

AGENDA ITEM: 5e ENFORCEMENT REPORT

WARD: HE

Committee: PLANNING COMMITTEE

Date of meeting: 26 JUNE 2018

Subject: UNAUTHORISED DEVELOPMENT – CREATION OF A SEPARATE 2 BEDROOM DWELLING BY CONVERTING A DOUBLE GARAGE AT MEADOWBROOK, PREY HEATH ROAD, MAYFORD, WOKING, SURREY, GU22 0SL.

Case Officer: DAVE CALVERT

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1. RECOMMENDATION

Enforcement action be authorised to issue an Enforcement Notice in respect of the land requiring:

- I. Cessation of use of the double garage and other parts of the main house as an unauthorised dwelling within 3 months of the Notice taking effect.
- II. Reinstatement of the double garage, including its external appearance within 6 months of the Notice taking effect.
- III. Removal of all associated debris from the site within 6 months of the Notice taking effect.

2. SITE DESCRIPTION

The application site is located to the north of Prey Heath Road and immediately to the east of the mainline railway situated within the Green Belt. It is accessed by a track leading north from Prey Heath Road which traverses Prey Heath Common. Meadowbrook is a single-storey detached dwelling which has benefitted from extensions.

The immediate area is characterised by a sporadic pattern of development in a rural setting around the edge of the common.

3. PLANNING HISTORY

PLAN/2017/0935 – Proposed single storey extension. Withdrawn 21.09.2017

PLAN/2015/0301 – Proposed conversion of a double garage into a 2 bed flat. No Further Action 26.10.2017

PDENQ/2007/0164 – Permitted Development Enquiry – Conversion of integral garage and other internal alterations. Received 02.03.2007, no decision given.

PLAN/2000/0874 – Single storey rear extensions. Granted 28.09.2000

PLAN/1995/0474 – Erection of a double garage to the side. Granted 28.07.1995

DC 84/0192 - Erection of a single storey bedroom extension. Permitted

DC 82/0644 - Erection of a detached bungalow on land Adjacent to Meadowbrook. Refused

DC82/0020 - Erection of a single storey extension to existing dwelling. Refused

DC 77/0908 - Erection of bungalow with garage on land at the White House. Details of bricks, in pursuant to Condition 4 on 77/0010. Permitted

DC 77/0010 – Demolition of existing derelict house and erection of bungalow with garage at the white house. Permitted

DC75/0914 - Demolition of remains of existing house destroyed by fire and erection of a detached house and double garage at the white house. Permitted

4. REPORT

A Planning Application was made for proposed conversion of double garage into a 2 bed flat on 25 March 2015 along with the fee, but no copy of the Planning Application, drawings, etc. were ever received.

In April 2015 the owners of the property sought to have part of the property which is now known to be the former double-garage area, registered as a separate address to be known as 'Meadowbrook Annex.'

In June 2016 a letter was sent out to the owner of the property seeking the relevant documentation to make the planning application valid. There was no response.

The matter was taken up by the Planning Enforcement Team. Upon writing to the owner it became clear that the situation was complicated; the owner confirmed that they had applied to the Council's Building Control Service, for a garage conversion, providing them with all the necessary paper work, to oversee the works being undertaken. This work were commenced on 6 October 2014 and completed on 28 November 2014.

Subsequently the Planning Enforcement Team continued to request the owner to provide the requested information to make their Planning Application valid. The owner's response was that they had provided the Planning Department with all the necessary paperwork.

The submissions remained invalid and in October 2016 the decision was taken to take no further action with the case and close the case on the Local Planning Authority's records given that insufficient information had been received to process an application.

In March 2018 a Planning Enforcement Officer received concerns from the Council's Council Tax Section that there was a separate dwelling at Meadowbrook being as the owner had applied for a tax banding for the separate dwelling.

Throughout April and May 2018, the Planning Enforcement Team has communicated by email with the owner to clarify a number of concerns raised by the owner in regards to receipt of his initial planning fee, what the next steps are to resolve the breach of planning control and how long the owner has to submit a new planning application.

It is understood that a fully completed retrospective Planning Application for the breach is to be submitted by 16 July 2018. The works, under Building Control Regulations, was completed on 28 November 2014 it would therefore appear that the unauthorised works will be immune from enforcement action on 28 November 2018.

6. EXPEDIENCY OF TAKING ACTION

Introduction:

Officers consider that it is expedient to take Enforcement Action for the following reasons:-

It appears that a breach of planning control has occurred as a matter of fact by the conversion of the double-garage element permitted under PLAN/1995/0474 and parts of the main house into a separate residential dwelling. This constitutes development that would have required Planning Permission. The serving of a Notice is required to prevent immunity from enforcement action under the four years rule conferred by S.171B of the Town and Country Planning Act 1990.

Furthermore, it is considered that it is expedient to take action because a consideration of the planning merits of the proposal as set out below would conclude that the breach can only be adequately remedied with appropriate planning conditions and a SAMM payment which can only be secured in association with a Planning Permission.

Ecology and Thames Basin Heaths

The site is immediately adjacent to a Site of Special Scientific Interest (Prey Heath) and is within 5km of the Thames Basin Heaths Special Protection Area.

In March 2005, the Government designated areas of heathland within the Thames Basin Heaths as Special Protection Area (SPA) under Habitats Regulations. The SPA has been identified as an internationally important habitat for three rare species of ground nesting birds. The designation provides increased protection to a variety of rare birds and habitats and is a vital part of global efforts to conserve the world's biodiversity. These internationally important sites of nature conservation value are to be given the highest degree of protection. The Habitats Regulations require Local Planning Authorities to satisfy themselves that, before granting planning permission, the proposed development will not adversely impact on the integrity of the SPA.

