



COTSWOLD DISTRICT COUNCIL

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| Council name | COTSWOLD DISTRICT COUNCIL |
| Name and date of Committee | PLANNING AND LICENSING COMMITTEE - 11 NOVEMBER 2020 |
| Report Number | AGENDA ITEM (6) |
| Subject | ENFORCEMENT REPORT - ROSSLEY COTTAGE, LONDON ROAD, DOWDESWELL, CHELTENHAM |
| Wards affected | Sandywell - Cllr. Robin Hughes Email: robin.hughes@cotswold.gov.uk |
| Accountable member | Cllr. Clive Webster - Cabinet Member for the Planning Department / Town and Parish Councils Email: clive.webster@cotswold.gov.uk |
| Accountable officer | Edward Leeson - Planning and Enforcement Case Officer Tel: 01285 623522 Email: edward.leeson@publicagroup.uk |
| Summary/Purpose | To enable the Planning and Licensing Committee to make a decision on the expediency of taking enforcement action. |
| Annexes | Annex A - Decision Notice 18/04861/FUL Annex B - Approved Site Plan Annex C - Existing Elevation Plan Annex D - Approved Elevation Plan Annex E - Photographs |
| Recommendation/s | <p>a) <i>That authority is given to issue a Breach of Condition Notice under Section 187A of The Town and Country Planning Act 1990 with regard to the breach of conditions 3 and 5 of planning permission 18/04861/FUL which required external walls of the development to be built of natural stone and a sample panel to be provided and approved respectively; and</i></p> <p>b) <i>To prosecute any subsequent failure to comply with the requirements of the Notice.</i></p> |
| Corporate priorities | Ensure that all services delivered by the Council are delivered to the highest standard and Respond to the challenges presented by the Climate Change Emergency |
| Key Decision | NO |
| Exempt | NO |

Consultees/
Consultation

Design and Heritage

1. BACKGROUND

- 1.1. Planning permission (under ref. 18/04861/FUL) was granted in 2018 for a two-storey extension to the south west elevation. Construction commenced in late 2019/ early 2020 and in June 2020 it was brought to the Council's attention that the external walls were being constructed in artificial stone as opposed to the natural stone required by Condition 3 of the planning permission. It also transpired that no compliance application for the walling sample panel had been received or discharged.
- 1.2. Photographs are attached as an appendix to this report showing the works carried out, which can be seen to have been constructed from stone.

2. MAIN POINTS

- 2.1. The site relates to a modest, vernacular style detached residential property of Cotswold stone construction. The property is located within a wooded area, within the original grounds of Rossley Manor; a Grade II listed building and former farmhouse which dates from the C16, located approximately 60m to the south-west.
- 2.2. Due to its age and surviving character, the property is considered to be a Non-Designated Heritage Asset (NDHA). Paddock Cottage is an almost identical dwelling located directly to the south of the application site, and is also considered an NDHA. The site is situated within the Cotswolds AONB and is within 500m of an Ancient Woodland.
- 2.3. Conditions 3 and 5 of planning permission 18/04861/FUL required the following: -
 - 2.3.1. 3. The external walls of the development hereby permitted shall be built of natural stone and shall be permanently retained as such thereafter.
 - 2.3.2. Reason: To ensure that in accordance with Cotswold District Local Plan EN2 and EN5 the development will be constructed of materials that are appropriate to the site and its surroundings. It is important to protect and maintain the character and appearance of the area in which this development is located.
 - 2.3.3. 5. Prior to the construction of any external wall of the development hereby approved, a sample panel of walling of at least one metre square in size showing the proposed stone colour, coursing, bonding, treatment of corners, method of pointing and mix and colour of mortar shall be erected on the site and subsequently approved in writing by the Local Planning Authority and the walls shall be constructed only in the same way as the approved panel. The panel shall be retained on site until the completion of the development.
 - 2.3.4. Reason: To ensure that in accordance with Cotswold District Local Plan Policy EN2, the development will be constructed of materials of a type, colour, texture and quality and in a manner appropriate to the site and its surroundings. Retention of the sample panel on site during the work will help to ensure consistency.
- 2.4. The applicant has advised that he submitted samples during the planning process, as well as built a sample panel on site, ready for an Officer to inspect. In addition,

the applicant has advised that he visited the Council offices on 6th March 2020 to deliver a sample of Bekstone (artificial stone), a postal order to cover the application fee, photographs of the sample panel, together with a copy of the paper application. Unfortunately, following considerable investigation, the Council can find no evidence of these details having been submitted and therefore did not receive an application to comply with the relevant conditions.

- 2.5. It should be noted that the quality of the materials proposed for the extension was duly considered during the application process and given the status of the building as an NDHA, it was considered essential that the extension be constructed in natural Cotswold stone to match the existing dwelling, hence Condition 3 being attached to the planning permission. As result of the complaint received regarding the use of artificial Cotswold stone, Officers have taken the opportunity again to assess the use of artificial stone and maintain their original stance that the extension should be constructed in natural Cotswold stone for the following reasons:
 - 2.5.1. The cottage is an NDHA and the large extension was allowed on the basis of the use of natural stone. It is considered that the use of an artificial stone would diminish the quality of the approved extension and reduce the significance of the NDHA;
 - 2.5.2. The cottage is located in the AONB and within the wider setting of Rossley Manor (a listed building) and the use of artificial stone is not considered to be acceptable in this context; and
 - 2.5.3. The adjacent property has had a similarly large extension approved in natural stone. When a different, less costly material was suggested for this build, we advised that only natural stone would be acceptable, and it is important to be consistent in our approach in extending these cottages.
- 2.6. As the development has commenced using artificial Cotswold stone and without the approval of the sample panel, the applicant is in breach of conditions 3 and 5 of the above planning permission. The use of artificial Cotswold stone is considered to be unacceptable and would not comply with the detailed design considerations set out within the National Planning Policy Framework or with Local Plan Policies EN2, EN5 and EN12. This conclusion incorporates the professional assessment of the Council's Conservation Officer and it is considered that a Breach of Condition Notice should be issued to remedy the unauthorised use of artificial Cotswold stone.

3. FINANCIAL IMPLICATIONS

- 3.1. There is no right of appeal against a breach of condition notice but the validity of a breach of condition notice, and the propriety of the Local Planning Authority's decision to serve a breach of condition notice, may be challenged by application to the High Court for judicial review, and so there is a risk of costs associated with any challenge to the Council's decision.

4. LEGAL IMPLICATIONS

4.1. It may be necessary to seek legal support in the event that the property owner challenges the decision.

5. RISK ASSESSMENT

5.1. None.

6. EQUALITIES IMPACT (IF REQUIRED)

6.1. Not applicable.

7. CLIMATE CHANGE IMPLICATIONS (IF REQUIRED)

7.1. Not applicable.

8. ALTERNATIVE OPTIONS

Not applicable.

9. BACKGROUND PAPERS

9.1. None.

(END)