

Decision Maker: Plans Sub Committee 2

Date: 13 October 2011

Decision Type: Non-Urgent Non-Executive Non-Key

Title: LAND R/O 80 HIGH STREET, BECKENHAM –
REINSTATEMENT OF FIRE DAMAGED BUILDING

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Chief Officer: Chief Planner

Ward: Copers Cope

1. Reason for report

- 1.1 The site is situated to the rear of 80 High Street, Beckenham and to the south of residential properties in Church Avenue, Beckenham. It comprises a commercial dance school and associated buildings which were accommodated in several large brick-built units dating from the 1950's
- 1.2 Following an extensive fire in 2008 the units were virtually destroyed. Earlier this year the site was cleared of rubble and debris leaving the original brick walls and a gable end wall.
- 1.3 A complaint was received alleging that rebuilding works had commenced to re-instate the fire-damaged buildings without planning permission and included an increase in the height of the original walls. A supplementary report was presented to Plans Sub Committee on 15 September 2011 and it was resolved to authorise the issue of a stop notice if works on site did not stop.
- 1.4 Since that decision work on site has been suspended and a planning application has been submitted. As works have ceased enforcement and stop notice proceedings have not been issued. The applicant has requested that the decision to authorise the stop notice should be reviewed and has submitted the following supporting information:

“Agenda Item S5.2 considered an objection to the progression of ongoing reinstatement works at the above site. It is understood, on the information considered, that the Committee's decision was to recommend the issue a Stop Notice should on-site works proceed in advance of determination of a subsequent retrospective application for planning consent. It is noted that this was contrary to the Officer's written recommendation, which highlighted the works to be of a relatively minor nature given

the intent to reinstate a building of similar dimensions and scope to that which previously existed.

I would highlight, at an on-site meeting held on the morning of 15th Sept'11, (during which the fullest extent of the reinstatement proposals and boundary variations were outlined) that the Officer's subsequent written recommendations to Committee were verbally expressed and the works were intended to proceed (at our own risk) on this basis pending determination of the retrospective application and subject to ongoing enforcement review. We were not made aware that matters were to be placed before Committee on that date nor were given an opportunity to offer representation or clarity regards the reinstatement proposals at that time prior to issue of the Committee's decision.

I also understand, as borne out by reference to the Officer's Report and subsequent verbal confirmation from even the Objector's Advocate, that the Committee were not minded of the sites previous Grant of Planning Consent under an application determined July 2010 for a more comprehensive fire damage reinstatement scheme (which incorporated additional first floor accommodation, equating to an approx 25% overall increase in floor area to a far greater overall scale and height).

In view of the financial constraints subsequently imposed by the Client the approved scheme was considered beyond economic reach. It was therefore intended, subject to a degree of internal rationalisation, to seek reinstatement on a predominantly like-for-like basis which, in our opinion - being for reinstatement of existing and not being beyond the original confines, did not warrant further application nor grant of consent.

Modern, economic redesign of the reinstatement structure during the course of the works gave rise to a nominal increase in eaves height (proposed as 4No brick courses) on the sites existing western boundary wall to achieve an internal ceiling height reflective of that which previously existed. It is proposed that the overall height of the reinstatement structure would nevertheless be lower than that which originally existed by virtue of a shallower pitch. This effectively brings about a nominal increase/variation to the originally existing accommodation, giving rise to a technical planning contravention requiring a retrospective application submission - which was subsequently detailed and hand delivered on Tuesday 20th September 2011.

It is our contention that the Committee's decision to recommend the issue of a Stop Notice is flawed based upon insufficient information, as it did not take appropriate account of the nature and scope of the previously existing accommodation, did not consider the scope and context of the previous Grant of Planning Consent dated July 2010 and provided an inappropriate and disproportionate response to a minor infraction, as reinforced by the Officer's recommendation to Committee.

In accordance with the Committee's stated intent and given the legal ramifications we have temporarily suspended works on site but have sought to return this matter urgently to Committee for appropriate review at the earliest possible convenience in order for operations to resume and thereby minimise any financial loss. I understand that the next appropriate Committee sits on the 13th October 2011 and respectfully request that this decision be afforded a full review at this time, if not earlier.

In the interim I am mindful that the delay to operations on site is incurring financial penalties and the Authorities disproportionate response based on insufficient information is likely to give rise to a potential claim for damages, which I am sure you

will appreciate, I am keen to avoid. I would suggest immediate retraction of the Committee's stated decision to issue a Stop Notice on the basis of the foregoing in order that on-site operations may proceed and would consequently suggest acceptance of the Officer's recommendation.

I believe that the proportionate response proposed within the Officer's recommendation is a position with which the Member's would have concurred had they been fully minded and appreciative of the foregoing which it would appear they were not."

2. RECOMMENDATION(S)

- 2.1 That Members note receipt of the new planning application and,
- 2.2 Confirm that further consideration be given, if appropriate, to the expediency of enforcement proceedings after the determination by the Council of that application.

3. COMMENTARY

- 3.1 Complaints were received in early September that building works were being carried out on the site allegedly without planning permission. Of particular concern was an increase in the height of the original brick walls by approx. 300mm.
- 3.2 A site visit on 9-9-2011 confirmed that 4 additional courses of brickwork had been added to the surviving west wall which forms the boundary with the adjoining residential property at 42 Church Avenue, Beckenham.
- 3.3 Permission was granted in July 2010 for a part one/two storey replacement building for continued use as light industrial (Class B1) and leisure (Class D2). A Building Regulations application was submitted in September 2010 for the reinstatement of the fire damaged building for use as a dance school which has not yet been determined.
- 3.4 The approved plans indicated accommodation on the first floor of the replacement building to provide an entrance foyer, a fourth dance studio and an office. In order to achieve the additional headroom this resulted in an increase in the height of the proposed building by approx 1.7m on the east elevation facing the High Street.
- 3.5 On the north facing elevation the proposed replacement building was between 1.7m and 3.0m higher than the original building. The overall footprint of the replacement building was similar to the original although various changes to the elevational appearance were proposed.
- 3.6 The detailed design has since been amended to incorporate a shallower pitched roof to the new building. This involves material changes to the previous scheme and forms the basis of a revised application which has been submitted and will be reported to committee in due course. The revised design incorporates a reduction in roof pitch from 27.5 degrees to 22.5 degrees which will result in a reduction in ridge height by 0.38m. The reduction in overall height will assist in reducing the impact of the replacement building on the surrounding properties.
- 3.7 Although the redesign of the roof involves an overall reduction in ridge height, it has been necessary to increase in the height of the walls by 4 courses of brickwork to provide a base for the roof trusses. A detailed sectional drawing submitted with the new application indicates an increase in the height of the walls by approx. 0.3m above the original eaves level in order to achieve an internal head height of 4.1m. The planning merits of the increase in eaves height will be assessed as part of the consideration of the current application but should be viewed in the context of the overall reduction in ridge height.
- 3.8 A stop notice may be issued when the Council resolves that it is expedient that any activity specified in an enforcement notice should cease before the period of compliance specified in the notice. However, since it was resolved to issue the stop notice works on site have ceased and a revised application has been received. Given the former existence of a building of similar size on the same site which was destroyed by fire, that it has now been confirmed that relatively minor revisions to the permitted scheme are being sought, and the proposed reduction in height of the proposed building, the issue of enforcement proceedings and a stop notice is not considered to be necessary.
- 3.9 It is therefore concluded that it would not be expedient to take enforcement action at this stage and the Council should first determine the current planning application.