

Meeting: Planning and Development Agenda Item: 8
Committee

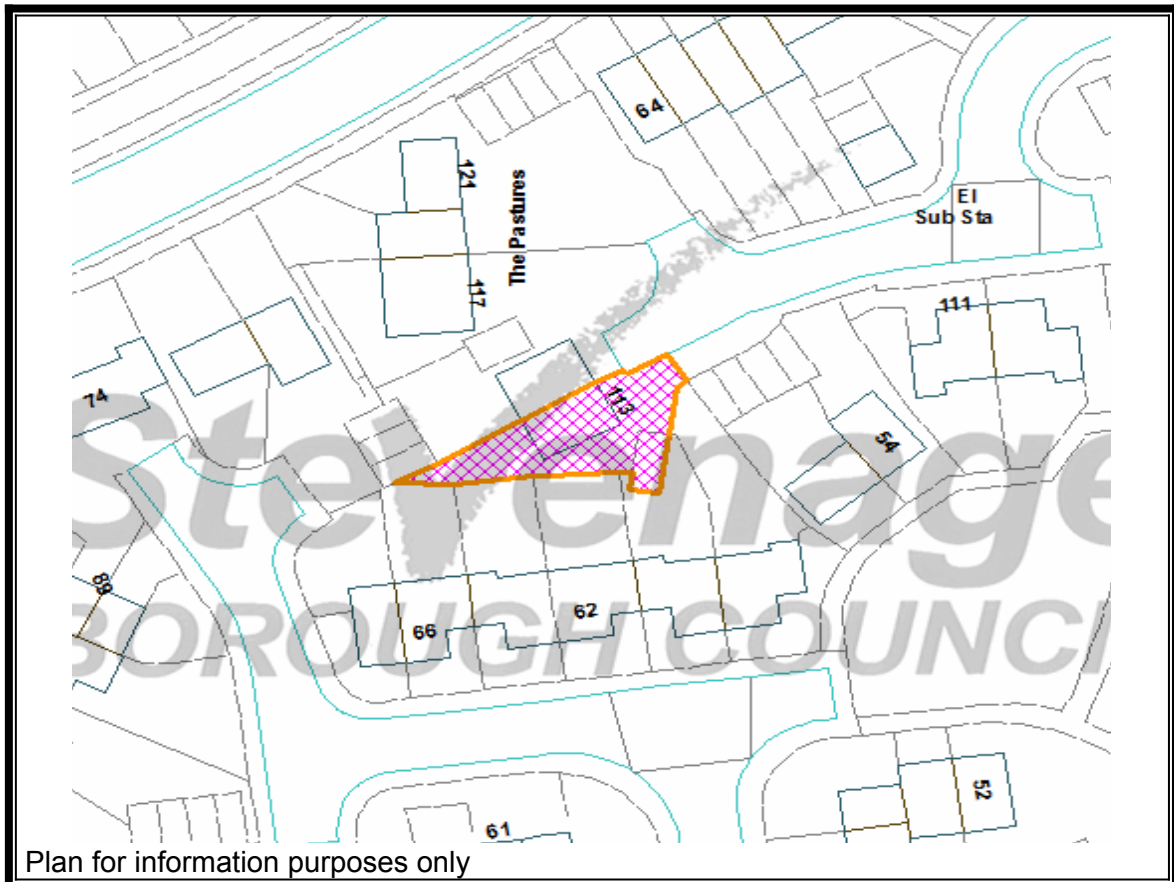
Date: 5 September 2017

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Application No:	17/00255/ENF Related planning application 15/00671/FPH
Location:	113 The Pastures, Stevenage
Proposal:	Authorisation to serve an enforcement notice.
Drawing Nos.:	15027-04A; 15027-LP; 15027-SP; 15027-02; 15027-03; 5027-05; 15027-06;
Applicant:	
Date Valid:	
Recommendation:	SERVE AN ENFORCEMENT NOTICE



1. BACKGROUND

- 1.1 The site in question is 113 The Pastures a semi-detached dwelling located in a small residential cul-de-sac to the south west of The Pastures. The road forms part of the larger 'Whiteway' estate to the north east of Stevenage. The smaller cul-de-sac areas within the estate are formed of narrow roads and parking areas. The properties have small front gardens and limited parking provision. 113 has a single detached garage located to the south of the house, with a driveway for one car to the front of the garage. The southern boundary is bounded by properties on The Hedgerows, which sit at a perpendicular angle to the site. The property faces north east to east, and the adjoining semi is sited to the north.
- 1.2 The property has recently undergone enlargement and alterations by way of a single storey rear extension and loft conversion as approved under reference 15/00671/FPH. The application followed a refusal in 2015 for a single storey rear extension, first floor front extension and loft conversion incorporating a dormer window (ref: 15/00284/FPH). The earlier application was refused because of the design and impact of the dormer window on the application property and the properties to the south within the Hedgerows; the impact of the first floor extension on the adjoining semi; and inadequate parking provision.
- 1.3 The reason for refusal associated with the dormer window read as –

