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**Development Control Committee – 26<sup>th</sup> September 2005**

**Report of the Director of the Urban Environment**

**Land between 16 & 18 Birch Tree Gardens, Quarry Bank**

**Purpose of Report**

- 1 To inform the Committee of a complaint regarding the erection of a dwelling between 16 and 18 Birch Tree Gardens, Quarry Bank.
- 2 To seek approval from the Committee for the appropriate course of action.

**Background**

- 3 A planning application was submitted on 12th June 2002 for the erection of a dormer bungalow on the land between 16 and 18 Birch Tree Gardens, Quarry Bank. This application no. was P02/1137. The application was originally deferred by the Development Control Committee in December 2002 seeking amendments to the height of the building, it was subsequently approved on 3<sup>rd</sup> February 2003 at Development Control Committee meeting.
- 4 Following commencement of construction of the property the neighbouring occupiers have raised numerous concerns about the site. These complaints were varied and some of which involved the opposition to the original approval given by the Development Control Committee. Other complaints were more specific with regard to the way in which the property was being built.
- 5 Throughout the past two years officers of the Council have visited the site to investigate the various concerns raised by the neighbours. On each occasion it was found that there was no breach of planning control, or that if a technical breach had occurred it was rectified by the developer upon request by the officers.
- 6 On one occasion it was found that the levels of the property were not as initially shown on the approved plans. The builder wrote to the Council with this information and sought a minor amendment to the approval. In order that neighbours were aware of this and able to make comments on the proposed change, letters were sent out and the plans were made available for viewing. Comments were received and considered. Confirmation was received from the developer that the level changes would not result in the roof being any higher than the properties immediately adjacent to the proposal site. Following this confirmation a minor amendment was approved.

- 7 The property is now completed externally and is undergoing internal works to make it habitable. Further complaints have been received regarding the access to the site and in particular the driveway at the side of the property. In order to address these issues a further site visit was undertaken on 18<sup>th</sup> August 2005.
- 8 Measurements were taken on site and compared to the approved amended layout drawing no.4b received on 26<sup>th</sup> April 2004. Firstly the distance between the house and the kerbstone was taken and recorded as approximately 2m this is in accordance with the approved drawing.
- 9 A measurement was taken from the kerbstone at the front of the house and the retaining wall at the rear which effectively forms the area of available car parking for the property. This was measured at 15.9m. The distance of 13.9m is shown on the approved plan and therefore the available parking exceeds this by approximately 2m. This might be accounted for by the area immediately adjacent to the kerb at the front of the property. This area of land is unregistered and has been tarmaced by the developer to gain access to the site. The Council's engineers carried out the dropping of the kerb to create the access to the property as is normal practice. The area of land to the front of the property which is unregistered is approximately 2m in depth.
- 10 The width of the driveway has been an issue for the neighbours and thus was also measured on site. The approved plan showed the width of the driveway was approved as approximately 2.6m for the full length of the driveway. When measured the driveway width varied along the length, this is due to the orientation of the building and a slight recess where the doorway is which has been added to the proposal. The width of the driveway at the front of the property is between 2.9m. Adjacent to the doorway this rises to 3m and towards the back of the site it narrows to approximately 2.5m.
- 11 It is clear that there are minor discrepancies on the site when comparing the approved layout and the actual distances in reality. In such instances the Council may consider undertaking enforcement action against an individual. Planning Policy Guidance: Enforcing Planning Control (PPG18) explains that when considering enforcement action 'the decisive issue for the Local Planning Authority should be whether the breach of control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest..'. PPG18 goes on to say:
- '..enforcement action should always be commensurate with the breach of planning control to which it relates (for example, it is usually inappropriate to take formal enforcement action against a trivial or technical breach of control which causes no harm to amenity in the locality of the site)..'*
- 12 Having consideration for the above guidance and to this case in particular it is not considered that the minor breach which has occurred is one which causes harm to the amenity of the locality. The differences in driveway width are approximately 10cm in part and in other areas actually exceed the approved width. In addition the length of the driveway is approximately 2m longer than expected which can be

explained by the area of unregistered land to the front. These differences are not considered to have resulted in any significant additional impact upon the amenity of neighbouring occupiers, nor would they be likely to result in any decrease in parking availability at the site from the proposal which has been approved. For these reasons it is not considered that it would be expedient to pursue this matter further.

### **Finance**

- 13 There are no direct financial consequences for the Council arising from the proposal, however the Committee should be aware that the complainant may potentially make a complaint to the Ombudsman, which may result in costs being awarded against the Council if it is found that maladministration has occurred resulting in harm to the neighbouring occupiers.

### **Law**

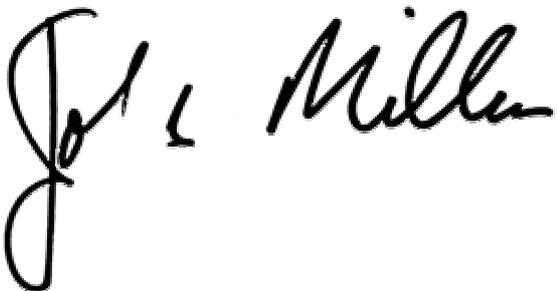
- 14 The planning process is governed under the Town and Country Planning Act 1990.

### **Equality Impact**

- 15 The proposal contained within this report takes into account the Council's equal opportunities policies and assist with the Council Plan's objective of achieving a fairer society.

### **Recommendation**

- 16 That the Committee endorses the decision not to pursue formal enforcement action due to the lack of expediency to do so as detailed above.

A handwritten signature in black ink, appearing to read 'John Millar'. The signature is written in a cursive style with a large initial 'J'.

**John Millar**  
**Director of the Urban Environment**

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**Background documents used in the preparation of this report:-**

Copies of the layout drawings no.4b (dated 26<sup>th</sup> April 2004) approved as a minor amendment showing the proposed measurements and the measurements from the site visit of 18<sup>th</sup> August 2005.