

WEST OXFORDSHIRE DISTRICT COUNCIL
UPLANDS AREA PLANNING SUB-COMMITTEE
MONDAY 7TH AUGUST 2017

UNAUTHORISED WORKS TO A LISTED BUILDING NOT IN ACCORDANCE WITH CONDITION 2 OF PLANNING PERMISSION 14/0824/P/FP & 14/0825/P/LB (APPROVED DRAWINGS) AT 33, TAYNTON, BURFORD, OXON, OX18 4UH

REPORT OF THE HEAD OF PLANNING AND STRATEGIC HOUSING

(Contact: Stephanie Eldridge, Tel: (01993) 861653)

(The decision on this matter will be a resolution)

1. PURPOSE

To enable Members to consider whether it is expedient to authorise enforcement action to secure remedial works to ensure that the development is built in accordance with the approved drawings (Ref: 14/0824/P/FP & 14/0825/P/LB).

2. RECOMMENDATIONS

That Member's authorise the issue of an enforcement notice to secure remedial works to ensure that the development is built in accordance with the approved drawings within 6 months of the notice coming into effect. Further, if compliance with the notice is not secured to institute further actions to secure compliance.

3. BACKGROUND

- 3.1 Following a complaint it has come to light that a single storey extension to Grade II listed building, 33 Taynton, has not been built in accordance with the approved drawings (Ref: 14/0824/P/FP & 14/0825/P/LB). As such, unauthorised works to a listed building have taken place.
- 3.2 In an attempt to make contact with the owner and negotiate a solution to seek to regularise the unauthorised development correspondence was sent via email and post to the owner of the property; the contravener do not currently reside at no.33 Taynton. No response was received to officer's initial attempts at making contact. As a result a Planning Contravention Notice was issued on 28th March 2017 in order to outline the breach of planning control, to gather any relevant information, and to give the contravener the opportunity to either offer to undertake remedial works, or make any representations about the notice. Under the powers given to the Council under section 171C (2) and (3) of the Town and Country Planning Act 1990, the PCN required the contravener to respond to the notice within twenty-one days of the date of the notice. In light of the fact no response was received by officers a further letter was sent to the contravener on 5th June 2017 advising that if a response wasn't received by officers within 7 days of the date of the letter advising both why they have failed to respond to the PCN and how they seek to regularise the breach of planning control then the Council would have no alternative but to consider the expediency of taking formal enforcement action. No response to this final letter was ever received. Several land registry checks have been done in order for officers to confirm that the owner is still registered at the address the correspondence has been sent to.

- 3.3 Planning permission and listed building consent were granted for the erection of an extension to an outbuilding within the curtilage of Grade II listed property, No. 33 Taynton under reference 14/0824/P/FP & 14/0825/P/LB. The as-built structure differs from that approved in three primary aspects. Firstly, the timber eaves fascia is deeper and heavier than approved and now returns around the curved masonry end of the building. Secondly, the roof line is substantially higher than approved. Whilst it's obvious on site and in photographs that the roofline has been constructed significantly higher than shown on the approved plans, Officers have been unable to access the site as the garden gate has been locked each time the site has been visited and officers have been unable to get in touch with the owner to arrange a site visit. Therefore, Officers are unable to advise exactly how much higher the roof line has been constructed. Thirdly, a timber clad link extension has been constructed to link the outbuilding with the main dwelling. The approved drawings show just a glass canopy in this location.
- 3.4 The site sits within the Taynton Conservation Area, the Cotswold Area of Outstanding Natural Beauty and neighbouring property, No. 35 is also Grade II listed. The key issues for consideration are the impact on the character and appearance of the conservation area, the impact on the architectural integrity of the Grade II listed building, and the impact on the Cotswold Area of Outstanding Natural Beauty.
- 3.5 Within a Conservation Area, the LPA is required to take account of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended which states that, with respect to buildings or other land in a Conservation Area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Given that this is an attractive thatched Grade II listed property which sits on the main road through the Taynton Conservation Area, whilst the extension is not highly visible in the street scene, officers are of the opinion that the as-built structure is now very dominant, and ill-proportioned in comparison to the approved scheme which now forms an inappropriate relationship with the existing dwelling. Therefore, the unauthorised development fails to either preserve or enhance the Conservation Area.
- 3.6 As no. 33 is a Grade II Listed building, the LPA is required to take account of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended when considering development. This states that special regard should be given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 3.7 In considering the impact of the development on heritage assets case law is clear that there is a need to address paragraph 134 of the NPPF (as a footnote 9 restrictive policy) and the balance required there, before assessing compliance with paragraph 14 of the NPPF. Paragraph 134 of the NPPF establishes that 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal'. The as-built structure now appears very ill-proportioned and dominant which distracts and detracts from the main Grade II listed property. Further, the link extension forms an awkward junction with the low-lying rear of the main listed building which is considered to compromise the architectural integrity and character of the heritage asset to an unacceptable extent. Whilst this harm is considered to be less than substantial, the public benefit of the installation is not considered to outweigh the harm to the heritage asset. Therefore, the development is unacceptable in these terms. Even under a wider paragraph 14 assessment, the significant and demonstrable harm outweighs the benefit.

- 3.8 In light of these observations, having considered the relevant planning policies and all other material considerations, your officers are recommending that formal enforcement action is taken by way of the issue of an enforcement notice in respect of the unauthorised extension. Your officers are of the opinion that it is expedient to progress to formal enforcement action as the unauthorised extension fails to respect and is unsympathetic to the original character of the building and further because it fails to either preserve or enhance the character and appearance of the Conservation Area. As such the unauthorised development is considered contrary to policies BE2, BE5, and BE7 of the adopted West Oxfordshire Local Plan 2011, OS2 and EH7 of the emerging West Oxfordshire Local Plan 2031 and relevant policies of the NPPF; in particular I31, I32 and I34.
- 3.9 The National Planning Policy Framework states that 'effective enforcement is important as a means of maintaining confidence in the planning system'. Having regard to this principle, it is considered that the enforcement action to require remedial works to ensure that the development is built in accordance with the approved drawings (Ref: 14/0824/P/FP & 14/0825/P/LB) recommended is an expedient and a proportionate response to the harm identified in this report.

3. ALTERNATIVES/OPTIONS

Members may consider that the harm outlined in your officers report, is not so 'significant' such that it is expedient to take formal enforcement action.

4. FINANCIAL IMPLICATIONS

None at this stage.

5. RISKS

None at this stage.

6. REASONS

See Section 3 above.

Giles Hughes
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Background Papers:

None