

E/09/0146/A – Unauthorised erection of detached single garage at 3 Farriers, London Road, Sawbridgeworth, Herts, CM21 9EW

Parish: SAWBRIDGWORTH

Ward: SAWBRIDGWORTH

RECOMMENDATION

That the Director of Neighborhood Services, in consultation with the Director of Internal Services, be authorised to take enforcement action under Section 172 of the Town and Country Planning Act 1990 and any such steps as may be required to secure the removal of the unauthorised garage and concrete base.

Period for compliance: 1 Month.

Reasons why it is expedient to issue an enforcement notice:

The unauthorised garage is in close proximity to a tree which is the subject of a Tree Preservation Order. Due to the encroachment of tree rootplates the garage would prejudice its long term health and retention. The loss and/or diminishment of the tree will be detrimental to the appearance of the site and surroundings and is therefore contrary to Policies ENV2 and ENV11 of the East Herts Local Plan Second Review April 2007.

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1.0 Background

- 1.1 The site is shown on the attached Ordnance Survey extract. The property is set back to the rear of 95 to 97 London Road to the east and 17 to 25 Atherton End to the west. The site comprises 3 dwellings that were allowed on appeal in 2000.
- 1.2 It was brought to the attention of the Enforcement Team in April 2009 that the owner of the property had erected a new single storey detached garage without planning permission which is contrary to the conditions of the original planning permission (3/00/0105/FP) for the 3 bungalows as permitted development rights (classes A,B,C and E) were removed by the Planning Inspector.
- 1.3 On the 2nd April 2009, a letter was sent to the owner of the property and a site visit was made to the site on the 8th April 2009 where it was explained that the permitted development rights for certain classes were removed and therefore planning permission was required for the garage. At the time of

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the visit the garage was in the process of being constructed and as such the owner was advised that the works continued at her own risk until such time an application was determined.

1.4 On the 1st May 2009, an application was submitted under reference 3/09/0666/FP for the retention of the detached single storey garage. After due consideration the application was refused permission on the 28th July 2009 for the following reason;

1. The proposed development is in close proximity to a tree which is the subject of a Tree Preservation Order. Due to the encroachment of the tree rootplates the development would prejudice its long term health and retention. The loss and/or diminishment of this tree will be detrimental to the appearance of the site and surroundings and the proposal is therefore contrary to policies ENV2 and ENV11 of the East Herts Local Plan Second Review April 2007.

2.0 Planning History

2.1 The recent planning history is as follows:-

3/00/0105/FP	Demolition of existing garage and replace with 3 detached bungalows.	Refused Allowed on Appeal
3/09/0666/FP	Detached single storey garage (Retrospective)	Refused

3.0 Policy

3.1 The relevant policies of the East Herts Local Plan Second Review April 2007 are :-

- ENV2 – Landscaping.
- ENV11 – Protection of Existing Hedgerows and Trees.

4.0 Considerations

4.1 Planning permission was granted in 2000, following an appeal, for the demolition of the existing garage buildings on the site and the erection of 3no dwellings with conditions attached to the planning permission which included the withdrawal of “permitted development” rights under Classes A,B,C and E.

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- 4.2 The garage has been built within the root protection area of a large Cedar tree protected under order reference TPO 455. Significant root damage is likely to have been caused to this protected tree which would detrimentally impact upon the future health and physical stability of the tree. The location of the unauthorised garage will impact on future attempts to retain and preserve this tree and its survival will depend upon its roots being able to absorb enough water from the soil to sustain the foliage and retain the remaining root system to support the tree.
- 4.3 With regards to BS 5837 (2005) provisions should be made for water and oxygen to reach the roots for allowing the root system to grow and for the preservation of the soil structure at a suitable bulk density for root growth and function. Due to the reduction of the root protection area, the garage results in insufficient soil area and damage to the long term health of the tree. The retained presence of the garage will impose severe limits on the extent of the re-growth possible because a physical barrier to the tree roots has been created.
- 4.4 The importance of the tree as a landscape feature was mentioned in the Planning inspectorates report in 2000 when approving the development of the Farriers. The Inspector stated that 'the tree was a particularly good example of its kind and can be seen against the skyline in Atherton End as well as limited views along London Road'.
- 4.5 The garage by reason of its close proximity to the tree and due to the encroachment of the tree rootplates, would prejudice its long term health and retention. The loss or diminishment of the tree will be detrimental to the appearance of the site and surrounding area and therefore is contrary to policies ENV2 and ENV11 of the East Herts Local Plan Second Review April 2007.

5.0 Recommendation

- 5.1 For the above reasons it is recommended that authorisation be given to issue and serve a Planning Enforcement Notice requiring the removal of the unauthorised garage and concrete base.