Remove from the land the detached single storey structure comprising a triple bay garage and guest cottage; and
 - b) Remove from the land all material, rubble, debris and paraphernalia arising from compliance with the above.
2. That the Head of Legal Services be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended, and officers be authorised in the event of non-compliance to prosecute under Section 179 of the Town & Country Planning Act 1990 or appropriate power and/or take direct action under Section 178.

SITE DESCRIPTION

The site comprises a large, detached, locally listed dwelling and extensive surrounding curtilage accessed off a track to the south-east side of Sutton Green Road. The dwelling was formerly known as Sutton Manor. It is part of the Sutton Park Conservation Area and within the Green Belt.

The unauthorised development is located immediately to the rear of the west flank of the dwelling, and is around 19m deep and over 12m wide at its widest point.

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PLANNING HISTORY

- PLAN/1992/0783 – side extension – approved 15th October 1992.
- PLAN/1994/0895 – side extension – approved 2nd February 1995.
- PLAN/1998/0942 – change of use of land to residential – refused 10th December 1998.
- PLAN/2000/0566 – stables and tennis court – approved 13th July 2000.
- PLAN/2008/0347 – replacement stable block – approved 9th October 2008.
- PLAN/2015/0902 – certificate of lawfulness to establish the extent of the residential curtilage – granted 14th October 2015.
- PLAN/2017/0990 – relocation of porch and erection of gates – approved 24th October 2017.
- PLAN/2017/1183 – certificate of lawfulness for two outbuildings – granted 14th December 2017.
- PLAN/2017/1318 – certificate of lawfulness for rear conservatory – granted 19th January 2018.
- PLAN/2018/0020 – certificate of lawfulness for swimming pool – granted 25th January 2018.
- PLAN/2018/0186 – two storey front extension – approved 26th April 2018.

RELEVANT PLANNING POLICY

National Planning Policy Framework (NPPF) (2019):

Section 2 – Achieving sustainable development

Section 12 – Achieving well-designed places

Section 13 – Protecting Green Belt land

Section 15 – Conserving and enhancing the natural environment

Section 16 – Conserving and enhancing the historic environment

Development Management Policies DPD (2016):

DM2 – Trees and landscaping

DM9 – Flats Above Shops and Ancillary Accommodation

DM10 – Development on Garden Land

DM13 – Buildings in and Adjacent to the Green Belt

DM20 – Heritage Assets and their Settings

Woking Core Strategy (2012):

CS6 – Green Belt

CS8 – Thames Basin Heaths Special Protection Areas

CS20 – Heritage and conservation

CS21 – Design

CS24 – Woking's landscape and townscape

CS25 – Presumption in favour of sustainable development

Supplementary Planning Documents (SPDs):

Parking Standards (2018)

Woking Design (2015)

Climate Change (2013)

Outlook, Amenity, Privacy and Daylight (2008)

BACKGROUND

A number of applications for planning permission and certificates of lawfulness were made during the 2017-18 period, including for a swimming pool, detached pool house, and front extension to the dwelling. The swimming pool and front extension appear to have been built

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in accordance with PLAN/2018/0020 and PLAN/2018/0186 respectively, but the pool house considered lawful under PLAN/2017/1183 has not been constructed.

Instead, a much larger structure has been erected, part of which lies in the approximate position of the previously proposed pool house. This larger structure is the subject of this report.

The Planning Enforcement team undertook site visits on 8th and 12th April 2021 and the unauthorised structure was observed. The owners have been contacted and engaged with but the unauthorised structure remains in situ.

At the time of writing a retrospective planning application has not been received from the owners for the retention of the unauthorised structure. The owners have not been invited to submit a retrospective application because it is considered unlikely such an application would be successful.

The Council must have regard to its public sector equality duty (PSED) under S.149 of the Equalities Act 2010. This requires consideration to be given to the need to eliminate unlawful discrimination. It is not known whether the owner falls within one of the protected characteristics. Officers do not consider that the recommendation in this report would have a disproportionate impact on any potential protected characteristic.

It is therefore considered expedient to serve an Enforcement Notice having regard to the provisions of the development plan and to other material considerations and authority is sought to serve an Enforcement Notice.

EXPEDIENCY OF TAKING ACTION

It is considered expedient to take Enforcement Action for the following reasons:

1. The unauthorised development constitutes inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt. Moreover, the development significantly harms the openness of the Green Belt due to its bulk, mass, and the increased spread of development across the site. No very special circumstances (VSC) have been identified and officers remain to be convinced that VSC would exist, or carry sufficient weight to outweigh the significant harm to the Green Belt, which must be afforded substantial weight as per paragraph 144 of the National Planning Policy Framework (NPPF).
2. The 'guest cottage' element of the unauthorised development is entirely self-contained and could be occupied independently from the main dwelling. As an independent unit it would be out of keeping with the pattern and form of surrounding development and thus harmful to the character of the Conservation Area and the setting of the listed house.
3. The unauthorised development does not constitute permitted development under Schedule 2, Part 1, Class E of the General Permitted Development (England) Order 2015 (as amended) because a) it exceeds the size tolerances, and b) it contains primary living accommodation. In any case, the implementation of permission granted under PLAN/2018/0186 has resulted in the loss of these rights as per Condition 5 attached to the consent.
4. It appears to the Council that the unauthorised development was substantially completed within the last 4 years. Google Earth imagery shows that the development had not commenced on 23rd June 2018, and was largely complete on 15th April 2020.

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Building Control records indicate an Initial Notice was approved in July 2019, and a Final Certificate issued in July 2020.

5. Paragraph 58 of the NPPF states that 'Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control'. It is considered that enforcement action is proportionate for the reasons listed above.

The above reasons therefore make it expedient to undertake enforcement action and issue the necessary notice.

FINANCIAL IMPLICATIONS

The financial implications including staff resources, the costs of any subsequent appeal, court hearing, legal representation and/or any other costs (including, where appropriate, taking direct action) are all matters that have been considered in the making of this report.

An appeal against an Enforcement Notice could be subject to an application for full or partial award of the Appellant's costs in making an appeal if it was considered that the LPA acted unreasonably.

If the committee decide to take enforcement action and the owner decides to exercise their right of appeal, this case is unlikely to be determined by Public Inquiry and therefore costs are likely to be minimal.

BACKGROUND PAPERS

Site Photographs dated 8th April 2020 and 12th April 2020.
Building Control records under 19/03442/DEXIN.
Google Earth imagery from 2018 to 2020.

RECOMMENDATION

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