

Report of the Director of Planning and Community Development

CONSTRUCT DETACHED DWELLING AND DOUBLE GARAGE TEMPLE LAKE, KIMBERLEY ROAD, NUTHALL CONSIDERATION OF ENFORCEMENT ACTION

Details of the development

Members will recall that at the Development Control Committee of 7 December 2005 an application was considered for revisions to a scheme that was originally approved in September 2003 and subsequently altered by minor amendments accepted in July 2004. Construction work on the dwelling commenced in March 2005 and a substantial part of the building has now been completed. The revisions sought to the approved details primarily included (a) the raising of the garage roof by 0.2 metres (approx. 8 inches) to secure more effective accommodation in the roofspace, (b) the repositioning in the garage roof of two dormer windows on the north elevation together with two new obscured glazed rooflights, (c) the insertion of two new rooflights on the south elevation above the spa area, (d) the replacement of a tiled pitched roof over the conservatory with a flat roof and skylight, (e) the enlargement of a bedroom window above the conservatory (previously smaller as a consequence of the pitched roof), (f) the obscure glazing of four existing windows on the first floor of the northern elevation, and (g) the relocation of two dormer windows from the north elevation of the main building to a single dormer window to both the west and east elevations. In addition, some further changes had been made during construction to the openings for windows/doors to both the ground floor north elevation and the south elevation of the garage block, the change of a first floor bedroom window on the south elevation to a door (for a Juliet balcony) and the removal of "dovecote" features to the garage roof.

The application was refused for the following reasons:

1. The proposed flat roof to the conservatory makes a negative contribution to the overall scheme by removing the previously approved hipped roof which provided a more comfortable and harmonious relationship with the main bulk of the house, contrary to Policy E3 of the Broxtowe Local Plan.
2. The window detailing to the conservatory on the north and south elevation is inconsistent with the glazing detail on the west elevation and fails to provide a consistent detail to this part of the dwelling, contrary to Policy E3 of the Broxtowe Local Plan.
3. The roof lights to the north and south elevations of the garage/spa area are inappropriate modern additions to the otherwise Georgian pastiche design and upset the architectural balance of the dwelling, contrary to Policy E3 of the Broxtowe Local Plan.
4. The additional increase in the height of the roof above the garage block would result in an overbearing impact to the detriment of the amenities of the

adjacent dwelling to the north, contrary to Policy H7 of the Broxtowe Local Plan.

Consideration of enforcement action

As a consequence of the refusal, the property as currently built deviates substantially from the development as approved in 2003 (and subsequently amended in 2004).

Following the committee decision, the applicants have put forward possible changes that would seek to address the reasons for refusal, including the construction of a pitched roof over the conservatory in accordance with the approved plans, the re-introduction of glazing (as approved) into the conservatory, a lowering of the garage roof and removal of rooflights from the garage roof. To date no formal revised scheme has been submitted.

In late December 2005, however, construction of a pitched roof above the 'conservatory' (as then built) took place, which was not in accordance with the approved scheme. As a consequence, and to prevent similar unauthorised activity on the garage roof area, a temporary stop notice was served on the applicant on 23 December preventing further work on the garage roof for 28 days. In order to establish all the changes that have taken place at the property, a thorough survey has been undertaken of the dwelling. An appendix is attached to this report which summarises the details of the changes that have occurred without permission.

Proposed enforcement action

The conservatory has not been built in accordance with the approved plans. The original plans proposed a mainly glazed structure with pillars supporting the larger window frames and a pitched roof with oversailing eaves (as the house) resting above the top of the window frames. The structure as built contains substantially more brickwork than approved and the window openings are considerably smaller. The structure was initially built with a flat roof (in accordance with the revised plans submitted in 2005 but rejected at committee in December 2005). The structure also contains a brick parapet on which a pitched roof has been constructed that is now higher than approved and does not provide for oversailing eaves. The structure as a whole is therefore totally different to that which was approved and more resembles an additional room to the house than the lighter weight structure intended. It is considered that the entire conservatory as built is not acceptable and enforcement action is recommended to ensure compliance with the original approval.

