Planning Committee: 22 February 2011 **Item Number:**

Application No: ENF 215/24/10

Case Officer: Dave Fry
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Land adjacent to 71, Lillington Road, Leamington Spa, CV32 6LF

The unauthorised change of use from garage/ancillary accommodation to an independent dwelling unit

Property Owner(s) Mr & Mrs D Cowan

This report is brought before Committee to request that enforcement action be authorised.

SUMMARY OF REPRESENTATIONS

In July 2002 planning permission [W02/0651] granted consent for the erection of a detached dwelling and separate garage annexe incorporating additional bedroom accommodation to the rear of an existing substantial detached house at 71 Lillington Road, Leamington Spa. The new dwelling is known as 'The Oakhouse' 71A Lillington Road, Leamington Spa.

A condition of that consent restricted the use of the bedroom accommodation in the garage annexe solely to a use ancillary to the new residential dwelling and prohibited its use as a separate dwelling unit. The approved plans showed only a garage, store, 2 bedrooms and a bathroom in this building. There was no kitchen or living room and consequently it was not designed to be used as a separate self-contained dwelling.

In June, 2010, it was brought to the attention of the Enforcement Section that the garage annexe had been converted internally and now consisted of two bedrooms, kitchen/diner and garage and was rented out as an independent dwelling unit known as 'The Gatehouse'.

Contact was made with the owners, who were advised that the use was a breach of planning control and that a retrospective planning application would not be supported by the planning department.

The owner has intimated that it is his intention to submit an application for a Certificate of Lawful Use with supporting evidence to show the breach of planning control has existed for a period in excess of 4 years and is therefore immune from enforcement action. However, no such application has been submitted.

RELEVANT POLICIES

DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
DP2 - Amenity (Warwick District Local Plan 1996 - 2011)

DP8 - Parking (Warwick District Local Plan 1996 - 2011)

PLANNING HISTORY

W/02/0651- Erection of a detached dwelling and garage annexe incorporating additional bedroom accommodation, granted 8th July 2002.

KEY ISSUES

The Site and its Location

The property is in the Leamington Spa Conservation Area and 'The Oakhouse' was built to the rear of and on part of the original garden land of 71 Lillington Road, Leamington Spa.

The two storey garage annexe forms an arched vehicular and pedestrian access to 'The Oakhouse' 71A Lillington Road and is positioned between No's 71 and 73 Lillington Road.

All the properties are owned by Mr. & Mrs Cowan.

Assessment

It is clear from the Conditions and reasons set out in W02/0651 that it was considered essential on amenity grounds that the garage annexe should not be used as an independent dwelling.

The site is of limited size with restricted parking and the relationship of the garage annexe to the new and existing dwellings is such that its present use as a separate dwelling has an adverse impact on the amenity of the area in general and in particular the amenity of the adjacent residential properties.

The storeroom at the property has been converted to a kitchen/diner, contrary to the approved plan, and this has changed the building from ancillary accommodation dependent on the main house to a separate dwelling containing independent living facilities. The property has been rented out since June 2010 under a twelve month tenancy agreement to a tenant not related to the owners.

Justification for Enforcement Action

It is my view that for the above reasons, the use of the annexe as an independent dwelling is unacceptable.

The owner has indicted that the use will continue and has intimated he will submit an application for a Certificate of Lawful Use on the grounds that it has been used as an independent dwelling for more than 4 years and is therefore immune from enforcement action. However, no such application has been submitted to date. The time limit for taking action in relation to an unauthorised change of use to a residential dwelling is 4 years. Beyond that time the Council are precluded by Legislation from taking enforcement action.

The service of an enforcement notice now is directed at preventing the use from becoming lawful and immune from action.

RECOMMENDATION

That appropriate enforcement action be authorised to ensure that the use of the annex as an independent dwelling ceases and the kitchen diner is reverted to a storeroom within a compliance period of three months.