

Decision Maker: Plans Sub- Committee No. 2

Date: 8 July 2021

Decision Type: Non-urgent Non-Executive Non-Key

Title: LAND AT THE BACK OF NUMBER 4 AND NUMBER 5 LEAVES GREEN CRESCENT, KESTON, BR2 6DN

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Chief Officer: Assistant Director,
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Ward: Darwin

1. Reason for report

In 1994 Planning Permission was granted for change of use of the land from grazing land to residential garden with Condition 1 stating Permitted Development Rights were removed from this land.

In 1996 Planning Permission was granted for a detached double garage with Condition 3 which requires that the garage should be used for purposes ancillary to the residential use of 4 Leaves Green Crescent, and not for commercial or other purposes.

The current structure now has the appearance of a bungalow, with an attached garage, with a separate vehicle access path in the rear garden. In April 2020 it was reported that an extension had been added to the western end of an existing single storey detached double garage in the rear garden. In July 2020 it was also reported that a second building had been constructed to the east of the original double garage, but not attached to that building. The owner asserts these are both within Permitted Development Rights. This is not the view shared by Planning Investigation.

Members are requested to agree to whether all the necessary enforcement action should be pursued in order to remedy the current breaches of planning control.

2. **RECOMMENDATION**

Planning Enforcement Action be authorised to require the current owner to:

- 1) **remove from the Land; the extension to the existing detached garage; in the approximate position marked A on the attached plan, and**

- (2) remove from the Land; the single storey detached outbuilding adjacent to the double garage; in the approximate position marked B on the attached plan, and developments, and
- (3) reinstate the Land and restore the existing detached garage to its condition prior to the unauthorised developments, and
- (4) remove from the Land all materials and debris associated with paragraph 5(1), 5(2) and 5(3).

3. COMMENTARY

- 3.1 The site is a piece of former grazing Land which on 30th March 1987 was acquired by the occupier of No. 4 Leaves Green Crescent Keston, BR2 6DN. The Land was thereafter used in connection with No. 4 Leaves Green Crescent. Subsequently on 28th August 2019, No. 5 Leaves Green Crescent (the current owner) purchased that Land. The Land however, is still registered at the Land Registry as Land at the back of 4 Leaves Green Crescent, Keston.

The owner has constructed without planning permission an extension to a detached garage building, and has constructed a separate detached building, as a result of that; the owner has breached two planning conditions which are attached to the said Land.

Background

- 3.2 Under planning reference 94/00028/FULL6 planning permission was granted for the change of use of the land from grazing land to land within the residential curtilage of No.4 Leaves Green Crescent, subject to conditions, and in particular Condition 1, which reads as follows:

“Notwithstanding the provisions of the Town and Country General Development Order 1988 (or any Order amending revoking and re-enacting this Order) no buildings, structures, alterations, walls or fences of any kind, other than those hereby permitted, shall be erected or carried out on the land the subject of this permission without the prior written approval of the Local Planning Authority”.

- 3.3 Permitted Development rights were removed, in order to allow the Council to consider any additional development on the site which is located in an Area of Special Landscape Character within the Green Belt.

- 3.4 Under planning reference 96/00714/FUL permission was granted for a detached double garage, subject to conditions, in particular Condition 3, which reads as follows:

“The garage shall only be used for purposes ancillary to the residential use of 4 Leaves Green Crescent and shall not be used for any commercial or other purpose.”

- 3.5 Under planning reference 19/05262/FULL6 permission was refused for an extension to the eastern end of an existing single storey detached double garage to incorporate a study and playroom. The reasons for the refusal are as follows:

“The proposal would constitute inappropriate development in the Green Belt and would result in a detrimental impact on its openness and visual amenity with no very special circumstances demonstrated to outweigh the harm caused; thereby the proposal would be contrary to Policy 51 of the Bromley Local Plan.

The proposal, by reason of its size, layout, siting and detached position, is capable of being severed and used as a separate self-contained unit of accommodation and therefore does not represent an ancillary form of accommodation to the main dwelling, which would in turn result in a cramped form of development that would be out of character with the area and contrary to Policy 7 of the Bromley Local Plan.”

