

# FAREHAM

## BOROUGH COUNCIL

### Report to Planning Committee

**Date**                    **18 July 2018**

**Report of:**            **Director of Planning and Regulation**

**Subject:**              **REPORT ON PLANNING COMPLIANCE AT DRIFT HOUSE,  
BROOK AVENUE**

#### **SUMMARY**

At the request of Members, this report sets out the planning compliance issues in relation to three matters at Drift House, Brook Avenue.

In summary of this report, Officers advise that a raised table of imported material on the site does not require express planning permission. However, a rain water harvesting system already installed on the site has been found to constitute development for which permission is required. Officers recommend that any decision to take enforcement action be delayed until after the determination of a pending appeal. Finally, Officers have found no breach of the relevant planning condition concerning the remediation of Japanese Knotweed on the site.

#### **RECOMMENDATION**

That Members note the advice in this report.

## **INTRODUCTION**

1. On 25<sup>th</sup> April 2018 Members of the Planning Committee met to consider, amongst other things, a proposed replacement dwelling at the site of Drift House, Brook Avenue, Warsash (our reference P/18/0247/FP). Members resolved to refuse planning permission and during the course of the meeting several planning compliance issues were raised. Officers suggested that these matters could be presented to the Committee in a report which clearly set out the planning issues at hand and made recommendations as to appropriate formal enforcement action as necessary. That report follows below.

## **SITE DESCRIPTION AND RELEVANT PLANNING HISTORY**

2. The site lies on the west side of Brook Avenue, on the banks of the River Hamble. In February 2017 Members of the Planning Committee granted permission for the demolition of an existing two storey dwelling on the site and the erection of a replacement 5-bed dwelling (our reference P/16/1415/FP).
3. This permission was subsequently implemented. The house previously on the site was demolished and the site cleared. Levels on the site have been altered and groundworks have taken place. Construction of two detached garage outbuildings, approved as part of the permission granted, has begun up to damp proof course level of those buildings.
4. Officers have visited the site numerous times including a site visit in late 2017 during which it was identified that changes to the levels of the site had been carried out and a rainwater harvesting system installed.
5. As referred to in the introduction to this report, in April this year Members of the Planning Committee refused planning permission for a proposed alternative scheme to the one already permitted. Planning application P/18/0247/FP proposed the erection of a replacement dwelling including two detached double garages with first floor accommodation above and hard & soft landscaping. The application also sought retrospective consent for the installation of the rainwater harvesting system and associated changes to the ground levels on the site. The application was refused for the following reasons:

“The proposed development is contrary to Policies CS14 and CS17 of the adopted Fareham Borough Core Strategy and Policies DSP2 & DSP6 of the Fareham Borough Local Plan Part 2: Development Sites and Policies and is unacceptable in that:

- i) by virtue of the height, design, width, resultant bulk and proximity of the proposed dwelling to the site boundaries, and the inadequate landscaping proposed within the site, the proposal would fail to respond positively to and be respectful of the key characteristics of the area including its landscape, scale, form and spaciousness. The proposal would therefore be detrimental to the character of the area when viewed from the River Hamble, the opposite side of the river, the public footpath on the eastern side of the river and Brook Avenue.
- ii) on the basis of the limited information provided in relation to the proposed rainwater harvesting system, the Local Planning Authority is not satisfied that the system will not lead to increased surface water problems on neighbouring properties, to the detriment of the enjoyment of those properties.”

6. On 21<sup>st</sup> June the Council were notified by the Planning Inspectorate that an appeal has been lodged against the decision to refuse planning permission. The appeal is currently pending validation by the Planning Inspectorate.

### **SUMMARY OF IDENTIFIED PLANNING COMPLIANCE ISSUES**

7. At the Planning Committee meeting in April Members raised three main planning compliance issues of concern to them and which they sought further information and advice on. These are:
  - The construction of a 'raised table' of imported material towards the eastern end of the site;
  - The installation of a rain water harvesting system;
  - Measures taken to address the presence of Japanese Knotweed on the site.

Each of these issues are discussed below and recommendations made by Officers.

### **RAISED TABLE**

8. Following the demolition of the previous existing dwelling on the site a quantity of imported material has been used to construct a 'raised table'. The developer obtained the necessary Waste Exemption Registration from the Environment Agency before importing the crushed concrete
9. The raised table is constructed of crushed concrete and is located approximately where the permitted dwelling, and that subject to the planning appeal, would stand. However, the raised table extends approximately two metres beyond where the external facing walls of the new dwelling would be constructed resulting in it being 'oversized'. The height of the raised table also exceeds the finished floor level of the approved dwelling, and that subject to the planning appeal, according to measurements taken on site by Officers.
10. The owner of the site has advised that this level base is required for the operation of a piling rig and that the current height of this is not indicative of the finished floor or ground levels. The raised base is to function as a 'piling mat' – a working platform used for piling rigs to travel on, providing a stable base on which they can move around the site and operate. The design of piling mats will ordinarily depend on the ground conditions and the piling equipment being used, as well as the rig loadings. It is generally recognised that the most suitable material for piling mats are well-graded natural gravels or clean-crushed concrete. It is mandatory that every site with an operational piling rig has a working platform certificate issued by the piling company as part of their risk assessment before piling commences which states the piling mat has been correctly designed and installed. The Council's Building Control Surveyor has confirmed that the development will require a piling rig due to the site conditions and the split level design of the approved dwelling. Once the piling work has been carried out the piling mat would no longer be required.
11. The raised table (piling mat) is operational development, however, such works benefit from being classed as permitted development which means that no planning

permission was required from this Council to carry out the works. The Town & Country Planning (General Permitted Development) (England) Order 2015, (Part 4 Class A) permits “the provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land”.