The garage/spa area has been subject to a number of changes from the 2003 approval. The amendments accepted in 2004 included the enclosure of an open 'walkway' below the roof and this has been implemented. No additional building volume was created by that change. Unauthorised changes include the alteration of three garage doors into two and the insertion of a door to replace a window on the southern elevation. These changes to the ground floor openings are considered to be neither harmful nor material and enforcement action is not recommended. At issue however, is the roof structure as currently built (the steelwork has been erected but roofing materials not yet added). The eaves height of the roof has been increased by the insertion of additional brickwork above the garage doors. The

steelwork as currently added would leave the roof at the height proposed, but rejected, in December 2005. Overall this is now 0.2 metres (8 inches) higher than accepted as an amendment in 2004. In discussions following the December 2005 committee the applicant has suggested that the ridge of the roof could be removed to leave a flat roof section along the centre line of the garage. This would leave a pitched roof over the garage with a flat centre section (similar to the house). However, the eaves height of the garage has already been raised by approximately 0.3m and so a lowering of the ridge would leave the pitched roof out of proportion with the brickwork below. It is considered that such a design would be awkward in appearance and out of character with the original design. It is therefore recommended that enforcement action be taken to ensure that the garage roof is constructed to the correct eaves height and to the ridge height as accepted in 2004.

A further issue concerns the construction of the base of the porch which was originally proposed in 2005 as an entrance feature on the south elevation of the property, but was subsequently withdrawn as the development would project into green belt. The base was however constructed without approval and consists of a substantial concrete base some 5.4m in diameter. This is considered to be inappropriate development in the green belt and should be removed. Consequently enforcement action is recommended.

Other changes not proposed for enforcement action

It had already been established that the building footprint is substantially as approved, albeit with some minor changes in overall dimensions which are within normal tolerances. The re-survey examined all the window and door openings, and identified that many of these had been built at variation to the approved details, such that windows (for example) are slightly wider than approved, but less high. In overall appearance however these changes are not considered to be so substantive as to warrant enforcement action as their combined effect is insignificant and is therefore not material.

As the roof of the main house was generally complete at this point, it has been possible to check the overall height of the building. This confirms that the eaves height of the main building is in accordance with approved plans although the ridge height of the finished roof (near the skylight in the centre of the building) is approximately 220mm higher than approved. It is not considered that the change in height at that point has any material impact on the green belt, conservation area, the neighbouring property or the overall appearance of the dwelling and accordingly it is considered that enforcement action to alter the roof could not be justified.

The original approval included two chimneys on the dwelling which were square in appearance. Two chimneys on the roof have been constructed and are rectangular in shape - being approximately twice the width of the approved plans. However, it is not considered that the chimneys as constructed are out of scale or character with the building, or that they have any overbearing effect on neighbouring properties. It is not recommended that any enforcement action be taken in respect of the chimneys.

The roof contains dormer windows to the east, west and south elevations. These are built in accordance with the plans submitted in 2005 but refused at the December 2005 committee. The original approved plans in 2003 showed two dormers in each of the east and west elevations and the amendments in 2004 accepted that these be moved to the north/south elevations. The construction of the dormers as now built avoids any dormers in the north elevation that could potentially overlook neighbouring properties. Since the dormers as built do not affect privacy issues to neighbours and have no material impact, either positive or negative, upon that which has already been approved, it is recommended that enforcement action in respect of the dormers is not appropriate.

To the south elevation corbelling of brickwork has been introduced into the wall section as it meets the triangular gable above. This was not shown on the original drawings but is considered to be an acceptable detail of brickwork. As such no enforcement action is proposed.