Breach of Planning Control

- 3.6 On 27th May 2020 the site was visited. It was observed that an extension had been added to the western flank elevation of the detached double garage (permitted in 1996) within the residential curtilage of No.5. The extension had a flat roof and had the appearance of a garage with an up and over garage door to the front. The former double garage had two sets of double patio doors with side panel windows where the previous garage entrances would have been.
- 3.7 The new extension joins onto the larger building and has a doorway between the two buildings. The flat roof extension is 2.5m in height. It was explained that as the extension forms part of the larger building because they are attached, they become one building. The height of the original double garage measures 4.16m in height, the extended garage is 0.7m from the boundary. Permitted Development only allows a structure of 2.5m in height within this proximity of the boundary.
- 3.8 The owner was emailed the relevant legislation, in relation to Permitted Development regarding outbuildings on his request, as follows:
- “The relevant guidance is found within The Town & Country Planning (General Permitted Development) (England) Order 2015, Class E, Sub Paragraph E which specifically refers to “any part” of the building being within 2M of the boundary, then the building cannot exceed 2.5M. in height.”*
- 3.9 The owner was given three options to resolve the matter, as follows:
1. *Submit a valid retrospective planning application within 14 days from the date of this Email for determination.*
 2. *Separate the new flat roof building from the larger structure.*
 3. *Do nothing and risk formal enforcement action being commenced against you by the Council to remove the unauthorised work.”*
- 3.10 In June 2020 a letter was received from the owner which refuted the assertion that the development was not Permitted Development. However, the owner agreed to separate the extension from the original double garage.
- 3.11 On 21 July 2020 the Council received photograph evidence from a complainant showing the extension remained joined to the original double garage. This contradicted the agreement from the owner to separate these buildings. Further, a second building had been constructed to the east of the original double garage, separated from that building by only approximately one metre.
- 3.12 On 14th August 2020 an email was sent to the owner explaining that Permitted Development rights were removed in 1994. Consequently, planning permission is needed for both new buildings.
- 3.14 No planning application has been received for any of the new buildings.

Planning Assessment

- 3.15 It appears to the Council that the above breach of planning control has occurred within the last four years. Planning permission reference no. 94/00028/FULL6 was granted on 7 March 1994 for the change of use of grazing land (Land Registry Title Number SGL483516) rear of No.4 Leaves Green Crescent, Keston, to residential garden, and retention of 2 pigeon lofts, storage shed and aviary (Retrospective Application) subject to conditions.
- 3.16 Planning permission reference no. 96/00714 was granted on 23 May 1996 for a detached double garage within the residential curtilage of No.4 Leaves Green Crescent which included Land Registry Title Number SGL483516. (No. 4 Leaves Green Crescent has a separate title number)
- 3.17 No planning permission has been sought for either the attached extension on western flank elevation of original double garage or the single storey detached outbuilding erected adjacent to the east side of the existing double garage.
- 3.18 It is considered that the extension to the original double garage and the single storey detached outbuilding constitutes inappropriate development in the Green Belt which has a detrimental impact on its openness and visual amenity, in which no very special circumstances are considered to outweigh the harm caused; thereby the development is contrary to The National Planning Policy Framework, paragraph 145, Policy 51 of the Bromley Local Plan and G2 of the London Plan.

Summary

- 3.19 In 1994 planning permission was granted for a change of use of the land from grazing land to residential garden, subject to conditions, in particular Condition 1, removing permitted development rights.
- 3.20 In 1996 planning permission was granted for a detached double garage, subject to conditions, in particular Condition 3, requiring the garage to be used for purposes ancillary to the residential use of No.4 Leaves Green Crescent and not for commercial or other purposes.
- 3.21 The current structure now has the appearance of a bungalow, with an attached garage, with a separate vehicle access path in the rear garden. In April 2020 it was reported that an extension had been added to the western end of an existing single storey detached double garage in the rear garden. In July 2020 it was also reported that a second building had been constructed to the east of the original double garage, but not attached to that building. The owner asserts these both fall within Permitted Development Rights. This is not the view shared by Planning Investigation for the reasons given above.

4. POLICY IMPLICATIONS

Existing Policy and is addressed in report

5. FINANCIAL IMPLICATIONS

On-going costs - Matter will be dealt with within the financial budget

6. LEGAL IMPLICATIONS

Statutory requirement

Non-Applicable Sections:	Impact on Vulnerable Adults and Children; Procurement Implications, Personnel Implications
Background Documents: (Access via Contact Officer)	Not applicable