

Report

Report subject: Dance studio (outbuilding) erected in the garden of Paddock View, 17 Beechfield, Newton Tony

Report to: Northern Area Committee

Date: 15th December 2005

Author: Stephen Hawkins, Principal Planning Officer (Enforcement)

Report Summary

To consider the expediency of enforcement action in relation to the timber outbuilding described as a dance studio erected in the garden of the above dwelling.

Introduction/Planning History

The outbuilding the subject of this report is around 4.5 metres long, 2.5 high constructed in timber with a monopitch, corrugated sheet metal roof.

The building appears to have been erected to replace a building of similar form and dimensions, sited at a right angle to the current structure. The demolition of the former structure had been given consent under S/03/088 dated 27th February 2003. Some of the materials salvaged from the demolished structure (windows, door) appear to have been incorporated into the new outbuilding.

'Paddock View' is a new dwelling erected with permission standing mainly to the rear of the Grade II listed cottage known as 'Little Old Thatch.

Members will recall that this site has a somewhat controversial recent planning history, principally relating to the dwelling erected on the site in accordance with planning permission S/03/2301 dated 27th February 2004 and a subsequent conservatory and hardstanding constructed without permission in Spring 2005.

A Breach of Condition Notice (BCN) was served requiring the removal of the conservatory and hardstanding by no later than 9th May 2005. However the Notice was not complied and a case against the persons responsible is currently the subject of continuing proceedings in the Magistrates' Court. A trial date has now been set for mid-February 2006.



Awarded in:
Housing Services
Waste and Recycling Services



The conservatory was the subject of refused planning application S/05/0855 now the subject of a planning appeal. At the date of writing, this appeal had not been decided by the Planning Inspectorate.

The outcome of the above appeal has no bearing on the Council's decision to continue proceedings in relation to the failure to comply with the BCN.

In addition to the above, in early August the site was visited following representations received concerning the erection of an outbuilding. At that visit timber had been laid to form the base of an outbuilding to the rear of Little Old Thatch between the new dwelling and a brick outbuilding.

The occupier/owner and developer were both sent warning letters and advised of the need for planning permission for the outbuilding. However at further visits and notwithstanding further warnings to cease work, further development was undertaken and most recent visits confirm that the building is externally complete.

Members will recall that a retrospective planning application subsequently made to retain the building in question was refused on 21st November 2005.

Considerations

The need for planning permission

Although the outbuilding appears to have been erected on behalf of the occupier of the new dwelling 'Paddock View,' on land leased to that property, it is sited within the curtilage of Little Old Thatch. Moreover the site is also within a Conservation Area. As such, there are no 'permitted development rights available under either Class A or Class E of Part 1 of the GPDO for the erection of outbuildings above 10m³ in volume (the building in question has a volume of approximately 39m³)

Even if it were claimed that the outbuilding is in the grounds of 'Paddock' View, the building still requires permission because conditions imposed on that building took away 'permitted development' rights to build further such buildings without first obtaining planning permission. In any event as the site lies within the Conservation Area, the requirement for planning permission remains.

Design and appearance of Dance Studio

In determining the recent application, Members considered that the design and appearance of the outbuilding was not in keeping with either the neighboring Grade II thatched listed cottage which is early 18th century in its origins, or with the Conservation Area as a whole.

The Conservation Officer considered the building to be singularly unattractive and this was also the view of the case officer on the refused application. The case officer considered that whilst it could be argued that the building is simple in its design, being essentially a square box with a simple monopitch roof, little thought appears to have been put into how it relates with the neighbouring listed building.

It was also noted that the use of corrugated metal sheeting is not a material found commonly within the Conservation Area and the use of such a modern material is at odds with other roofing found locally in the immediate area.

Similarly the use of metal 'Crittal' framed windows in the front elevation was noted as not something that is considered suitable for the buildings position adjacent to the listed building. As such it was considered the development was contrary to policy CN5 of the Local Plan as the building by reason of its appearance harms the character and setting of the listed building.

It was also noted that there was previously an outbuilding (apparently used as an “dance studio”) situated at the site at right angles to the newly erected outbuilding and there are a number of other outbuildings still situated at the site. However these outbuildings were also considered to be of poor design and the combination of a number of such outbuildings all positioned in close proximity to the listed thatched cottage is unacceptable and led to an unrelated jumble of such buildings, which detracted from the area as a whole contrary to policy CN8 of the Local Plan.

Planning Policy Guidance Note 18

PPG 18 advises that in taking enforcement action against householders, it should be borne in mind that professional advice may not have been available and action should not be taken to remedy minor infractions of the GPDO.

It is considered that such circumstances do not apply here. The owner of the outbuilding had access to such advice and was also explicitly warned by the Council not to continue further development. The GPDO does not allow the erection of such a substantial outbuilding in this context.

For the above reasons and having regard to the rest of the guidance therein, it is considered that the course of action recommended below is fully consistent with PPG 18.

Human Rights

The recommended action will interfere with the owner’s enjoyment of her property under Article 1 and her right to respect for her home and privacy under Article 8.

As noted above the site is located where there are strict limits on development and Development Plan and national policy guidance gives strong weight protecting the traditional character and appearance of the area by ensuring high standards of design respecting the historic environment in terms of form and materials, in new buildings and enforcement action is therefore considered justified in the public interest.

The requirement to remove the building is considered a proportionate response to the breach; steps falling short of demolition would not undo the harm referred to in the report.

CONCLUSION

The ‘planning merits’ of retaining the outbuilding were considered by Members at the previous meeting, where it was resolved to refuse the retrospective application to retain the structure. In doing so, it was considered that this is a poorly conceived and designed building which takes little account of its situation within the Conservation area and next to the listed building. As such its continued retention is clearly contrary to several Local Plan policies.

Relevant national guidance and Human Rights issues are considered above. However enforcement action to secure removal of the outbuilding is therefore recommended.

RECOMMENDATION: That the Head of Legal & Property Services be authorised to issue an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 (as amended) and serve it on the appropriate person.

Alleging the following breaches of planning control: -

Without planning permission: -

Operational development on the Land consisting of the erection of a dance studio outbuilding, located in the position indicated in blue on the plan attached to the Notice.

Requiring the following steps to be taken: -

1. To permanently demolish the outbuilding on the Land shown in blue on the plan attached to the Notice, including its supporting timber base.
2. To permanently remove from the Land all of the resulting materials arising from the demolition in accordance with step 1 above.

Reason for serving the Notice: -

The dance studio outbuilding was erected on the Land without planning permission and by reason of its design, materials and appearance is an intrusive structure, out of keeping with both the Conservation Area and the neighbouring grade II listed building. Its continued retention is therefore contrary to policies CN3, CN5 and CN8 of the adopted Salisbury District Local Plan.

Time For Compliance: -

1. Step 1 above-one month.
2. Step 2 above-one month.

Implications:

- Financial: None at this time.
- Legal: Detailed in the report.
- Human Rights: Detailed in the report.
- Environmental implications: Detailed in the report.
- Council's Core Values: Protecting the environment.
- Wards Affected: Idmiston & Winterbourne.