

16/00305/UNDEV
2 Wolsey Road
Ashford, TW15 2RB
1:1,250



Planning Committee

08 February 2017



Enforcement Ref:	16/00305/UNDEV
Site Address	2 Wolsey Road, Ashford, TW15 2RB
Breach	Erection of a building at the end of the rear garden for use as a dwelling.
Ward	Ashford Town
Recommended Decision	<p>That an Enforcement Notice be issued requiring the following steps:</p> <ul style="list-style-type: none">• Cease the use of the building as a dwelling• Removal of all kitchen facilities• Removal of all bathroom facilities

MAIN REPORT

1. Background

1.1. The application site is occupied by a semi-detached dwelling located on the southern side of Wolsey Road, no.2. The property is located within the urban area, with other similar though older dwellings along Wolsey Road. The rear of the property borders the rear gardens of dwellings located along Chesterfield Road.

1.2. The resident(s) of the outbuilding, the subject of this report, has recently developed both No.2 and No.4 Wolsey Road and is the co owner of both No.2 & No.4. Planning permission was originally granted to erect a first floor extension to both 2 & 4 Wolsey Road – 14/02212/HOU. Subsequently planning permission was granted to vary conditions in 14/02212/HOU to allow the creation of a second floor in the roof space – 16/00733/RVC.

- 1.3. The building appears to have been purposely built to accommodate the owner of 2-4 Wolsey Road during the development of the site.
- 1.4. The outbuilding comprises 2 bedrooms, a lounge/kitchen and a bathroom with windows and doors facing the main house and to the western and eastern sides. It is located at the end of the garden and measures approximately 8 metres by 4.5 metres and no more than 2.5m in height from ground level. It appears that the access to the outbuilding is currently via the side gate access of no.4 Wolsey Road and through the rear garden of no.4 crossing through to the rear of no.2 where a final fence panelling is missing. Access is via the side of the dwelling without going through either of the main houses.
- 1.5. The breach of planning control relates to the unauthorised erection of a building in the rear garden of no.2 which is used as a dwelling.
- 1.6. An Enforcement Notice requiring the cessation of the use of the unauthorised dwelling is required to be agreed by the Planning Committee because of the potential loss of a home.

2. Development Plan

- 2.1. Policy EN1 (amenity issues)
- 2.2. Policy EN11 (noise and disturbance)

3. Relevant Planning History

3.1. 14/02212/HOU Grant Conditional 02.03.2015

Erection of new first floor to no. 2 and no. 4 Wolsey Road (to change the bungalows into two storey dwellings) and erection of single storey side/rear extension to no. 2 and other minor external alterations to dwellings.

3.2. 16/00733/RVC Grant Conditional 28.10.2016

Variation of conditions 3 (approved drawings) and 8 (no further openings) to application 14/02212/HOU to allow the creation of second floor accommodation in the roof space and the installation of roof lights in the front, side and rear elevations.

4. Details of complaint and unauthorised development.

4.1. Complaints have been received from neighbours surrounding the site on a number of occasions about activities and buildings at the site of no.2 & no.4 Wolsey Road.

- Inhabitation of outbuilding.
- Breach of condition 6 attached to 16/00733/RVC – (Use Class must be C3 – residential).
- Parking & Congestion Issues due to work vans parking on road and not on driveways.

5. Planning considerations

5.1. The main planning consideration relates to the impact of the use of the development on the amenity of the neighbouring residential properties. The building extends across the width of the rear garden with windows and doors facing the main house and both western and eastern sides. It measures 2.5m in height from ground level. Whilst the building appears to comply with the Permitted development dimensional criteria (e.g. height no more than 2.5 metres) for outbuildings, it was erected as a dwelling and is not therefore, Permitted Development.

5.2. The Government's Technical Guidance on permitted development Page 41 in relation to the use of outbuildings states that, '*...the rules also allow, subject to the condition and limitations set out below, a large range of other buildings on land surrounding a house, Examples could include common buildings such as garden sheds, other storage buildings, garages and garden decking as long as they can be properly described as having a purpose incidental to the enjoyment of the house. A purpose incidental to a dwelling house would not, however, cover normal residential uses such as a separate self-contained accommodation nor the use of an outbuilding for primarily living accommodation such as a bedroom, bathroom, or kitchen.*'

5.3. As such, the outbuilding has not been built for a purpose incidental to the enjoyment of the dwellinghouse and therefore requires planning permission. The use of the outbuilding (which is located at the rear of the garden) as a dwelling is considered to cause noise and disturbance and harm the amenity of neighbouring properties. The use also results in the building being occupied at all times of the day, which would not be the case if it was only used as a gym or hobbies room which is incidental to the main house. This causes noise and disturbance to neighbouring residential properties, often at unsociable hours. As such the use of the building as a dwelling is considered to have a significant impact on the amenity of neighbouring residential properties at the detrimental to the enjoyment of their houses and garden

areas. The use of the building as a dwelling is also considered to be out of keeping with the character of the area. The proposal is considered to be contrary to Policies EN1 and EN11.

