

Runnymede Borough Council

PLANNING COMMITTEE

Wednesday 27 October 2010 at 7.30pm

A D D E N D U M

A G E N D A I T E M S

Part 1

Progress Report - Enforcement of Planning Control

1. Paragraph 2.11

Since the report was written the part-time enforcement officer who works three days a week has handed in her notice and will be leaving at the end of November. Until a replacement enforcement officer is in post, there will be one full-time enforcement officer.

PLANNING APPLICATIONS

1. Page 1

High Acre, Portnall Drive, Virginia Water - RU.10/0681

It is understood that the applicant has sent a 9 page letter plus a photograph to all Councillors. The main points of this letter are summarised below:-

- On the sheet entitled 'Historical Notes regarding High Acre application' the applicant raises the following points (which have been summarised)

(A) *Unfair decision in 1999 - Council has denied the applicant the possibility of reconstructing our house.*

Comment:

There was no decision on the 1999 application. This application was withdrawn by the applicant (see paragraph 2.6 of the report). The applicant has been consistently advised that if he disagrees with the Planning Authority decision he should go to appeal. There have been no appeals by the applicant.

(B) *Emerging policy 2001 - poorly advised by officers who used emerging policy rather than the original supplementary planning guidance on Policy GB6.*

Comment:

The applicant is making the same arguments as he has made with his previous applications in 1999 and 2005. The Planning Authority's approach has been consistent since 1999. Attached to the addendum is a letter dated 3 April 2001 and a photograph which were attached as appendices to the Planning Committee agenda when application (RU.05/0898) was refused permission by the Planning Committee in November 2005.

To deal with this issue requires an historical review of Policy GB6. Since Policy GB6 was conceived this policy has always referred to the size of the dwelling in May 1986. This specific reference has not changed in the adopted Local Plan. However, the supplementary guidance to Policy GB6 which seeks to assist with the interpretation of the policy has changed and evolved over the years.

The original supplementary guidance in January 1998 stated that the base figure is the floor area of the dwelling on site as at May 1986 including any extensions **built or approved before** May 1986.

This supplementary guidance was approved by the Council for consultation purposes in February 1998 but this consultation process did not take place because the Inquiry on the Local Plan overtook events. Following consideration of the Inspector's comments on the Local Plan, changes to the supplementary guidance were made. These changes were approved by the Council in December 1999.

These 1999 changes to the supplementary guidance provided a stricter definition on what could be included within the May 1986 base figure. The words '**or approved**' were deleted and thereby excluding any permissions which had not been implemented by May 1986.

The original supplementary guidance in January 1998 which the applicant is relying on never went to public consultation and was superseded by the 1999 changes to the supplementary planning guidance. This current application should be determined against the current relevant planning policies.

(C) *The 1999 changes also provided a definition of built as substantially completed.*

Comment:

The applicant believes that this application should be assessed against the originally worded supplementary guidance in January 1998 (a document which was not subject to public consultation) which would allow him to include the extensions approved in March 1986 within the May 1986 base figure. This would increase the base figure of the property from 138 sq m to 314 sq m.

(D) *A 30% increase in floor area from this base figure (314 sq m) would give a total floor area of 408 sq m above ground level.*

Comment:

The applicant has been advised since 1999 that this is not the correct interpretation of Policy GB6. Officers believe the correct interpretation of Policy GB6 since 1999 is that 'the base figure is the floor area of the dwelling on site as at May 1986 including any extensions built before May 1986'.

(E) *Pre-application meetings - the applicants' agent has been refused pre-application meetings with the case officer.*

Comment:

In May 2010 an email was sent from the Case Officer to the agent requesting some drawings so pre-application discussions could continue and a meeting take place if necessary. It is understood that no drawings were submitted before this application was submitted. The agent in completing the application form for this application has ticked the box which states that pre-application advice was sought and the agent states that the advice received was "may be contrary to policy but will reserve judgement until I see the plans and elevations".

(F) *Biased planning reports - officers are biased and often mislead the Committee in its Committee reports.*

Comment:

If the applicant truly believes that officers reports have been and are biased there is a formal complaint process and maladministration process to follow. I can find no record of the applicant following this course of action.

