

Neil

From: Rob Riding
Sent: 10 June 2010 14:54
To: 'Eric Cox'
Subject: RE: Sunnybank,Gravel Hill,Shirrell Heath,Hants. SO 32 23 Q

<>

Dear Mr Cox

I've now had the opportunity to review the contents of your email and will address each matter in turn below.

Mobile home - I note you state the mobile home is situated within the curtilage of the dwelling and is solely used as additional residential accommodation to the main dwelling. However, so that the Council can be satisfied there is no breach of planning control, I intend to serve a Planning Contravention Notice on Mr Stone shortly so that the relationship between the mobile home and the dwelling can be explored further. I will send you a copy for your records when it has been issued.

Outbuilding extension (appeal building) - Whilst I note you feel the enclosure of the decked area does not constitute a breach of planning control I feel its unclear whether an gym/exercise area extension to a building used for ancillary residential accommodation would benefit from Class E Permitted Developments rights. For a formal view Mr Stone may wish to submit an application for a Lawful Development Certificate (proposed development) to provide clarification on this matter. However, at this stage, I do not feel it would be something the Council would be looking to take any further action against although nevertheless I would welcome the opportunity to inspect the extension when it is complete and the gym/exercise area is fitted out to satisfy myself it is being put to an incidental use. I note you will contact me in due course to arrange such a visit.

Summerhouse (with decking) - I agree with your view and the advice you have given Mr Stone on re-siting the structure within the curtilage of the dwelling. I would appreciate if the structure could be re-sited by when I visit to inspect the outbuilding extension.

I look forward to arranging a convenient date and time in the near future to inspect the site.

Yours sincerely

Rob Riding BSc (Hons) MA
Senior Planning Officer (Enforcement)
Winchester City Council

-----Original Message-----

From: Eric Cox
Sent: 02 June 2010 17:24
To: Rob Riding
Subject: Sunnybank,Gravel Hill,Shirrell Heath,Hants. SO 32 23 Q

Dear Rob,

Further to my recent telephone conversation with you , as promised ,I am writing to you regarding the matters you outlined to me when we spoke.

I have now visited the site and met with Richard Stone.

Before commenting on each of the issues, i would like to refer back to the appeal decision dated 05.12.2008 and the Inspector's views on that case.

In summary he found that the "red line" shown on the enforcement notice issued on 04.02.2008 did include the area where the building was sited.

In paragraph 8 he stated:-

"From what I saw and heard the appeal building was constructed in the back garden of Sunnybank on land which clearly could be described as a piece of land attached to the dwellinghouse. It follows that the building was then in the curtilage of Sunnybank....."

Although the Notice was quashed, other than the confirmation I have set out above in the preceding paragraph there was no dispute as to where the northern boundary was situated. The Enforcement Notice plan has the boundary "dog-legged" around the southern boundary of the currently disused glasshouse and then continues on a line further east.

In paragraphs 13 and 14 of the decision letter, it records that Mr. Stone gave evidence as to why the building was erected, how it was used initially and the circumstances which led to its changed use to extra residential accommodation. He also explained how the gym equipment had been moved into the conservatory of the main dwelling. It continues to explain how the building was used for extra residential accommodation for Mr. Stone's daughter, her husband and their young children.

Also of importance is the Council's own views set out in paragraph 25 and the Inspector's views in paragraph 26. I set these out in full:-

"25. It should be noted as a matter of fact that the appeal accommodation is only about half the size of a caravan, or mobile home, allowable under the Caravan Sites Act 1968 (where the maximum permitted size is about 111.5 square metres). The Council agreed that such a caravan (which would also be likely to have all the facilities necessary for independent living) could lawfully be sited at Sunnybank, and used as ancillary residential accommodation, without the need for planning permission. The appellant made it clear that if this appeal failed then he would have to buy a caravan and bring it onto the site for a residential use associated with the main house to satisfy his family needs.

"26. I also acknowledge that the present close personal relationships, and the single Class C3 use at Sunnybank, could change in the future. Mr Stone and his daughter may fall-out or other persons, not linked to the appellant and his partner may move in. This could create an enforcement problem for the Council requiring it to monitor the site very closely, and regularly, asking searching questions of the occupiers if necessary. But this is no different from the position the Council would find itself in should a caravan be lawfully moved onto the site and used as additional residential accommodation for Sunnybank. This potential problem is not sufficient to alter my opinion that, at the time of the inquiry, there had been no breach of planning control."

It is against that background that I now turn to the present position on site.

I will deal with the caravan first.

Firstly and vitally the whole of it is situated within the defined residential curtilage of Sunnybank. On the ground there was a definite feature (ie a hedgerow) which existed which physically delineated this common boundary. Although that has been removed its position can be measured from the plan your Council attached to the Enforcement Notice.

The size of the caravan is less than the maximum permitted by the Caravan Sites Act 1968.

Its use is solely as extra residential accommodation serving the main Sunnybank. Exactly the same principles apply to its use as the building the subject of the 2008 appeal decision.

Mr. and Mrs. Andrews' family (ie Mr. Stone's daughter and son-in-law) still remains as before but as time passes their children are growing up and the existing building is becoming restrictive for the family's use. In particular more indoor daytime living space is needed and the caravan provides that facility.

Also of importance to Mr. Stone and his partner is the fact that the main Sunnybank only has 2 bedrooms and this does create difficulties when other family members and friends come to stay. The caravan provides overspill sleeping accommodation in such circumstances.

It is not used for independent residential use.

In the light of the above I believe the siting and current use of the caravan falls within the category set out in paragraph 25 of the appeal decision - namely extra residential accommodation which does not need planning permission.

I would add that when I visited the site I did notice a summerhouse had been erected (with decking) on the land north of the caravan. This is clearly outside the residential curtilage of Sunnybank and I have advised Mr. Stone that in my opinion its siting and use for extra residential purposes is a breach of planning control. Mr. Stone advised me he would arrange for it to be resited within the residential curtilage in the near future.

You also drew my attention to the enclosure of the decked area on the western side of the appeal building.

I enquired of Mr. Stone his intentions of how this additional area was to be used once the current construction works were completed. He advised me it is his intention to re-create the gym/exercise area so that the conservatory at Sunnybank could revert to its more appropriate use as living area. This small extra space being created will be independent of the building occupied by Mr. and Mrs Andrews and their daughters as it will have its own entrance on its western side.

Its use will be precisely the same as the original building when first constructed and therefore, by virtue of this and its size falls within "permitted development".

I believe a site visit when the building works are complete and this exercise area is fitted out will give you the opportunity of satisfying your Authority of confirmation of this.

I do hope all the above information is sufficient for you to be reassured that both the caravan and the enclosed decking area used as I have described , do not constitute breaches of planning control.

If you need any more information at this stage do please let me know.

I will contact you again when the exercise area is fitted out and arrange a mutually convenient date and time for us to meet on site.

Please confirm this course of action is acceptable to you.

yours sincerely

Eric

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