“The proposed dormer window by virtue of its size and prominence is considered to be of a poor design and would have a harmful impact on the visual amenity of the area and the appearance of the dwelling. Furthermore, by virtue of the siting and proximity to neighbouring properties in The Hedgerows, to the south of the site, the dormer window would have an adverse impact on the privacy levels of these neighbouring properties, causing an unacceptable degree of overlooking to the gardens and rear windows of these properties. The proposal would, therefore, fail to accord with the guidance in the National Planning Policy Framework (NPPF), the National Planning Practice Guidance (NPPG), saved policies TW8 and TW9 of the Stevenage District Plan Second Review 1991-2011 and Chapter 6 of the Council's adopted supplementary planning document Stevenage Design Guide.”
- 1.4 The approved scheme incorporating the loft conversion included the insertion of 5 roof lights, 1 on the front roof slope and 4 on the rear roof slope. The rear roof lights were positioned for all four to be contained together forming a rectangle. As built, the top two rear roof lights are top hung opening and the lower two are bottom hung opening and supported on the sides with a balustrade type function. The balustrade mechanism sits atop the frame of the roof lights when closed. When open the windows form an opening with a Juliette style balcony such that a vertical opening is created for views out.
- 1.5 These style roof lights were not approved under application reference 15/00671/FPH and are considered unauthorised.

2. DISCUSSION

- 2.1 The current roof lights inserted on the rear roof slope of the property are deemed unauthorised by the Council as they do not accord with the plans approved under reference 15/00671/FPH. The application was accompanied by proposed floor and elevation plans, as well as a section of the property. None of the approved plans show the style of window opening as inserted on the rear roof slope.

- 2.2 In considering the reason for refusal for the dormer window under reference 15/00284/FPH, particular emphasis was given to the impact on the adjoining properties in The Hedgerows. Specifically the loss of privacy from overlooking due to reduced distances at third storey level, and the vertical element of a standard window opening when compared with a roof light which is inserted in the roof slope. As such, the roof lights inserted on the rear roof slope afford the occupiers the same vertical window element as a dormer window, with the capability to walk in to the roof light opening because of the balustrade placement keeping the lower roof light in an upright position.
- 2.3 The planning consultant, Town Planning Services (TPS), working on behalf of the owners Mr and Mrs Borrill have written a detailed statement underlying why they feel the Council's suggested action and consideration of the roof lights being unauthorised is unfounded. TPS suggest that the plans approved clearly show a top and bottom hung casement for the roof lights and that this is adequate to suggest the roof lights as inserted were approved.
- 2.4 Furthermore, TPS conclude that the roof lights are considered to be permitted development under Part 1, Class C of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO), as concluded in a recent appeal against the London Borough of Richmond Upon Thames. They highlight the inspector's unambiguous decision that the same roof light style did not provide a balcony. Also that 'the open windows do no more than provide for standing on the attic floor, partly above the adjoining roof slope, by forming a balustrade around part of the existing floor area within the loft space. That provides the occupiers with a greater facility than putting their heads out of an open window.'
- 2.5 The appeal referenced by TPS relates to the issuing of a Lawful Development Certificate, and whether the roof lights should be deemed under a particular class of Part 1 of the GPDO. The conclusion of the letter is that the roof lights are actually considered permitted development and do not require planning permission at all. However, 113 The Pastures has its permitted development rights removed for any enlargements or alterations, notwithstanding which class of the GPDO they fall within. Therefore, notwithstanding the findings of the inspector, planning permission would be required for the roof lights inserted.
- 2.6 In considering the inspector's findings and the requirement for planning permission, the roof lights, when open would afford the occupiers with a 'greater facility' of overlooking than putting their heads out a standard opening window or roof light. Furthermore, the roof lights when open, with the balustrade in place are not in accordance with the plans approved and it is considered that they require planning permission in their own right.

3. RECOMMENDATION

- 3.1 That an Enforcement Notice be issued and served by the Assistant Director of Planning and Regulation and subject to an appointed solicitor by the Council being satisfied as to the evidence requiring the removal of the unauthorised rear roof lights and their replacement with non-balustrade centrally pivoted opening roof. The precise terms of the Enforcement Notice, including all time periods, to be delegated to the Assistant Director of Planning and Regulation.
- 3.2 That, subject to an appointed solicitor by the Council being satisfied as to the evidence, the Assistant Director of Planning and Regulation be authorised to take all steps necessary, including prosecution or any other litigation/works in default to secure compliance with the Enforcement Notice.

- 3.3 That in the event of any appeal against the Enforcement Notice, the Assistant Director of Planning and Regulation be authorised to take any action required to defend the Enforcement Notice and any appeal against the refusal of planning permission.

4. REMEDY REQUIRED

- 4.1 Within three months of the date of any Enforcement Notice served, the four unauthorised rear roof lights be removed and replaced with non-balustrade centrally pivoted opening roof lights.

5. BACKGROUND DOCUMENTS

1. The application file, forms, plans and supporting documents associated with reference 15/00284/FPH and 15/00671/FPH.
2. Stevenage District Plan Second Review 1991-2011.
3. Stevenage Borough Council Supplementary Planning Documents – Stevenage Design Guide 2009.
4. Stevenage Borough Local Plan 2011-2031 Publication Draft.
5. Central Government advice contained in the National Planning Policy Framework March 2012 and Planning Policy Guidance March 2014.