The applicant did not make these claims to the Planning Committee when application RU.08/0919 was recommended for approval by officers.

If the applicant believes that the reports and decisions made by the Planning Authority have been wrong, he does have a right of appeal. There have been no appeals made by the applicant.

(G) *Green Belt approvals on Wentworth - One agent (Rob Clarke) has had 20 or 30 applications approved on Wentworth in the Green Belt. He has not been refused permission but the applicant has?*

Comment:

Rob Clarke was the agent for the applicant on the applications RU.08/0919, RU.09/0127 and RU.09/0949. Rob Clarke is not the agent for this current application. RU.09/0127 was refused (see paragraph 2.10).

An initial search of applications since 2003 shows that Rob Clarke was the agent for at least 7 refusals since 2003. This agent does not therefore get all of his applications granted planning permission. This agent often withdraws applications if officers are minded to refuse his schemes.

(H) *No objections from neighbours - only one objection relating to ground water has been received.*

Comment:

There have been 2 letters of objection (see paragraph 4.1 of the report).

- (I) *Determination - this application has overrun the 8 week period. The provision of additional information should not slow down the processing of an application or for it to be considered as lacking information.*

Comment:

Some discrepancies on a submitted plan were found and a revised plan was requested. A revised plan was received on 30 September 2009. The submission of revised plans clearly slows the determination process.

This application with this recommendation and 2 letters of objection could have been determined by Officers under the delegated scheme.

Due to the history of this site, Officers took this application to the Chairman and Vice-Chairman for determination. This application was then referred to the Planning Committee to determine by the Chairman and Vice Chairman. One of the reasons for this referral was to allow the applicant a right to speak to the Planning Committee. This right to speak would not have been possible under any other method of determination. The procedural matters have therefore delayed the determination of this application.

- On the sheet entitled 'Comments on Runnymede Borough Council's Planning Report October 2010' (Summary).

- (J) *Paragraphs 2.4 and 2.5 - The RBC Building Control report and information is not correct. The extension only had to be approved or built.*

Comment:

As stated above the extensions had to be substantially completed or built to comply with the supplementary planning guidance.

- (K) *Paragraph 2.6 The applicant was misled when he withdrew the 1999 application. An appeal at Rainer was clear about not using emerging policy as a reason for refusal.*

Comment

The appeal at Rainer, Firwood Road in 1999 was for a conservatory. This appeal decision relied on Policy GB5 and the Inspector afforded limited weight to the emerging Policy GB6 because Policy GB6 had not been adopted at that time. Policy GB5 no longer exists. Policy GB6 is the adopted policy and has been the adopted policy since 2001.

This appeal was over 10 years ago and relied on a policy that no longer exists. There have been numerous appeal decisions that support Policy GB6 and the officer's interpretation of Policy GB6.

(L) Paragraphs 2.7, 2.8 and 2.9 - statements are erroneous and deceptive.

Comment:

The applicant was advised by an agent. It was the applicant's decision to withdraw application RU.08/0503. If the applicant did not agree with the Officer's advice, he should have asked the application to be determined as submitted and then go to appeal if this application was refused permission.

The 2008 approved dwelling is higher than the existing dwelling at the front elevation (see paragraph 3.4 of the report and the comment on (O) below) but because of the sunken ground levels in real terms it would appear to be no higher than the existing dwelling. The floor area of the 2008 application is 18 sq m less than the existing dwelling above ground but the total development of 774 sq m is far more than the existing dwelling.

(M) Paragraph 2.10 - disagree with approach.

Comment:

No appeal was made against this decision.

(N) Paragraph 2.11 - more appropriate to add the 54 sq m of permitted development to the replacement dwelling and minimise the impact on the Green Belt.

Comment:

The proposed extension if built under permitted development rights (RU.09/0127) would have less spread and less impact on the openness of the Green Belt than the proposed replacement dwelling. The use of what could be built under permitted development is not considered to be a very special circumstance in this case.

