



REGULATORY SERVICES COMMITTEE

27 June 2013

REPORT

Subject Heading:

Alleged breach of planning control at ,
Land to the rear of 19-25 Ferndale Road,
Collier Row, Romford

Report Author and contact details:

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Policy context:

Local Development Framework

Financial summary:

Enforcement action and a defence of
Council's case in any appeal will have
financial implications

The subject matter of this report deals with the following Council Objectives

Ensuring a clean, safe and green borough	<input checked="" type="checkbox"/>
Championing education and learning for all	<input type="checkbox"/>
Providing economic, social and cultural activity in thriving towns and villages	<input type="checkbox"/>
Value and enhance the life of our residents	<input checked="" type="checkbox"/>
Delivering high customer satisfaction and a stable council tax	<input type="checkbox"/>

SUMMARY

This report concerns alleged breaches of planning control at a former garage site to the rear of 19-25 Ferndale Road, Collier Row Romford.

In July 2004 a planning permission was granted on appeal for the demolition of the existing garages and the erection of 2 dwellings with associated car parking. A number of conditions were attached to the planning permission.

Two of these conditions imposed by the Planning Inspectorate required details of schemes to be submitted to and approved in writing by the Council. The schemes required were details of landscaping and details of the access road and turning area.

Schemes were submitted to the Council, on behalf of the applicant, with plans and details, requesting that the conditions be discharged. These were subsequently approved.

In March 2012 the Planning Enforcement Service received a complaint alleging that the landscaping access road and turning area were not implemented in accordance with the approved plans.

This was investigated further and contact was made with the applicant and further schemes were submitted to modify the previous discharged conditions.

Planning staff considered the schemes which were subsequently refused.

At this juncture there does not seem to be a way forward or a will by the applicant to adhere to the previous approved schemes for the conditions and therefore Authority is sought for Enforcement Notices to be issued and served.

RECOMMENDATIONS

That Members consider that Enforcement Notices be issued and served to require within three months:

1. Cease the residential occupation of the dwellings approved vide P1734.03(allowed on appeal) until the approved scheme in relation to the Landscaping (shown on Plan drawing No 1865/2 and details therein contained) are fully implemented.
2. Cease the residential occupation of the dwellings approved vide P1734.03 (allowed on appeal) until the approved scheme in relation to the access road and turning area have been constructed and marked out in accordance with Plan drawing No 1865/2 and details therein are fully implemented.
3. Remove all materials associated spoils paving and rubble brought on to the land in connection with the unauthorised development in (1) and (2) above.

In the event of non compliance and if deemed expedient that proceedings be instituted under the provisions of the Town and Country Planning Act 1990.

REPORT DETAIL

1. Site Description and Surroundings

- 1.1 The site; Land to the rear of 19-25 Ferndale Road Collier Row Romford ,was a small garage site consisting of single and a block of garages to the rear of residential semi-detached dwellings. It is located within a predominately residential area and the surroundings are mixed in scale and form. There are terraced and semi-detached dwellings to the north west of the site in Ferndale Road and detached properties to the west.
- 1.2 Some garages have now been demolished and replaced with two houses (now known as 1 & 2 Nolands Close, Romford, RM5 3FD) with a residential gardens and car parking areas.
- 1.3 The authorised planning use of this part of the site is now consistent with P1734.03.
- 1.4 Access to the site is via a service road which not only provides access to the two new dwellings (subject of planning permission P1734.03) but also to existing garages provided for residents of Ferndale Road. These garages are in use for the purpose of parking motor vehicles

2. Relevant Planning History

2.1	P1734.03	Demolition of existing garages and erection of 2no Dwellings with associated car parking.	Refused. Appeal allowed. 21.07.2004
	Q0093.09	Discharge Condition 5 of P1734.03	Discharged in full – 26.08.2009
	Q0198.10	Discharge Conditions 2 &3 of P1734.04	Discharged in full– 24.12.2010
	Q0083.12	Discharge Condition 9 of P1734.03	Not Discharged – 16.05.2012
	N0059.12	Minor amendment to canopies of porch	Approved no conditions- 31.01.2013
	P1526.12	Variation of Condition 9 of	Refused -28.02.13

P1734.03 for part of the turning circle.

