

**Planning Committee:** 02 November 2005

**Item Number:** 13

**Application No:** W 05 / 1521

**Registration Date:** 12/09/05

**Town/Parish Council:** Whitnash

**Expiry Date:** 07/11/05

**Case Officer:** Alan Coleman

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**16 Avon Road, Whitnash, Leamington Spa, CV31 2NJ**

Erection of a single storey detached garage in rear garden (retrospective)  
FOR Mr S Jasiok

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This application is being presented to Committee due to an objection from the neighbouring resident who is a District and County Councillor and in order to request that enforcement action be taken.

**SUMMARY OF REPRESENTATIONS**

**Town Council:** No objection but comment that pitched roof could be lowered to make it more neighbourly.

**Neighbours:** The neighbouring resident of 14 Avon Close objects on grounds that the height, mass and scale of the garage has an unneighbourly impact in conflict with Policy (DW) ENV3 of the Warwick District Local Plan 1995, Policy DP1 and DP2 of the Warwick District Local Plan 1996-2011 (Revised Deposit Version) and Supplementary Planning Guidance: *The 45 Degree Guideline*.

**RELEVANT POLICIES**

(DW) ENV3 - Development Principles (Warwick District Local Plan 1995)  
DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011 First Deposit Version)  
DP2 - Amenity (Warwick District Local Plan 1996 - 2011 First Deposit Version)  
The 45 Degree Guideline (Supplementary Planning Guidance)

**PLANNING HISTORY**

The site has no recorded planning history.

**KEY ISSUES**

**The Site and its Location**

The premises comprise a two-storey dwelling that stands within an established residential area on the western side of Avon Road where it stands at the end of a terrace of properties that are broadly similar in original design and appearance. There is driveway access alongside the northern side elevation of the dwelling and boundary with 14 Avon Road, which also provides access to a passageway serving the rear of the adjoining terraced houses at 18 and 20 Avon Road.

A single storey extension has been erected at the rear of the property as 'permitted development'.

### **Details of the Development**

The proposal is to retain the existing garage that has been constructed at the rear of the premises. The development replaces a previous garage that stood on the site. However, there are no recorded details of its dimensions other than Ordnance Survey plans which indicate it stood in a similar position at the rear of the property and boundary fence but was approximately 0.5 metres narrower and over a metre shorter than the existing garage.

As built, the garage stands within 0.5 metres of the boundary with 14 Avon Road and 2 metres from the rear elevation of the host and neighbouring dwelling. In this position it stands some 2 metres at the eaves with a 40° pitched roof extending to approximately 3.84 metres at the ridge, 3.65 metres wide by 7.1 metres long. In this form and position, the side elevation extends approximately 0.5 metres above the boundary fence for a distance of about 0.5 metres, increasing to some 0.8 metres for the remaining length of the garage reflecting the change in the height of the boundary fence at this point.

### **Assessment**

I consider the main issue is the impact of the development on the neighbouring residents' amenities. Whilst I have no reason to dispute the neighbour's contention that the development is greater in mass, length, eaves/ridge height and roof pitch than the previous garage, nevertheless no details are available to confirm this. Consequently, I am unable to carry out a true comparative assessment. In the absence of such details, I am of the opinion that the application must therefore be considered on its own individual merits. On this basis, I consider that the height, size, scale, mass and siting of the garage in proximity to the boundary fence and neighbouring dwelling has an unacceptable overdominant and overbearing impact on the outlook from the kitchen and living room windows of 14 Avon Road, where it stands in breach of the Council's 45° Code. As such, the development conflicts with Policy (DW) ENV3 of the Warwick District Local Plan 1995 and Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011 (Revised Deposit Version).

Thus, it is open to Members to authorise enforcement proceedings to remedy the harm that is considered to be caused by the breach. However, the absence of details for the previous garage also creates difficulties establishing the terms of an enforcement notice for amendments to the existing garage. Consequently, I consider the most appropriate and consistent course of action would be to require the complete removal of the existing structure. This would allow the applicant to exercise his right of appeal when it would be open to an Inspector to uphold or vary the terms of the notice. Otherwise, it is open to the applicant to submit an amended application to address the objections to the scheme as built, as expressed in the recommended reason for refusal given below.

## **RECOMMENDATION**

1. REFUSE for the reason given below, and;
2. Authorise enforcement action to ensure the removal of the existing garage from the site. The period for compliance to be three months.

- 1 Policy (DW) ENV3 of the Warwick District Local Plan requires all development proposals to achieve a high standard of design which harmonises with its surroundings. Policy DP1 of the Warwick District Local Plan 1996-2011 (Revised Deposit Version) encourages development to positively contribute to the character and quality of its environment through good layout and design, in accordance with a number of criteria. These include, amongst others, respect for surrounding buildings in terms of scale, height, form and massing. Policy DP2 of the same plan indicates that development will not be permitted where there would be adverse impact on the amenity of nearby residents. The District Council has also adopted Supplementary Planning Guidance entitled: *The 45 Degree Guideline* which seeks to balance the interests of those seeking to extend their property whilst securing the interest of adjoining occupiers.

The garage stands at the rear of the host dwelling where it adjoins the boundary of the site with the neighbouring dwelling at 14 Avon Road. In the opinion of the District Planning Authority the garage has an unacceptable overdominant and overbearing impact on the neighbouring residents of 14 Avon Road by reason of its height, size, scale, mass, roof pitch and siting in proximity to the rear garden, kitchen and living room windows of this property, where it stands in significant breach of the Council's Supplementary Planning Guidance: *The 45 Degree Guideline*. The development is therefore also considered to be contrary to the aforementioned policies.

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