

Estate Management Appeals Panel
18 October 2018

WELWYN HATFIELD COUNCIL

Minutes of a meeting of the ESTATE MANAGEMENT APPEALS PANEL held on Thursday 18 October 2018 at 7.30pm in the Council Chamber, Council Offices, The Campus, Welwyn Garden City, Herts, AL8 6AE.

PRESENT: Councillors S.Glick (Chairman)

H.Bower, H.Bromley, A.Chesterman, M.Cowan,
L.Musk, N.Pace

OFFICIALS Development Management Service Manager (C.Carter)

PRESENT: Governance Services Officer (H.Johnson)

ALSO Mr. Shah (for item 17) – Appellant

PRESENT: Mrs. Caballero (for item 18) – Appellant
Councillor J. Weston (for item 18) –Supporter

14. TRIBUTE TO COUNCILLOR M.PERKINS

The panel stood for a minute's silence in memory of the Leader of the Council Mandy Perkins who sadly passed away on 29 September 2018. The Chairman asserted that Mandy was a good friend and that it was a great loss to the community.

15. MINUTES

The Minutes of the meeting on 15 August 2018 were approved as a correct record and signed by the Chairman.

16. DECLARATION OF INTEREST BY MEMBERS

The Committee noted that Councillor M.Cowan had a non-pecuniary interest in respect of item 8 on the agenda, 44 Beechfield Road. Councillor M.Cowan had brought to the Council's attention the breach of the Estate Management Scheme by 44 Beechfield Road and subsequently would be absent for that section of the meeting.

17. 11 LADY GROVE WELWYN GARDEN CITY AL7 4DS - 6/2018/0776/EM - ERECTION OF A FRONT PORCH, ALTERATION OF ELEVATIONS AND THE REMOVAL OF A FRONT HEDGE

The report of the Corporate Director (Public Protection, Planning and Governance) set out an appeal against the refusal of Estate Management Consent for the erection of a front porch, alterations of elevations and the removal of a front hedge.

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In particular the proposal sought to erect a porch with a new front door on the front elevation and to replace an existing door on the side elevation with a window.

The properties within Lady Grove followed a pattern in that, the front entrances were often located on the side elevations of semi-detached and end of terrace dwellings in the street.

The key issue in the determination of the appeal was the impact of the proposed development upon the amenities and values of the Garden City contrary to Policy EM1.

Policy EM1 of the Estate Management Scheme (EMS) stated that extensions and alterations would only be allowed where the works were in keeping with the design, appearance, materials and architectural detail used in the existing building, and would not harm the amenities and values of the area.

The application was refused on the 29 May 2018 for the following reason:

“The proposed front porch and the part removal of front boundary hedge would not be in keeping with the host dwelling, the area and its immediate context and would be detrimental to the amenities and values of the existing area. Accordingly, the proposal is contrary to Policy EM1 of the Welwyn Garden City Estates Management Scheme”.

The appellant stated in their letter of appeal (Appendix 2 of the report) that the existing hedge was uneven, did not match the neighbours hedges and some properties had no hedge at all. Creating a porch over the existing door on the side elevation of the property would restrict access to their garage and impose on the shared driveway.

The appellant was in attendance and, in addition to the points made in their letter of appeal, said that:

- The same case officer handled the original application as well as the appeal, and thus was biased.
- Other properties in the area had been granted permission to alter their front porches.

The Chairman advised the appellant that the case would have been dealt with fairly and the Panel highlighted the following points:

- Properties which had been granted permission were designed as a block and therefore did not set a precedent.
- Creating a porch at the front of the property could restrict parking further as well as causing asymmetry of the semi-detached block of which the property was part of.

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- No substantial additional evidence or information had been put forward by the appellant which would alter the Officer's recommendation.

The Panel encouraged the appellant to revisit their designs to make another application that was more acceptable to the EM Scheme.

It was moved by Councillor A.Chesterman, seconded by Councillor M.Cowan and

RESOLVED:
(unanimously)

That the Members uphold the delegated decision and dismiss the appeal.

18. 31 HOWICKS GREEN, WELWYN GARDEN CITY AL7 4RJ - 6/2018/1329/EM - REMOVAL OF CHIMNEY STACK

The report of the Corporate Director (Public Protection, Planning and Governance) set out an appeal against the refusal of Estate Management Consent for the removal of a chimney stack.

31 Howicks Green was a two storey end of terrace dwelling with a pitched roof and within a row of three dwellings, situated on a corner plot. Howicks Green was located off Howlands and characterised with semi-detached and terraced properties with many having regularly spaced brick built chimneys.

The key issue in the determination of the appeal was the impact of the proposed development upon the amenities and values of the Garden City contrary to Policy EM1.

