

PLANNING COMMITTEE – 15 JUNE, 2005

Report of the Development Control Manager

MISCELLANEOUS REPORT

49/2004/067 ERECTION OF 2 NO DETACHED DWELLINGS, THE MANSE, FORD ROAD, WIVELISCOMBE

The above reserved matters application was approved by the Planning Committee on 24 November, 2004.

The approved plans indicated the position of one of the proposed dwellings approximately 7m from the boundary with properties in Lion d'Angers. Although not part of the application site or proposal, the submitted site layout plan indicated the position of a proposed garage for the existing dwelling, The Manse. During the case officer's site visit, it was noted that the new garage building, being erected under householder permitted development rights, was being erected closer to the position of one of the proposed dwellings than as indicated on the submitted plan. This was pointed out to the developer, who was informed that, if approved, the new dwelling should be built in the position indicated on the submitted plan, i.e. 7m from the boundary with the Lion d'Angers properties.

Construction commenced and complaints were received that the position of the proposed dwelling as being built was not in accordance with the approved plans. The Enforcement Officer checked the measurements on site and confirmed that the position of the proposed dwelling was not in accordance with the approved plans, being closer to the boundary with the Lion d'Angers properties. An Enforcement Report was on the Committee Agenda for 20 April, 2005, but an amended plan was submitted by the developer seeking approval of the revised siting as a minor amendment. The item was therefore withdrawn from the Agenda. The minor amendment indicates that from the corners of the proposed dwelling to the boundary is indicated as 6.05m from one corner and 6.20m from the other, a difference of approximately 950mm and 800mm respectively.

The Parish Council has responded as follows:-

"It is noted that the site plan submitted with detailed planning application is a photocopy of the site plan submitted by the Wiveliscombe Evangelical Congregational Church's outline planning application (49/2003/11 Drawing BFH/317/5) which has been altered by the Applicant, and having compared the two plans this photocopy is not to a scale of 1:500 (photocopying often distorts scale drawings). Further, the Applicant's revised amended site plan is also a photocopy and measurements should therefore not be scaled off either of these photocopied plans. The church's plan is a print direct off the Architect's negatives and you will have a copy on file, scaling off this plan would suggest that the distance between the gable of the property and the boundary to the east should be 7m. The Parish Council note that in the

Applicant's letter dated 18 April, 2005 he says that Taunton Deane Officers have stated that the measurement should be 7m and the Parish Council concur with this view. The Applicant mentions that in his view this distance should be 6.5m and the Parish Council believe that this arises as a result of scaling off inaccurate photocopied plans. The Applicant states that the property has now been erected between 6200mm and 6050mm from the boundary, some 0.80 – 0.95m closer to the neighbouring properties than detailed on the approved plans. This is a significant variance on a 7m distance. Given the height of the property, distance to the boundary, and size of the neighbour's garden there may be negative impact on light to the neighbour's house caused by shadows from the property now being closer to the neighbours home.

Looking at the site plan attached to the outline consent the gable should be 7m parallel to the boundary and not offset, as the Applicant's measurements would suggest.

For the above reasons The Parish Council object to the amended plan. In addition the Parish Council are aware of local residents' concerns as well as that of the Planning Authority (having received a copy of the Enforcement Officer's recommendation that enforcement action be taken), and wish to see the matter referred to the full Planning Committee so that all parties can make representations. The Parish Council believe that given the poor quality of the applicant's site plan and possible inaccuracies in positioning the new Manse garage, that the Planning Authority should arrange for an independent survey to be undertaken of the whole site referencing the position of all structures thereon to the correct positions as detailed on the site plan approved as part of the outline consent (this being a professional scale drawing) which will bring to light any further matters and confirm the site measurements currently being debated. In addition, a light impact assessment should be undertaken to assess any detriment caused to the neighbouring property by closer proximity of the new dwelling. The Parish Council supports the principle of enforcement action, subject to the findings of an independent survey and light impact assessment."

One letter of objection has also been received making the following points:-

"I actually made representation at the Planning Meeting on the 24 November, 2004 when the initial planning application was heard.

At that meeting the Members put forward two conditions:-

1. That there was to be no access through Lion d'Angers past the under-fives nursery and therefore the right of way dismissed. There have been incidents of when this condition has not been met, and the gateway into the building site has still not been blocked off. This is a Health & Safety issue when you have young children able to access this site easily. We have all been waiting for such an accident to occur but luckily this has not been the case, therefore the residents of Lion d'Angers would like this access to be blocked off immediately.

2. Hours of working on site. - There has been blatant disregard of this condition with the applicants or their employees working Saturdays and Sundays and outside of the hours of 8 a.m. to 6 p.m., even over the Easter weekend. The applicant has been seen and heard throwing off blocks and wood from the top (roof height) of the scaffolding onto the floor at 9 p.m. at night on several occasions. This has been repeated on numerous occasions. Trusses etc have been delivered on a Sunday morning. Too many incidents to list.

At the November meeting Mr Langdon brought to the Committee's attention that the building was too close to his boundary. It has now been established that Mr Langdon was correct. When this error was brought to the applicants' attention by your Enforcement Officer, Mr Hardy, the applicants were asked to stop building work. This request has been ignored now both houses are externally finished. I understand that the applicants have been warned on several occasions that to continue building work would be foolish given the situation. These requests have also been ignored and the applicants have blatantly carried on ignoring the Enforcement Officer's requests and the conditions imposed by the Members themselves.

The applicants were at the November Meeting and heard the Members discuss the two conditions imposed on the planning approval and it was made quite clear by several Members at the meeting that these conditions were to be strictly adhered to otherwise consent would be withdrawn. The applicants have never had, nor ever will have, any intention to stick to these conditions. The applicants have had total disregard of the planning laws that every other law abiding citizen has to stick to. It has shown the surrounding residents of this building site that anyone can break the law and get away with it.

This is the point that will be going through the minds of many people and unless they see something physically happen to these houses they will also wonder what has happened to let the applicants get away with this injustice. This does not show the Council in a good light. Not only has the applicant upset the residents of Lion d'Angers and Ford Road by breaking the law but they have also put Mr Langdon (and his neighbours) into the situation of having a house built too close to his home therefore cutting out light and air and this should be rectified. The Council has done nothing about this situation and has allowed the building to continue to its last stages, perhaps the applicants believe that by finishing the houses they will not be required to comply with planning. I would implore the Council to show the applicants that disregarding the law does not pay and the house/s should be moved back into the correct position."

The Planning Enforcement Officer has been investigating the compliance with conditions related to the development.

The closest point from the first floor of the adjacent dwellings in Lion d'Angers to the proposed dwelling as being constructed is 13 m on an angle. The only window on the gable of the proposed dwelling is a bathroom window, which will be obscure glazed. It is considered that the distances of the gable end of

the new dwelling to the dwellings in Lion d'Angers are within normal planning standards and will not have such a detrimental impact on the existing dwellings as to justify refusal of the minor amendment. My recommendation is therefore a favourable one.

RECOMMENDATION

That the minor amendment be APPROVED.

In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1998.

CONTACT OFFICER: Mr J Hamer Tel. 356461