

3/10/0013/FP - Change of Use of Unit 3 to residential unit to be occupied only in association with the existing dwelling (Retrospective) at 80, High Street, Walkern, Stevenage, Herts, SG2 7PG for Mr. Philip Taylor.

Date of Receipt: 06.01.2009

Type: Full - Minor

Parish: WALKERN

Ward: WALKERN

RECOMMENDATION

That subject to the applicant entering into a legal obligation pursuant to S106 of the Town and Country Planning Act 1990 to cover the following matters:

1. To require Unit 3 to remain occupied solely in conjunction with the existing dwelling, with the use of shared amenity space, and not to permit the unit to be sold, leased or otherwise disposed of separately from 80 High Street, Walkern.

planning permission be **GRANTED**.

Directives

1. Other legislation (01OL)
2. Street Naming and Numbering (19SN)

Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and East Herts Local Plan Second Review April 2007), and in particular policies SD2, GBC3, TR2, TR7, ENV1, OSV1. The balance of the considerations having regard to those policies is that permission should be granted.

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1.0 Background

- 1.1 The application site is shown on the attached OS extract and is located within the Walkern Conservation Area on the west side of the High Street. "The Laurels" (80 High Street) comprises a Grade II listed dwellinghouse, with a group of six single storey outbuildings, accessed from the driveway to

3/10/0013/FP

the side of the dwelling. Five of these outbuildings are in a row to the north of the driveway, and the sixth is located to the south of the driveway and is semi-derelict.

- 1.2 The five other buildings have a variety of authorised uses, which can be summarised as follows:

Unit 1 – Retail shop known as ‘Jolie’

Unit 2 – Doctor’s surgery

Unit 3 – Storage

Unit 4 – Playgroup

Unit 5 – Workshop for repair of musical instruments

- 1.3 In February 2009, a concern was expressed to the Authority that Unit 3 was being let out as a self-contained residential unit to a tenant. Following investigations by the Enforcement Officer, it became apparent that the unit had originally been used as ancillary accommodation to the main dwelling; however the building had been let on a commercial basis since 21st April 2007. Members may recall that authority to serve an enforcement notice was granted at Committee on 21st October 2009 following the refusal of an earlier application.

- 1.4 The unit comprises a kitchenette, bedroom and bathroom with two windows to the habitable rooms to the front, and one small window to the bathroom to the rear. The unit measures 7.5m in width and 5m in depth, and is formed of a timber frame and timber weatherboarding with a corrugated iron roof.

2.0 Site History

- 2.1 A planning application was submitted in July 2009 to regularise the use (3/09/1110/FP). Although the application was applied for as a residential annex, Officers considered that the unit did not comprise ancillary annex accommodation as it was being occupied as a separate planning unit. The application was therefore determined as creating a new residential unit and was refused for the following reason:

The proposed residential unit, by reason of its size, siting and layout, fails to complement the existing pattern of residential development in the surrounding area. The lack of private amenity space and separate access, and its relationship to neighbouring uses also fails to provide for an adequate level of residential amenity for future occupiers. The proposal is thereby contrary to policy ENV1 of the East Herts Local Plan Second Review April 2007.

3.0 Consultation Responses

- 3.1 County Highways do not wish to restrict the grant of permission.
- 3.2 Environmental Health do not wish to restrict the grant of permission.

4.0 Parish Council Representations

- 4.1 No response has been received from Walkern Parish Council.

5.0 Other Representations

- 5.1 The application has been advertised by way of press notice, site notice and neighbour notification.
- 5.2 No letters of representation have been received.

6.0 Policy

- 6.1 The relevant Local Plan policies in this application include the following:-

SD2	Settlement Hierarchy
GBC3	Appropriate Development in the Rural Area Beyond the Green Belt
TR2	Access to New Developments
TR7	Car Parking - Standards
ENV1	Design and Environmental Quality
OSV1	Category 1 Villages

In addition to the above it is considered that Planning Policy Statement 1, (Delivering Sustainable Development), and Planning Policy Statement 3 (Housing) are considerations within this application.

