Planning Committee: 22 September 2010 **Item Number:**

Application No: ENF 360/39/09

Case Officer: Martin Perry
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22 St Fremund Way, Whitnash, Leamington Spa, CV31 1AB

Conversion of garage into a habitable room.
Property Owner(s) Mr Sandhar

This matter was listed as Item 27 on the Committee agenda 9th June 2010 but was withdrawn at the request of the owner to allow time for the submission of a retrospective planning application.

An application has not been submitted and the matter is being presented to Committee in order to request that enforcement action be authorised.

BACKGROUND

Planning permission was granted for the development of land at Parish End, Leamington Spa in November 2007 [W06/0279 refers]. St Fremund Way forms part of that development.

Conditions were imposed one of which [Condition 9] removed the permitted development rights from the majority of the plots but not in relation to plot 1134 which later became No 22 St Fremund Way, however [Condition 10] applied to all the plots and required:

The garaging [including driveways] and car parking areas hereby permitted shall be used for the parking of private vehicles for the benefit of the occupants of the dwellings to which they relate and shall be retained and kept available for such purposes and shall not be altered either internally or externally without the prior consent of the District Planning Authority. ***REASON****: To ensure that adequate parking facilities are retained for use in connection with the dwellings to which they relate.*

In September 2009 it was brought to the attention of the Enforcement Section that the garage at No. 22 had been converted into habitable accommodation and was therefore no longer available for parking.

It was established that in September 2007 a permitted development enquiry had been made by Mr Sandhar in relation to a proposal to convert the garage to habitable accommodation.

On 11th September 2007 a letter was sent to Mr Sandhar stating that the proposed conversion works were permitted development. It is accepted that this determination was incorrect as account had not been taken of the requirements of Condition 10, only of the fact that general permitted development rights had not been removed from this particular property.

Procedures have been put in place to ensure that such a situation does not occur again.

It would appear Mr Sandhar acted on the written advice and converted the garage to habitable accommodation.

Advice was obtained from the Head of Legal Services and it has been established that notwithstanding the written advice given to Mr Sandhar the present situation is a breach of planning control and the issue of enforcement action requires to be considered.

Contact has been made with Mr Sandhar and the situation explained in full which included a personal apology for the manner in which the permitted development enquiry was responded to.

Every assistance has been offered in terms of providing documentation to enable Mr Sandhar to submit a retrospective planning application which would have been referred to the Planning Committee with all the circumstances outlined. It was felt that this route would have given Mr Sandhar the opportunity to address the Committee, and given access to the appeal procedure if necessary, but no application has been made.

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)
Vehicle Parking Standards SPD.

PLANNING HISTORY

The relevant applications are:

W98/0166. Erection of 290 Dwellings

W04/1312. Amendment to W98/0166

W06/0279. Substitution of house types and minor amendments to Plots 1001 – 1142.

KEY ISSUES

The Site and its Location

The property is a two storey detached house situated on the northern side of St. Fremund Way and forms part of a recent residential development comprising houses of a similar age and design. The property has a driveway that provides parking for one car but the garage provision is no longer available.

Assessment

The main issues relevant to the consideration of this report are the Council's parking standards and the impact on parking in St. Fremund Way

The Council's parking standards require 2 spaces for a 3 bedroom dwelling. Planning permission was granted for this estate in 2000, prior to the adoption of the parking standards, and in common with most of the dwellings on this development, the application property was constructed with a driveway for one

car, together with a single garage. A condition was imposed to require the garages to be retained for parking purposes.

The garage conversion is contrary to the parking standards because it leaves the property with only 1 parking space. Vehicles would therefore be likely to park on the public highway, causing danger and inconvenience to other road users as St. Fremund Way is a through road that provides access to a number of other streets on this residential development and therefore an increase in on street parking could create a hazard to road users.

There are a large number of similar properties on this estate, and therefore the issue of enforcement action for this particular property will impact on the Council's ability to refuse planning applications for similar proposals if the Committee is minded not to authorise enforcement action.

Justification for Enforcement Action

On 26th October 2009 planning application [W09/1074] for the conversion of the rear part of the garage to a dining room at 14 St Fremund Way was refused under delegated powers.

On 16th February 2010 a retrospective planning application [W09/1116] for the conversion of the garage into a bedroom at 25 Horsepool Hollow, Whitnash was referred to the Planning Committee and in accordance with the officers recommendation the application was refused and enforcement action was authorised.

22 St Fremund Way is part of the same development and notwithstanding the circumstances of this case, in terms of the erroneous advice given at the permitted development enquiry stage, the reasons for refusal of the 25 Horsepool Hollow and 14 St Fremund Way applications apply to this situation.

The cumulative impact of a number of such garage conversions would greatly increase parking congestion in the area and would exacerbate the harm that is caused by the current situation in isolation.

RECOMMENDATION

That enforcement action be authorised directed at works to reinstate the garage to make it available for vehicle parking, the compliance period being 12 months.