The application was refused on the 29 May 2018 for the following reason:

"The demolition of the chimney stack is considered to be inappropriate and out of keeping with the style of the host dwelling and this part of Howicks Green. The proposed development would detract from the character and appearance of the host dwelling and neighbouring properties and fails to maintain and enhance the amenities and values of this part of the Garden City and is therefore not compliant with policy EM1 of the Estate Management Scheme and the Council's approach to roof alterations".

The appellant stated in their letter of appeal (Appendix 1 of the report) that other properties within the area had removed chimneys, such as No. 4 Howicks Green and No. 218 Howlands.

The Officer's view was that there was no EM application history with regards to the two addresses and no compelling justification given to support the application. No additional evidence or information had been put forward by the appellant which would alter the Officer's recommendation.

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The appellant was in attendance and said before the Panel that:

- It was the first time she had seen written documentation which explained the reason her application had been refused.
- She accepted that the proposal would harm the character of the area but the area as whole had been comprised anyway.
- There were no objections from her neighbours.

Councillor J.Weston made a representation and told the Panel that:

- The EM Scheme and its subsequent enforcement was inconsistent: Chimneys had been removed in the vicinity of 31 Howicks Green without consent.
- Without consistent enforcement residents would perceive the EM Scheme as unfair.
- The EM Scheme was poorly managed by the Council and there had been poor communication. No decision letter had been sent out to the appellant and they had believed that the Certificate of Lawfulness was consent.
- An Officer had told the appellant that it would take time and money to appeal and they could guarantee that she would not get permission.

The Chairman advised that the properties who had removed chimney stacks did not have consent and would subsequently be passed onto Planning Enforcement.

The Development Management Service Manager advised those present of the following:

- The Certificate of Lawfulness applied to permitted development and not the EM application.
- The usual process was that a routine decision notice was sent to the applicant which explained the reason for a decision and that the decision was subsequently put on the Council's website.
- It was not unusual for Officers to advise applicants and in this case a removal of a chimney stack in the EM area is usually refused.

The Officer explained to the appellant that the Planning team would be in touch with the appellant to discuss how her case was managed.

The Panel agreed that it was inappropriate to remove chimney stacks as it would destroy the symmetry of buildings. It could be permissible if there were structural reasons to do so and in which case the erection of a false chimney was often permitted.

In addition, the Panel said that inconsistency was not an argument in the case or any other, and that if public had seen development without consent in an EM area then they could bring it to the Council's attention.

It was moved by Councillor H.Bromley, seconded by Councillor M.Cowan and

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RESOLVED:
(unanimously)

That the Members uphold the delegated decision and dismiss the appeal.

19. UPDATE ON OUTSTANDING ENFORCEMENT CASES AND RECOMMENDATIONS FOR ENFORCEMENT ACTION UNDER THE TERMS OF THE MANAGEMENT SCHEME FOR WELWYN GARDEN CITY FOR BREACHES OF THAT SCHEME

The report of the Corporate Director (Public Protection, Planning and Governance) updated Members with regard to outstanding arbitration cases that were put before the Panel, up to and including, on 4 October 2018. The following cases were noted:

251 Knightsfield

Erection of single storey rear extension without EM consent, commence June 2013.

A retrospective application for EM consent was submitted in September 2018 along with a planning application to endeavour to remedy the breaches of the EM scheme and planning control, both of which were with Planning Support and awaiting validation.

72 Chequers

Removal of front hedge and creation of hardstanding; date of breach unknown but reported in August 2012.

The case had been referred to the President of the Royal Institution of Chartered Surveyors (RICS) to appoint an arbitrator to determine the case in accordance with paragraph 8 of the EM Scheme. An update on progress would be provided at the next meeting.

19 Fearnley Road

Extension to driveway to form 70% hardstanding in front garden and the removal of front boundary hedge; date of breach unknown but reported in April 2016.

No retrospective EM application had been submitted. The owner had presented the enforcement officer with a scheme of proposed actions to rectify the current breach. The owner was told in September 2018 that the scheme was not viable. It was requested that the Head of Planning be authorised to refer the matter to be determined by an arbitrator appointed by the President of the RICS, in accordance with paragraph 8 of the EM scheme.

11 The Moors

Erection of single storey rear extension, reported in August 2016.

The certificate of lawfulness application was with the Planning Officer and pending decision, due September 2018. Authority was given at EMAP meeting in October 2017 to commence arbitration for the EM decision and once a decision had been reached the arbitration letter would be re-issued to the owner.

88 Pentley Park

New raised beds, steps and walls and hardstanding to the front of the property. Complaint received in April 2016.