7.0 Considerations

Principle of Development

- 7.1 The site lies within the built-up area of Walkern, a Category 1 Village, wherein residential developments and conversions are acceptable in principle. However, the main issue in this case is the size of the unit of accommodation, its level of residential amenity, and impact on the character of the surrounding area. Although the applicant has again applied for the unit as an annex to the existing dwelling, Officers consider that a separate residential unit has been created.

3/10/0013/FP

- 7.2 The unit was previously fitted out with a kitchen and bathroom when the main dwelling was previously being extended, and used by the main family. The unit was then occupied for some time by the brother of the owner who also formed part of the family unit at No. 80. Such uses can reasonably be considered to be ancillary as there is a physical and functional dependency on the main dwelling.
- 7.3 However, the unit has been let out on a commercial basis since April 2007 to a family friend. The only connection he has with the main dwelling is sharing occasional meals and acting as an occasional child minder. There is not considered to be a sufficient dependency on the main dwelling in this case to constitute an ancillary use of the building. Hence, full permission is required for the unit as a separate unit of residential accommodation.
- 7.4 The applicant has confirmed that they do not intend to sell or rent the unit separately in the future. They currently wish to help a friend with his accommodation needs, and then return the unit to its previous use as a genuine annex to provide overflow accommodation for guests/offspring. The applicant has therefore offered a s.106 unilateral undertaking to legally tie Unit 3 to the main dwelling and prevent it being sold or leased separately. This agreement also stipulates that Unit 3 shall have use of shared amenity space.
- 7.5 This unilateral undertaking would therefore ensure that, although the unit is being classed as a separate planning unit, it could not be sold off separately or occupied otherwise than in connection with No. 80. The current arrangement includes shared use of the garden area, and this would become a requirement of the legal agreement to provide for an adequate level of residential amenity. Officers consider that the signing of this legal agreement would be an acceptable safeguard to control the occupation of this unit.

Impact on Character and Residential Amenity

- 7.6 Although the principle of a new dwelling is acceptable within the village of Walkern, the unit is small in relation to the surrounding area and would fail to provide for an adequate level of amenity as a separate dwellinghouse. Hence the previous reason for refusal. No external alterations are proposed, and there would be no impact on the setting of the listed building.
- 7.7 The unit only measures 7.5m in width and 5m in depth with no separate residential curtilage and would be a cramped form of development with insufficient amenity space for a separate dwellinghouse, and would also set an unacceptable precedent for future developments.

3/10/0013/FP

- 7.8 However, the submitted unilateral undertaking would require the unit to remain occupied in conjunction with the main dwelling, with shared use of amenity space. Officers consider that this is a sufficient safeguard to overcome the previous reason for refusal.

Parking and Access

- 7.9 There is sufficient space for on-site parking within the curtilage of No. 80, with adequate vehicular access from the High Street. The proposal is considered to be acceptable in this regard and no objection has been raised by County Highways.

Planning Conditions

- 7.10 No conditions are considered necessary in this case as the application is retrospective. Officers have considered removing permitted development rights for extensions; however there is no separate curtilage to extend into, or to construct outbuildings. Alterations to the roof under Class B would be restricted anyway given the location of the site in the Conservation Area.

8.0 Conclusion

- 8.1 The proposal results in the creation of a separate residential unit. Although this is acceptable in principle in Walkern, the dwelling would lack amenity space and fail to respect the grain of development in the surrounding area. However, a legal agreement is now proposed to tie Unit 3 to the main dwelling with shared use of available amenity space, and to prevent it being sold or leased separately. On balance, Officers consider that this would be an acceptable safeguard to ensure satisfactory living conditions and to retain control over the occupation of the unit.
- 8.2 The application is therefore recommended for approval subject to the signing of a legal agreement pursuant to S106 of the Town and Country Planning Act 1990.