



Development Control Committee Schedule

Item No:	06
Application No.	Enforcement Report
Site Address	New building still under construction called Cherry Tree House, Cranham,
Town/Parish	Cranham Parish Council
Grid Reference	389370,212489
Proposal	To inform Members of a breach of planning control that is occurring on the site.
Recommendation	<p>1. That it is expedient to take Enforcement Action for the reasons outlined in this report and by virtue of adopted Local Plan Policies CP14(7) and ES3 (1) and the NPPF paragraph 58.</p> <p>If an Enforcement Notice is served, then the site will be monitored to ensure compliance.</p>
Call in Request	Director of Development Services





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Constraints	Area of Outstanding Natural Beauty Settlement Boundaries (LP) Site of Special Scientific Interest
	OFFICER'S REPORT

This matter is brought before the committee as the recommendation, if accepted, would result in the **demolition of the property** as it has not been built in accordance with the approved plans.

Introduction

1. This is a new development site that was given planning permission in 2015 for a one and a half story dwelling. The site is a garden plot which is enclosed by maple House, Greystones, the Paddock, Picardy and Windycot. The site is within the settlement boundary located at the north eastern end of Cranham. Access to the site is by way of a shared drive which is wholly within the grounds of the house called The Paddock. The property lies within the Cotswold Area of Outstanding Natural Beauty (AONB).

Complaints

2. This site was brought to the Enforcement Team's notice in the summer of 2017 as a result several complaints from residents. This resulted in the submission of an application for a minor amendment to change the roof height and the fenestration (ref: S.17/1345/MINAM). This was refused on 19 July 2017 for the following reason:

The proposed changes are considered to materially affect the scheme as approved under reference S.15/0917/FUL and as such cannot be considered as a non-material amendment to that application.

3. As a result of further complaints stating that work was continuing on site, a visit on 26 September 2017 by the Enforcement Officer found that the building was being built in accordance with the refused minor amendment scheme, meaning that the resultant building was unauthorised and not covered by the extant planning permission.
4. Correspondence was sent to the owners planning agent inviting him to submit a full revised application for the current changes. By the 26 October 2017 no application had been received and a further letter and email was sent to the planning agent explaining again that the development required the submission of a full planning application. Correspondence was also sent to the owners of the property on 8 November 2017 pointing out the problems that have arisen and that this needed to be addressed by the end of November 2017. It was suggested to them that all the building works stop until permission had been approved, or otherwise, and that to continue work on the development they did so at their own risk.



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5. On 28 November a planning application was submitted to vary Condition 5 from the original permission in 2015, to amend the design of the 2015 permission. Condition 5 of the approved planning permission states; ***the development hereby permitted shall be carried out in all respects in strict accordance with the approved plans listed below.*** This referred to proposed plans and elevations of 15 April 2015, plan number 14.766.05. This application was officially withdrawn on 1 February 2018.

Retrospective planning application

6. A further application was again submitted on 16 May 2018 by a new planning agent to vary Condition 5 of the 2015 permission (S.15/0917/FUL). This application was refused on 3 July 2018 for the following reason.

The built out dwelling by virtue of its increased height and position within close proximity to the adjacent neighbouring property known as The Paddocks, results in an unacceptable overbearing impact, thereby causing as detrimental impact on the amenities enjoyed by neighbouring residents, contrary to Policies CP14 (7) and ES (1) of the adopted Stroud District Local Plan, November 2015 and NPPF paragraph 123.

Legal considerations

7. Article 8 of the European Convention on Human Rights states; *“Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of National Security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others”.*
8. Article 8 requires respect for the home etc. This stops short of conferring a right to build a property without the authorised planning permission, without considering wider planning issues. The property is in clear breach of well established planning policies. This cannot be ignored and it justifies Enforcement Action. As stated, any enforcement action will require the demolition of the building. A lengthy compliance period of three months is justified to ease the urgency on the owner. Enforcement action cannot state as in this case to remove the roof as this has already been tested twice by planning applications which have subsequently all been refused. Members should also bear in mind that an appeal against an Enforcement Notice being issued suspends the effect of the notice until the appeal has been determined. An appeal is likely to take several months to determine.
9. Taking Enforcement Action under section 172 of the Town and Country Planning Act 1990 would interfere with the owner’s property which is still under construction. For the reasons given above, allowing the property to remain would conflict with the adopted Stroud District Local Plan, November 2015 and the NPPF. Provided that there is at least a three month compliance period, the enforcement action would not place a



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disproportionate burden on the owner. Enforcement Action is, therefore compatible with Article 8 of the European Convention on Human Rights.

10. As the recommended course of action is to take enforcement action to demolish the building, the Director considered it appropriate for the Development Control Committee to consider and determine the case.