Natural England considers that the intensification of residential development up to a distance of 5 kilometres away from the SPA would result in a range of pressures with potentially adverse effects on the protected habitat. Between 400 metres to 5 kilometres from the SPA, mitigation is therefore required. Without mitigation, planning applications for new residential development within 5 kilometres of the SPA will be refused as it cannot be determined that they will not have a significant effect on the SPA.

The mitigation is provided in the form of a financial contribution towards Suitable Alternative Natural Greenspace (SANG). The purpose of SANG is to attract informal recreation users, such as walkers and dog walkers away from

the SPA. SANGs will provide alternative open spaces for use by future occupants of development and existing residents to avoid the potential harm caused by more visitors to the SPA. SANG land can be new open space, or the improvement of existing open space to increase its capacity for informal recreation. As part of the SPA mitigation, Natural England requested that all Local Authorities affected by the SPA designation collect a contribution per dwelling, in addition to the above SANG financial contribution, towards the Strategic Access Management and Monitoring (SAMM) of the SPA. This SAMM contribution will be used to implement an identified programme of works to mitigate the impacts of the proposed developments.

Generally, SANG contributions are secured through the Community Infrastructure Levy (CIL). This proposal would not be CIL liable because it involves the subdivision of a house by the conversion of existing floorspace. However, it would still require the SAMM contribution in order for the Local Planning Authority to be able to determine that the proposal does not have a significant effect on the SPA.

In this instance the SAMM requirement would be £682 for the 2 Bedrooms. In the absence of a planning application, and therefore a mechanism to secure this payment, the Local Planning Authority cannot meet the requirement of the Habitats Regulations that the development does not have a significant effect on the SPA and the breach of planning control is consequently contrary to the provisions of these Regulations as well as the NPPF and Policy CS8 of the Woking Core Strategy.

It is consequently expedient to take enforcement action on this basis.

Notwithstanding this, it is not considered there would be a materially harmful effect on the adjacent SSSI.

Green Belt:

The site is located within the Green Belt. Paragraph 90 of the National Planning Policy Framework (NPPF) states that the re-use of buildings (provided that the buildings are of permanent and substantial construction) in the Green Belt is NOT inappropriate “provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt.” Local policy, including Policy DM11, is consistent with this.

Green Belt land serves five purposes:

1. to check the unrestricted sprawl of large built-up areas;
2. to prevent neighbouring towns merging into one another;
3. to assist in safeguarding the countryside from encroachment;
4. to preserve the setting and special character of historic towns; and
5. to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Given the nature of the works, it is not considered that they would conflict with any of these purposes.

In terms of the impact on openness, the proposal does not involve new extensions only involving the use of parts of the main house and the previously-approved garage accommodation and, although this displaces parking from inside the garage and results in a parking requirement for the new dwellings,

the additional amount of traffic to site would be negligible and parking would be contained within what is already hardstanding in the envelope of built form.

The curtilage of the existing property could be subdivided and therefore it would not be necessary for additional residential curtilage to be created beyond the existing envelope of built form and curtilage and there would be no encroachment of manicured gardens and the paraphernalia associated with them beyond what is already domestic curtilage.

Subject to conditions to control permitted development rights for further extensions, outbuildings and hardstanding, the unauthorised development need not necessarily be unacceptable in principle in Green Belt terms.

However, in the absence of a Planning Application and the opportunity to attach such conditions removing Permitted Development rights, the LPA cannot be assured that the conversion would not have any greater impact on the openness of the Green Belt contrary to the NPPF.

Therefore, it is expedient to take Enforcement Action on this basis also.

Impact on Character of the Area

The physical implications of the breach of planning control are limited. The conversion of the garage is not considered to be out of character and the implications of the displacement of the parking are minimal.

The subdivision of the plot to provide private curtilages for each property raises no issues as the land is already residential curtilage and the pattern of development around the northern edge of the common is sporadic with varying sizes of garden apparent. The proposal would consequently accord with Policy CS24 of the Core Strategy and Policy DM11 of the Development Management DPD in this respect.

However, the lack of harm identified in this respect does not outweigh the harm noted above.

Living Conditions & Other Matters

Similarly, it is considered that appropriate living conditions could be provided for both the original and new dwellings but compliance with this requirement does not override the harm identified above.

The proposal does not appear to result in the loss of a family dwelling and does not raise any significant parking or highways issues. Appropriate bin storage facilities could be made available for both properties.

Summary

It appears to the LPA that, as a matter of fact, a breach of planning control has occurred. The LPA will be disbarred from taking action against this breach if it is demonstrated that the breach has been continually in effect for 4 years.

It is expedient to take action against the breach caused by the creation of a separate dwelling because, in the absence of a planning permission with associated conditions and SAMM payment, the LPA cannot reasonably

determine that the proposal does not have a significant impact on the SPA and does not cause harm to the openness of the Green Belt.

7. RECOMMENDATION

Enforcement action be authorised to issue an Enforcement Notice in respect of the land requiring:

1. Cessation of use of the double garage as an unauthorised dwelling within 3 months of the Notice taking effect.
2. Reinstatement of the double garage, including its external appearance within 6 months of the Notice taking effect.
3. Removal of all associated debris from the site within 6 months of the Notice taking effect.