5.4. The provisions of the European Convention on Human Rights such as Article 1 of the First Protocol, Article 8 and Article 14 are relevant when considering enforcement action. There is a clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether enforcement action is taken, local planning authorities should, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control. In view of the need to enforce planning law for the public good it is not considered that this would contravene the Human Rights Act. Given the harm caused to the amenity of surrounding neighbours due to the unacceptable noise and disturbance, it is considered to be expedient to take enforcement action against this use.

5.5. Whilst the outbuilding extends across the width of the rear garden, its height is only 2.5 metres high. Given the generous size of the garden of no.2, and given that the building would have been permitted development if erected as a hobby room it is not considered necessary to require the demolition of the outbuilding. Consequently it is recommended that enforcement action is taken to cease the use of the building and not the removal of the structure.

5.6. It is therefore recommended that enforcement action be taken to :-

- Secure the cessation of the unauthorised use of the building as dwelling. However, regard must also be had to the need to give sufficient time for compliance and for existing occupants to find alternative accommodation and therefore a six month period is considered reasonable.

6. Recommendation

6.1. That Enforcement Notices be issued requiring the following steps: -

- Cease the use of the building as a dwelling
- Removal of all kitchen facilities
- Removal of all bathroom facilities

Such Notice to be complied with within 6 months of it taking effect.

Reasons for Serving of Notice

6.2. The use of the building as a dwelling results in unacceptable noise and disturbance to neighbouring residential properties and has a detrimental impact on their amenity and enjoyment of their houses and gardens and is out of character with the area. The proposal, therefore, is contrary to Policies EN1 and EN11 of the Core Strategy and Policies DPD 2009 and the Councils Supplementary Planning Document on the Design of New Residential Development (April 2011).



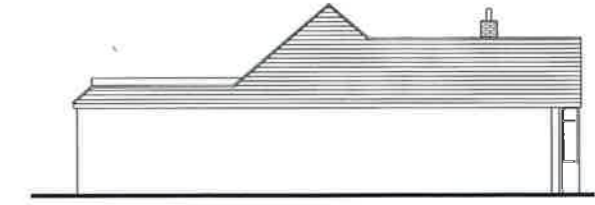
EXISTING FRONT ELEVATION



EXISTING REAR ELEVATION



EXISTING SIDE ELEVATION



EXISTING SIDE ELEVATION

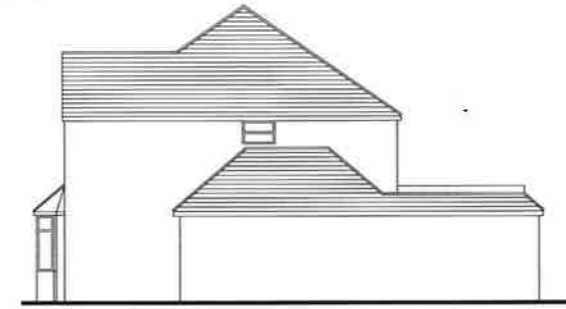
FACING MATERIALS TO MATCH EX.



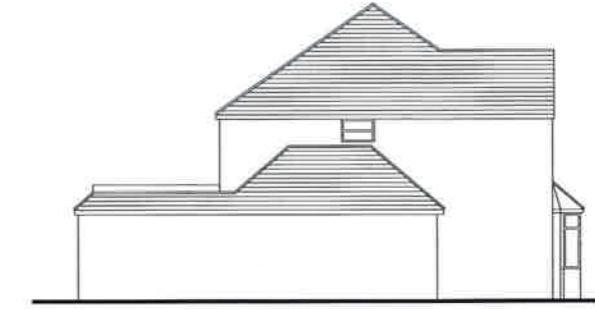
PROPOSED FRONT ELEVATION



PROPOSED REAR ELEVATION



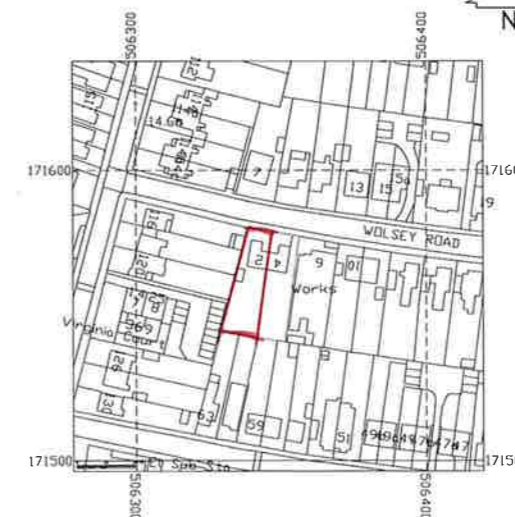
PROPOSED SIDE ELEVATION



PROPOSED SIDE ELEVATION



BLOCK PLAN 1:200
(Streetwise licence No. 100047474)



LOCATION PLAN 1:1250
(Streetwise licence No. 100047474)

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PLANNING ISSUE

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Title
APPROVED REMODELLING
ELEVATIONS, BLOCK PLAN
& LOCATION PLAN

Org. No **WR/02-04/02** Revision: 'A'
Scale 1:50, 1:100 & 1:1250 @ A1 Date DEC '14