Potential for full demolition

There has been some suggestion that only the demolition of the whole building would satisfy the objectors. However, action which the Council takes must be regarded as proportionate and reasonable. What must be remembered is that a substantial building existed previously on the site, prior to its demolition and replacement with the current dwelling, a business use was extinguished and replaced with a residential use and a planning permission was granted for a substantial building in replacement. What currently sits on the land at Temple Lake is substantially in accordance with planning consent and further, the developer has attempted to regularise those matters which are not. Members should not be influenced by sensational reports in the national press of demolition being effected elsewhere by Councils. Such instances are very rare indeed and that is part of the reason why they attract such press coverage. In the analysis of the Director of Legal and Administrative Services, this type of action is only normally taken where development has taken place wholesale without the benefit of planning permission and contrary to policy. Such was the case in a recent demolition reported in the Daily Mail. In that instance, an application for extensions to a cottage had led to the complete demolition of the cottage and its replacement with an absolutely different building, in both size and design. Comparisons with the Temple Lake property, albeit that it is a very large residential dwelling, should not therefore be drawn given that the owner has a valid planning permission and alternatives are open to the local authority to seek for him to build out in accordance with that permission. Those alternatives are contained within this report.

Other issues

Members will be aware that the dwelling at Temple Lake is constructed outside the green belt. At the time of the original approval in 2003 care was taken to ensure that no structures or other works were approved within green belt. To this end permitted development rights were removed to prevent uncontrolled development or structures either as further extensions to the house or works within the curtilage. Recently a substantial amount of roadstone has been spread on the site to the south side of the dwelling (within the green belt). There is concern that this could be used as a

driveway around the house at some point in the future and would need to be considered as a development. However, as the site is currently a building site it is acknowledged that this could simply be intended as a temporary surface during construction work (as the site is muddy at present). It is suggested that the applicant be advised that such works are unauthorised and if retained after the completion of construction would be open to further enforcement action unless authorised through a planning application and approval.

Recommendation

The committee is asked to RESOLVE that:

- 1. Enforcement notice is issued in respect of the dwellinghouse at Temple Lake requiring:**
 - (i) The demolition of the conservatory and construction in accordance with the plans approved in September 2003.**
 - (ii) The garage/spa area roof be reduced to the eaves height and the ridge height as approved in September 2003 and amended in July 2004.**
 - (iii) The base of the “porch” to the south elevation and constructed within the green belt be removed.**
- 2. The applicant be advised that the stoned area to the south of the dwelling will be open to future enforcement action if it is not removed prior to occupation of the dwelling.**
- 3. That no enforcement action be taken in respect of alterations to the roof height of the main house, increased width of chimneys, dormers on the main house, and other alterations to window openings and door openings, as set out in the report; and**
- 4. The applicant be advised that the committee reserves the right to take enforcement action against any further breaches of planning control at the development.**

Background papers

Nil

APPENDIX

Please Note: On all elevations the brick detailing around the windows, doors, additional blue brick plinth course and brick dentil course are not included on the approved plans. The lintels above all windows and doors are different in design from the approved plans.

North elevation – Garage section

Two garage doors rather than three as indicated on the approved plans.



Ridge height of roof higher than permitted.

Two windows on this elevation rather than three as indicated on the approved plans

North elevation – Main house

Door opening created
in place of the
window shown on the
approved plans



Projecting section
indicated on the
approved plans but not
erected

- Dormers (not shown on photographs) indicated on the approved plans but not erected

East elevation – Main House

Chimney larger (double stack) than
the approved plans (single stack)

Dormer window on this elevation not
on the approved plans

First floor window is larger than, and
in a different location to, that which is
shown on the approved plans.

