

**COUNCILLOR SIMON FAWTHROP'S COMMENTS IN REGARD TO ITEM 4.3 -
109 PETTS WOOD ROAD, PETTS WOOD, BR5 1JX
(Located within the Petts Wood Area of Special Residential Character)**

The issue with this application is whether a Certificate of Lawful Development should be granted given the impact on the proposal on the front roof line of the Petts Wood Area of Special Residential Character (ASRC). Members have to look at this application 18/02230 and not at application 18/03429 for which there is no objection.

As ward Councillors, and both Cllrs Onslow and Owen will I hope confirm their agreement, we recognise that buildings designed and built in the 1930s will need updating and refreshing to be commensurate with modern day living. However when looking at development it has to be taken in the context that Petts Wood is one of only two outstanding garden suburbs in the whole of Greater London, the other being its more famous counterpart of Hampstead Garden Suburb.

When drawing up the description of the ASRC Councillors and local residents struck a balance between preserving the appearance and character of the area, but allowing appropriate development. Unfortunately in recent times some residents took advantage of the gaps within the planning regulations to make inappropriate additions through Permitted Development Rights within the area. To prevent this degradation of the area, some PD Rights have been removed across the area, namely those with regard to the front roof line and with regard to the frontages. This was to ensure that reasonable development could be undertaken at the rear of the property without impacting the appearance and character of the ASRC.

In that regard, whilst there are some minor considerations around matching materials, the rear dormer aspect of this request is not opposed. It is also interesting to note that on the website this is not an application for a certificate of Lawfulness, whereas application 18/03429 is an application for a certificate of lawfulness and as previously stated I have no objection to that as it meets the criteria set out in the ASRC description. It is my belief that the report writer has confused the two applications and mixed them up in writing the report.

The rationale behind the removal of PD Rights was to ensure that the appearance of the ASRC remains intact. The description of Petts Wood ASRC lays great store in the rhythm of the street scene and the symmetry between pairs of semi-detached properties.

This is a relatively short report because it is concerned not with the details of the impact that this proposal might have on the ASRC, but the principle of granting a certificate which whilst not directly on the front roof line, impacts on the front roof line. The fact that the proposed development would be viewed from the front as highlighted at paragraph 1 in the report on page 50 means that should a certificate be granted, once the proposal is built it will have an impact on the front roof slope, even though it is set back.

The report does not indicate that legal advice was taken, nor is any legal advice presented within the report. Should members be of a mind that this does fall within a certificate of lawfulness then members have to consider the reasonableness test set out in law of the man on the Clapham Omnibus. Therefore when making a decision, members must also consider the description of the Area of Special Residential

Character, which has been circulated to members. This description sets out both the context and history of the area and would inform the reader of the great store set by the rhythm and character of the area as well as the importance of symmetry between pairs of semidetached houses.

Such a reasonableness test determines not just the words and meaning of the imposition of an Article 4 Direction, but also the spirit behind the removal of this Permitted Development Right in the context of the description. The test is therefore, what aught the reasonable man to believe? What does removing permitted development which impacts the front roof slope mean? My colleagues and I would contend that a reasonable man properly directed could only conclude that anything which is visible from the front impacts the front roof slope and sight lines. Any other outcome and one would be forced to conclude that a 50ft protruding monstrosity build on the rear or the side under permitted development should be allowed. Whilst an extreme example that is not the conclusion a reasonable man would draw from the removal of Permitted Development right is this instance. Councillors using local knowledge understand the history and context of the Petts Wood ASRC garden suburb, which has been established over decades, indeed I was instrumental in drawing up the revised description of the ASRC and probably have a greater and more detailed understanding of the context than anyone including planning and legal professionals. This reasonableness test was confirmed in ***R (John Child) v First Secretary of State and Test Valley BC [2005] EWHC 2368***, where a Certificate of Lawfulness was refused, when the applicant was deemed to have made a material change. What the applicant had requested was unreasonable in the circumstances.

This would be consistent with the decision at 40 Manor Way, application 18/02453/PLUD, where exactly the same application was refused on the grounds stated. Since then we have also had an inspectors decision at 1 Priory Avenue, which I have circulated which backs up the importance of protecting the building lines of the ASRC. Indeed in this case the applicant circulated emails to the Council in which they accepted that this application would not be allowed under permitted development, which demonstrates that the reasonable man including the applicant would accept that this impacts on the front roof slope.

In this case not allowing a certificate of lawful development does not prevent the applicant putting in a full application, which can deal with all aspects of an application including the history of the area and the context of the application. Councillors using local knowledge understand the history and context of the Petts Wood ASRC garden suburb, which has been established over decades. Or alternatively the applicant can rely on their other application for a certificate of Lawfulness which is not opposed.

I therefore propose that the certificate of lawful development be refused on the grounds stated.

1) Granting a certificate would be contrary to the existing Article 4 direction in that it adds to the front roof line breaking the symmetry and rhythm of the street scene, adding an incongruous bulk to the front roof slope as viewed from the road, making the application out of keeping with the street scene and contrary to the ASRC description and saved policies H10 and BE1.

2) The application fails the reasonableness test for granting a Certificate of Lawfulness, as highlighted in ***R (John Child) v First Secretary of State and Test Valley BC [2005] EWHC 236***.