(O) Paragraph 3.4 – Height is to the reduced ridge height not that of the original house. Deceptive and misleading.

Comment

Officers do not understand the point that the applicant is trying to make. The point that officers are making at paragraph 3.4 of the report is that the existing front elevation of the property varies in height between 4.1m to 5.4m. The proposed dwelling at the front would have a height to the ridge of 6.1m. However, as the existing land levels would be lowered and the replacement dwelling sunken into the ground, in real terms the proposed front elevation of the replacement dwelling would be no higher than the existing dwelling.

(P) *Paragraph 3.6 Should this application be granted permission, the applicant is prepared to enter into a legal agreement to prevent the permitted development extension being built.*

Comment:

If planning permission was granted, the existing dwelling and extensions attached to the dwelling would have to be demolished before the new dwelling could be built. If permission was granted, conditions would be added to ensure that permitted development rights were removed from the new dwelling. There would be no need for a legal agreement.

(Q) *Paragraph 4.1 Only 1 objection received on technical ground.*

Comment:

There have been 2 letters of objection.

(R) *Paragraph 4.2 The roads on Wentworth are not County Roads. Misleading statement.*

Comment:

The County Highway Authority comment on all applications in the Borough including private roads such as Wentworth. The application needs to obtain separate consent from the Wentworth Roads Committee before commencing any development.

(S) *Paragraphs 6.3 and 6.4 - We have not had the 30% increase in size of the dwelling. The extensions to the dwelling were approved prior to May 1986. The approved house is smaller and the height is not like for like. Misleading. It does not breach policy and has no harmful effect on the Green Belt.*

Comment:

The background to the interpretation of Policy GB6 is set in detail above as comment to (B). The existing dwelling represents an increase in floor area of 127% since May 1986. Therefore, the 30% increase in floor area has been exceeded.

The 2008 permission would alter the land levels and therefore a comparison of heights between existing and proposed dwellings is not straightforward. The applicant has submitted a comparison drawing to illustrate the different scenarios.

The 2008 dwelling had a maximum height of 6.1 metres and would be sunken into the ground. This would be lower than the rear elevation of the existing dwelling but higher than the existing front elevation.

A floor area reduction of 18 sq m from the existing dwelling above ground level is only one of the criterion of Policy GB6 and the floor area should not be taken into isolation as the only issue. The form and massing of the dwelling also needs to be taken into consideration. The 2008 application was on balance considered to comply with the spirit of Policy GB6.

The proposed revised application seeks to increase the floor area of the replacement dwelling over and above the size of the existing dwelling above ground from 127% increase since May 1986 to 151% increase above ground since May 1986. This increase is considered to be harmful to the Green Belt.

(T) *Paragraphs 6.8 and 6.10 There is no marked difference between the 2008 scheme and the current scheme.*

Comment:

This current application is an incremental increase on the 2008 permission. It is larger than the 2008 permission. Incremental increases to buildings can be harmful to the openness of the Green Belt. As stated in paragraph 6.10 of the report, officers consider that a line needs to be drawn as to where the limit of development is on this site.

If the Committee accept all of the applicant's arguments the size of the dwelling as at May 1986 would increase from 138 sq m to 314 sq m. A 30% increase on this base figure would increase the floor area to 408 sq m above ground. If it is accepted that what he could build his permitted development rights at least an additional 50 sq m could be added to 408 sq m. The total floor area above ground would then be approximately 458 sq m for a replacement dwelling, not the 296 sq m granted with the 2008 permission or the 342 sq m with this current application.

This amount of development (408 or 458 sq m) is likely to impact the openness of the Green Belt.

(U) *Paragraphs 6.7 and 6.9 historical events have not been considered at all.*

Comment:

The historical events of this site have been taken into consideration. It is for these reasons that there is a commentary on the planning history which starts at paragraph 2.4 of the report and why this application has been referred to the Planning Committee for consideration (see comment on point J above). One of the reasons why the 2008 application was allowed at a 439% increase in floor area (total) or 114% increase in floor area (above ground) since May 1986 was due to the historic events on this site. The very special circumstances for the 2008 permission were the historic events on this site.