

BUDLEIGH SALTERTON  
(Budleigh Salterton)

No. 06/F0385  
(Enforcement)

Date complaint received:  
19 July 2007

Land Owner: Mr Downing

Location: 1 Little Knowle, Budleigh Salterton

Alleged Breach of  
Planning Control: Erection of a replacement timber garage/summerhouse without  
planning permission

### **SITE LOCATION AND DESCRIPTION**

The site is located within the built-up area boundary of Little Knowle.

### **BACKGROUND**

The Chairman's attention was drawn in July 2006 to the enlargement of the concrete footpath adjacent to but outside of the curtilage of 1 Little Knowle, Budleigh Salterton.

Following this visit the Enforcement Officer wrote to the owner on 29 August 2006 advising him the proposed replacement of this timber garage on land outside the curtilage of 1 Little Knowle, Budleigh Salterton, would require planning permission because it is a new building and not within the curtilage of the dwelling house. A reminder letter was sent on 10 October 2006.

The owner subsequently contacted one of the Council's Planning Officers who discussed this matter with him and also advised him that his proposal to erect a replacement timber garage would be unlikely to receive a favourable response.

It was not until December 2006 that it was noted that the replacement timber garage/summerhouse had now been erected. As a result the Enforcement Officer wrote again on 5 January 2007 requesting that an application be submitted to regularise the breach of planning control.

Once again, a reminder letter was sent on 20 February 2007.

On 15 March 2007 the Enforcement Officer wrote to the Parish Council and the local Ward Member for their comments and recommendations as to whether it was expedient to take enforcement action.

On 26 March 2007 the land owner wrote explaining the background to this matter and that in his opinion he did not believe it necessary to apply for planning permission to replace the wooden structure.

As a result of local elections, it was necessary to seek further comments from the newly elected members:

The Town Council and local Ward Members have been consulted and in response:-

The Town Council – agree that the District Council should proceed with enforcement Action.

Councillor Franklin – he agrees with enforcement action.

Councillor Hall – “I am not aware of the full history but I am more than happy to support you fully in enforcement of the infringement”.

Councillor Florey – “I have read and noted the details and considered your comments carefully. Given the situation, and assuming no formal application has been received by EDDC in the period since your letter, I consider it a necessity to instigate enforcement action in this case.”

In the event that this application comes to Committee I would reserve my position until I am in full possession of all the relevant facts and arguments for and against.

### **TOWN/PARISH COUNCIL**

At a meeting of the Planning Committee held on 26 November 2007 Members discussed your email dated 8 November 2007 and I have to advise they could not agree to your recommendation of ‘no further action’.

They feel the building in question is not a garage – a car could not actually get inside the building – it is more a summerhouse being used as a storage room.

### **PLANNING CONSIDERATIONS**

Historical location plans and photographs show that a similarly sized structure occupied the site prior to the erection of the timber garage/summer house. Given this preceding use of the site and the design of the new garage which would preclude vehicular storage, the structure would not lead to a significant loss of amenity for properties in the surrounding area. The timber materials and obscured siting help to lessen the visual impact of the garage which is partially obscured by vegetation and a neighbouring building. The simple form of the garage and its relatively small scale further reduce its prominence. In this context it is not considered that the building gives rise to a significant degree of harm such that it would be pertinent to pursue enforcement action to secure its removal.

Because of the planning considerations, the Authority did seek further views of the Town Council, who remain of the opinion that enforcement action should be taken. In light of the local objects, this matter has now been brought to the Development Control Committee for consideration.

### **HUMAN RIGHTS ACT**

Article 8 of the European Convention of Human Rights confirms that everyone has the right to respect for the private life and their home. Interference with this right by a Council is only authorised where the law allows and where the Council considers that action is necessary in a democratic society for, inter alia, the protection of the rights and freedoms of others. Furthermore, any action taken by the Council has to be proportionate in the sense that the Council does not require more than is reasonable or necessary to address the harm caused by the issue.

### **RECOMMENDATION**

That no further action is taken in respect of this matter.

#### List of Background Papers

Application file, consultations and policy documents referred to in the report.