12. In this instance, there is an extant permission to construct a replacement dwelling and that permission has been implemented. The raised table (piling mat) comprises works which are temporarily required in connection with that development which has been granted planning permission. Although work ceased on site some months ago it is the clear intention of the owner to redevelop the site. This is further evidenced by the recent planning application for an alternative proposed dwelling and their subsequent decision to lodge an appeal with the Planning Inspectorate after that proposal was refused planning permission.
13. Officers are satisfied that the construction of the raised table on the site for a temporary period falls under the description of permitted development and does not require planning permission from this Council.
14. Once piling works on the site have been carried out there would no longer be a requirement for the raised table (piling mat). In the event that the raised table was not removed to allow the development to continue, this Council could consider whether the works still amounted to permitted development and if it concluded that they did not, could consider the expediency of taking formal enforcement action.

#### **RAIN WATER HARVESTING SYSTEM**

15. Six water tanks have been installed in a row a short distance westwards from the rear of where the approved dwelling would be built. Each tank has a capacity of 7,500 litres giving the combined system an overall capacity of 45,000 litres.
16. The majority of each tank is located underground with only the tops, including a lockable inspection cover, visible above the current ground level. The intention is that the tanks would lie flush with the finished level of the land once the development of the site is complete and levels raised accordingly.
17. The tanks would store rainwater directed to them by drainage channels leading from rainwater goods attached to the roof structures of the dwelling and garage outbuildings. A series of irrigation pipes and sprinklers have been connected to the tanks under a newly laid rear lawn which the system would be used to water.
18. Following a site visit in late 2017, Officers advised the site owner that the installation of the water tanks and the associated changes to the levels of the land around them amounted to development which required planning permission. The works that had already been carried out were unauthorised and potentially subject to formal enforcement action by the local planning authority.
19. As a result of this advice the site owner sought to include this development in the most recent planning application submitted for an alternative replacement dwelling (our reference P/18/0247/FP).
20. At the Planning Committee meeting held in April Members were concerned about the

limited information in respect of this rain water harvesting system and were not satisfied that the system would not lead to increased surface water problems on neighbouring properties. An additional reason for refusal was imposed as set out earlier in this report reflecting this concern.

21. The Council received notification of an appeal against the refusal of planning permission on 21<sup>st</sup> June. Once the Planning Inspectorate have validated the appeal confirming that it should proceed to be determined, all of the documents submitted will be displayed on the Council's website in the public domain. The Council will have the opportunity to provide a full statement of its case in support of the decision made by the Planning Committee. This will include an assessment of any information the appellant has provided in relation to the rain water harvesting system in order to address the relevant reason for refusal. The opportunity will also exist at the same time for all interested third parties to make representations directly to the Planning Inspectorate in respect of the rain water harvesting system.
22. Due to the submission of a planning appeal, Officers consider that the need to consider any formal planning enforcement action with regards to the rain water harvesting system, should not take place until after the Planning Inspectorate have issued a decision. In the event that the appeal is dismissed in respect of the rainwater harvesting system, Officers would prepare a further report for Members of the Planning Committee to advise on the expediency of formal planning enforcement action.

### **JAPANESE KNOTWEED**

23. Japanese Knotweed is a non-native invasive species of plant which has previously been found to be present on the application site and also on adjacent land. Officers have no information to suggest where the knotweed first originated.
24. A Japanese Knotweed Management Plan was submitted with the permitted planning application (our reference P/16/1415/FP) which detailed how it was intended to eradicate Japanese Knotweed from the site. A planning condition secured compliance with this management plan and reads as follows:
  25. "The development shall be carried out in accordance with the approved Japanese Knotweed Management Plan with regards to the treatment of Japanese Knotweed on the application site. A record shall be kept of the remedial works undertaken during the construction phase of the dwelling and for the length of any long term chemical treatment program undertaken and this report shall be made available to the Local Planning Authority on request within 14 days."
26. The remediation work set out in the management plan and secured through the above condition has now been carried out, verified by the contractor involved and membranes have been installed at the boundaries of the site to reduce the potential for recontamination from neighbouring properties.
27. The site owner has provided Officers with a copy of a remediation report prepared by the contractors responsible for the removal of the knotweed. An Environmental Health Officer from the Council has considered the report and has confirmed that in his view the remediation scheme has been followed in accordance with the agreed measures.

28. Japanese Knotweed identified within neighbouring gardens was not treated as part of the scheme of remediation carried out as these gardens are outside of the control of the owner of Drift House. Furthermore, the planning condition imposed on the planning permission secured the treatment of Japanese Knotweed “on the application site” and does not oblige the site owner to carry out remediation in relation to neighbouring land.
29. Officers consider that there is no apparent breach of the relevant planning condition attached to permission reference P/16/1415/FP in relation to the treatment of Japanese Knotweed on the site.
30. In terms of dealing with Japanese Knotweed outside of the planning legislative framework on land adjoining the application site, this is a private law matter between the respective landowners and is not a planning consideration.

### **CONCLUSION**

31. In summary of the above advice and the three planning compliance issues raised by Members:
32. The raised table is permitted development and does not require separate planning permission. As a result of this there is no formal planning enforcement action the Council is able to take at this time.
33. The rain water harvesting system constitutes development for which planning permission is required. No such permission has been granted and the Council is able to take formal enforcement action if it considers it expedient to do so. Officers recommend that any decision to take such action be delayed until after the determination of the planning appeal now lodged which will consider this very issue.
34. Officers have found no breach of the relevant planning condition concerning the remediation of Japanese Knotweed on the site.

### **RECOMMENDATION**

35. That Members note the advice in this report.

**Background Papers:** P/16/1415/FP; P/18/0247/FP

### **Enquiries:**

For further information on this report please contact Richard Wright – direct dial 01329 824758.