Q0242.12	Discharge of Condition 4 of P1734.03	Not Discharged - 28.02.2013.
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3. **Enforcement History**

3.1 None.

4. **Planning Contravention**

4.1 The alleged breaches of planning control are in relation to the failure to implement planning conditions 4 and 9 of planning application P1734.03 allowed on appeal, and detailed in the Planning Inspectorate Decision dated 21 July 2004.

4.2 **Condition 4:**

“The site shall be landscaped and planted with trees and shrubs in accordance with a comprehensive scheme which shall be submitted and approved in writing by the local planning authority (“the approved scheme”) before the development is commenced. The approved scheme shall be completed prior to the occupation of either of the dwellings hereby approved or in accordance with a timetable agreed in writing by the local planning authority. Any trees or shrubs that are removed, die, become severely damaged or seriously diseased within five years of planting shall be replaced by trees and shrubs of similar size and species to those originally required to be planted or other species as may be agreed”.

4.3 **Condition 9:**

“Neither of the dwellings hereby approved shall be occupied until the access road and the area of land shown hatched black on the approved plan has been constructed and marked out in accordance with a details submitted to and approved in writing by the local planning authority. Thereafter the area of land shall remain available at all times for the turning and manoeuvring of motor vehicles”.

5. **Staff Comments**

5.1 **Conditions 4 & 9**

5.1.1 On 28 June 2005 a letter was received (dated 23/06/05) by the Council, from the applicant’s agent, requesting conditions be discharged. This letter included a detailed plan no 1865/2.

- 5.2 Based on this letter and the attached plan (No1865/2) both Conditions were formerly discharged by the local planning authority a letter (dated 13/09/05) to the applicant's agent.
- 5.3 It is alleged that the dwellings on the site have been occupied without Conditions 4 & 9 being fully implemented.
- 5.4 It should be noted that there have been further submissions by the applicant for the Council to consider alternative schemes. . These have all been refused. The last refusal is dated 28/02/13.
- 5.5 Planning Enforcement Staff have visited the site on many occasions and confirm that the two dwellings are occupied .They note that in relation to Condition 4 there is insufficient landscaping. In particular there is no landscaping to the boundary with the residential dwellings in Ferndale Road. This area is hard-surfaced with brick paving. This has an unsatisfactory stark appearance.
- 5.6 It is our view that this area requires planting as in the approved scheme (Plan No 1865/2)
- 5.7 Staff, in relation to Condition 9, are of the view that the tarmac surface currently on site, needs to be larger and that some of the block paving needs to be removed from the land and that all parking areas are correctly marked. This would enable visitors, to the site, to identify easily, the difference between parking areas and the turning area.
- 5.8 It should also be noted that some of the residents in Ferndale Road have access to the site via the sites access road. This is to enable them to use their garages located at the rear of their properties, adjacent to the site.
- 5.9 It appears that the applicant is reluctant to implement the discharged conditions as shown on plan no 1865/2 and in the absence of an acceptable scheme Staff consider that Enforcement action is therefore necessary.
- 5.10 The relevant planning policies of the Local Development Framework, Core Strategy and Development Control Policies DPD, DC32 (Road Network) DC33(Car Parking), DC 61 (Urban Design), and SPD for Residential Design and Parking and SPD for Landscaping. Other material considerations include the National Planning Policy Framework and the London Plan (2011), notably policies 6.13, 7.4 & 7. 6
- 5.11 In conclusion, Staff are firmly of the opinion that planning conditions attached to the application P1734.03 subject of appeal are not being complied with. Staff are unwilling to allow the situation to become further protracted and have had little other option than to prepare this report seeking authorisation to serve an Enforcement Notice.

IMPLICATIONS AND RISKS

6. Financial implications and risks:

- 6.1 Enforcement action including defence of the Council's case in any appeal or prosecution have financial implications.

7. Legal implications and risks:

- 7.2 Enforcement action including defence of the Council's case in any appeal or prosecution will have legal resource implications.

8. Human Resources implications and risks:

- 8.1 No implications identified.

9. Equalities implications and risks:

- 9.1 It should be noted that the operators of the Church are of Black African origin as is the main congregation.

BACKGROUND PAPERS

- 1. Planning Appeal Decision re P1734.03
- 2. Letter dated 23/06/05.
- 3. Copy of Plan no 1865/2 dated 28/05/05
- 4. Letter dated 13/09/05
- 5. Ordnance survey Plan