Pre-application advice had been provided by a Planning Officer and the owner would be contacted to ascertain their intentions. An update would be provided at the Panel's next meeting.

3 Digswell House Mews

A retrospective EM application for a roof light on the front roof slope had been refused.

An application had been made to the President of the RICS to appoint an arbitrator to determine the case in accordance with paragraph 8 of the EM scheme. An update on progress would be provided at the Panel's next meeting.

37 Linkfield

Installation of solar photovoltaic panels to the front and rear roof slopes of the property. Breach was reported in January 2017.

The owner submitted an appeal against the decision which was upheld by the Panel in August 2018. It was requested that the Head of Planning be authorised to refer the matter to be determined by an arbitrator appointed by the President of the RICS, in accordance with paragraph 8 of the EM scheme.

81 Howlands

Erection of outbuilding, breach was reported on March 2016. No retrospective application had been received, despite the owner being aware that it was unauthorised.

It was requested that the Head of Planning be authorised to refer the matter to be determined by an arbitrator appointed by the President of the RICS, in accordance with paragraph 8 of the EM scheme.

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3 Pinnate Place

Erection of outbuilding, breach reported May 2016. No retrospective application had been made despite the owner being aware that the building was unauthorised.

According to current aerial photography the outbuilding had been completed. Officers would contact the owners to carry out a further site visit to get an up to date photograph. It was expected that at the Panel's next meeting a request would be made to refer the matter to arbitration.

50 Marley Road

Erection of 100% hardstanding and removal of front boundary hedge. Breach reported in December 2015.

No retrospective application had been made despite the owner being contacted about the breach. It was requested that the Head of Planning be authorised to refer the matter to be determined by an arbitrator appointed by the President of the RICS, in accordance with paragraph 8 of the EM scheme.

Several points were then highlighted by the Panel:

Members enquired what the Council was doing to ensure leasehold properties adhered to the EM Scheme. A lot of breaches had been by leasehold properties however the Council's powers in this respect were limited: negotiating with the property owner was often the best option as sanctions were too draconian and the financial penalties too severe.

Members enquired whether the deeds were still marked to indicate whether a property was leasehold or not and Officers agreed to find out.

Daniels and Broomhills

Members stated that some residents in Daniels and Broomhills did not know what was required of them, having received letters from the Council advising them there were in breach of the EM Scheme. Members requested that Officers be more pro-active and provide a template of what was required for residents. In addition directing residents to properties in Daniels or Broomhills that had fulfilled the requirements of the EM scheme would be useful.

The Officer confirmed that all those written to had been asked to contact the Planning team and to have a discussion. The Officer acknowledged that standard advice could be given to residents, given the number of properties and similarities between them. In addition, the new Design Guide, once produced, would give a pictorial example of what was required.

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RESOLVED:

- (1) That Members note the contents of the report and the new cases at 81 Howland, 3 Pinnate Place and 50 Marley Road.
- (2) That Members note that the cases at 72 Chequers and 3 Digswell House Mews had been referred to the President of the Royal Institute of Chartered Surveyors to appoint an arbitrator.
- (3) That Members authorise that the following cases be referred to the President of the Royal Institute of Chartered Surveyors: 119 Fearnley Road, 37 Linkfield, 44 Beechfield Road, 81 Howlands and 50 Marley Road.
- (4) That Members note that letters to relevant properties on Daniells had started to be issued by Officers. A template letter was sent to the three ward Councillors for the area (Cllrs Larkins, Musk and Fitzsimon) on 4 October 2018 to advise them that the letters would be issued by Officers imminently. There were approximately 20 letters that would need to be issued and, to assist with managing Officer workload, five letters would be sent to residents on a fortnightly basis. If significant numbers of responses from the properties were received then the next 5 letters would be delayed to allow time to deal with those that had responded. An update on progress would be presented at the next EMAP meeting in November 2018.
- (5) That Members note that letters had been issued to the relevant properties on Broomhills at the start of the year however no retrospective Estate Management applications had been submitted. The cases would be reviewed and an update would be provided at the next EMAP meeting in November 2018. It was expected that Officers would be requesting authority to take some of the cases to arbitration.

Councillor M. Cowan then left the meeting.

44 Beechfield Road

Installation of hardstanding to the front of the property. Breach received May 2014.

The hardstanding remained in situ despite the owners being aware that it was unauthorised. It was requested that the Head of Planning be authorised to refer the matter to be determined by an arbitrator appointed by the President of the RICS, in accordance with paragraph 8 of the EM scheme.

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RESOLVED:

That Members note the contents of the report and the new case at 44
Beechfield Road.

Meeting ended 8.25pm
HJ