South elevation – garage section

Five windows on this elevation rather than six as indicated on the approved plans

Door inserted into this elevation which was not indicated on the approved plans



South elevation – Main house

Stone details at eaves level on the projecting section not shown on the approved plans

Door created at first floor level not shown on the approved plans



Pillars are square but were round on approved plans

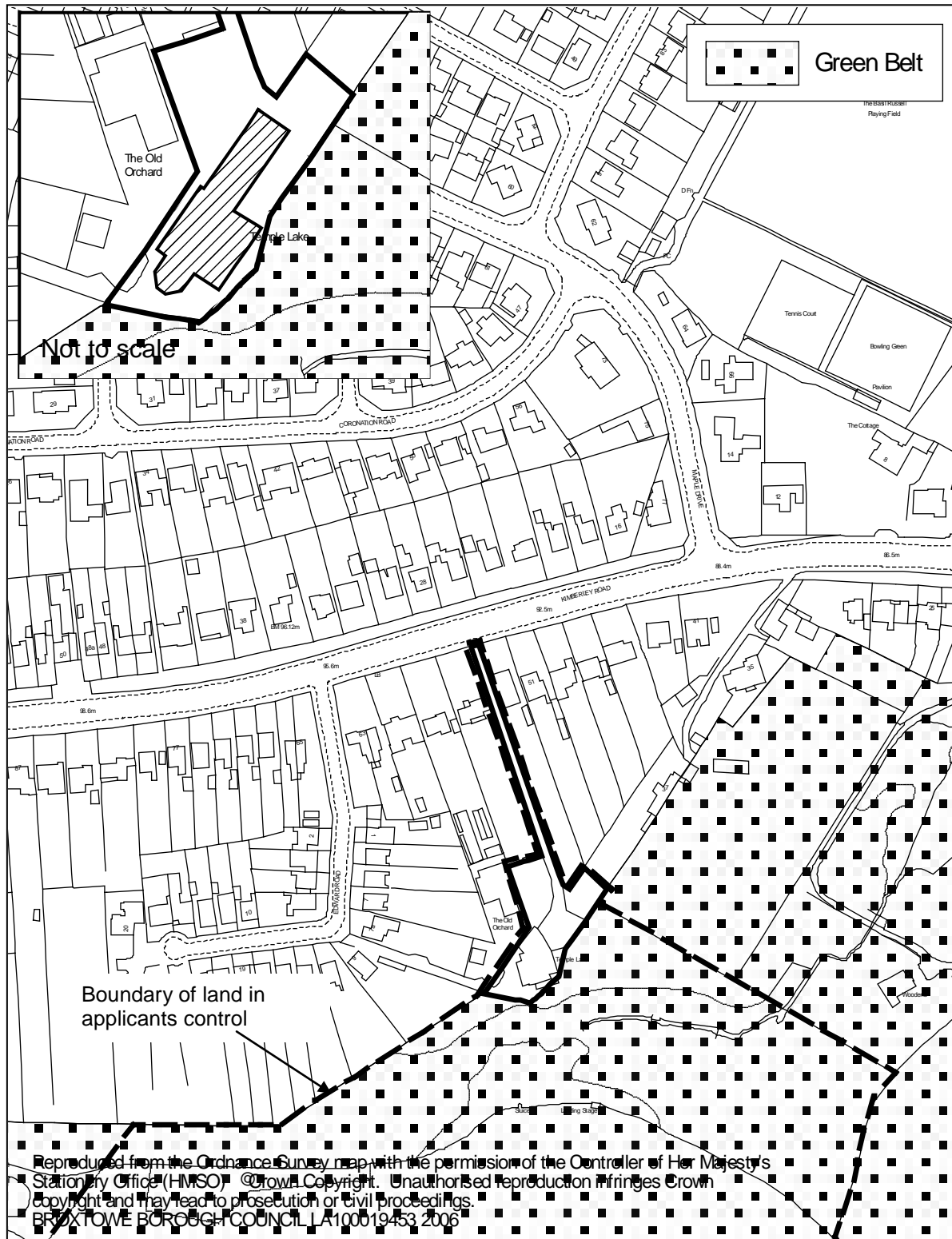
Base of the 'porch' not shown on the approved plans



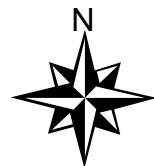
Elevations of conservatory

Conservatory not built in accordance with the approved plans.





Temple Lake, Nuthall

Development Control Committee 15th February 2006

Scale: 1: 2,500

Directorate of Planning & Community Development: Director P. M. Stone

