

SIDMOUTH TOWN  
(Sidmouth)

No. 09/F0025  
(Enforcement)

Date complaint received:  
09 January 2009

Land Occupier: Feathers, Milton House

Location: Feathers, Milton House, 9 High Street, Sidmouth

Alleged Breach of Planning Control: Roof extension/conversion is too high and restricts neighbours' light

## **BACKGROUND**

Planning permission was originally sought in 2007 to carry out alterations to this property to create additional living space within the roof and form a roof terrace.

The application (07/3439/FUL refers) was refused because it was considered that the proposals fundamentally altered the traditional roof form of the main building and were inappropriate and unacceptable. The rear areas of the neighbouring properties adjoin the extension and flat roof areas of the site and, as there is no boundary between the site and the flat roofed areas of the dwelling to the south, it was considered that the proposals would result in an unacceptable level of overlooking.

The revised scheme (08/0500/FUL refers) was amended to minimise the impact of the alterations on the building itself and the wider Conservation Area, particularly when viewed from the footpath and adjacent to the churchyard. The amended scheme saw a reduction in the size of the roof terrace and no longer includes the removal of part of the roof of the pitched roof extension at the rear. This revised scheme was subsequently approved.

Attention was drawn in January 2009 relating to the alleged non-compliance with the planning permission and the development had caused a severe loss of light. The Senior Planning Officer (Enforcement) visited the site and also visited the complainant's property and viewed the development from that premises. As a result of this visit, the Local Planning Authority were satisfied that the works to date were in accordance with the conditional planning permission granted on 11 April 2008.

It was also pointed out that the main issue which seems to have raised concerns were the procedures in dealing with that application during the consultation period and this is a matter of further investigation.

The complainant once again contacted the Authority by letter dated 23 May 2009, having sought further advice from an architect, who had undertaken an inspection and deemed that the height of the structure from the window which was most affected and it is his view that the height of the roof is at least 2 feet higher than that indicated on the approved plans. As a result, the Enforcement Officer undertook a site visit and met the complainant. He also took a photograph of the development of both the front elevation from the High Street and the rear elevation from the footpath adjacent to the churchyard. He also climbed out onto the flat roof and took a measurement, albeit with some degree of difficulty, but found that the height of the roof extension appeared to be 0.5 metres higher than the approved drawings.

As a result, the Enforcement Officer wrote to the Architects who dealt with his application, advising them of his findings and requested that a new application be submitted retrospectively for the necessary planning permission within 28 days or undertake such works as necessary to reduce the height of the roof to within the permitted height.

The Architects responded by letter and were of the opinion that it was unclear how it could be determined that the roof extension is higher than in the approved drawings.

Despite further correspondence with the architect no application has been submitted retain the works and no works have been undertaken to reduce the height of the building.

### **RELEVANT PLANNING HISTORY**

<b>App.No:</b>	<b>Year</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
0500/FUL	2008	New entrance to flat and extension/conversion of roof space to form bedroom and en-suite with roof terrace	Approved	11.04.2008
3439/FUL	2007	New entrance to flat and extension/conversion of roof space to form bedroom and en-suite with roof terrace	Refused	04.02.2008

### **CURRENT SITUATION**

It is difficult to determine precisely how much taller the building is than shown of the approved drawings because the adjacent buildings appear to be inaccurately shown on the approved plans. The only place from which measurements can be taken is an adjoining flat roof where the discrepancy appears to be about 0.5m.

Officers are of the opinion that, although the height of the extension is slightly higher than approved, it does not affect the street scene and if an application had been submitted to regularise this breach of planning control it is unlikely that planning permission would have been refused. The Head of Planning & Countryside Services has instructed that this report is brought to the attention of the Development Management Committee for its consideration as there is an on-going formal complaint regarding this development.

The outstanding complaint relates to a loss of light to a neighbouring property which it is alleged was not given due consideration. The complaint is the subject of an investigation under the Complaints Procedure. It is understood that agreement has been reached to provide an additional window in this elevation in order to offset the loss of light to the neighbour's property.

### **PLANNING VIEWPOINT**

The property is situated along the Sidmouth High Street and within the Town Centre Shopping Area. The property consists of the Feathers shop on the ground floor fronting the High Street and a residential flat over. Access is gained through the shop on the High Street and via the public footpath to the rear (west of the site). The rear garden areas of the terraced properties are set back from the footpath at the rear and are enclosed by a large garden wall.

Milton House forms an important part of the historic fabric of the town and, though extended and altered over the years, still maintains a traditional roof form. It would appear that the height of the roof has been increased by between 250 mm and 500 mm from that which was approved. When viewed from the High Street this change is barely noticeable as it is a small increase which when read in the context of the varying ridge heights in the streetscene is not harmful.

The impact of this moderate increase in height on the amenities of the adjacent property is also considered to be insignificant. The natural light reaching the affected windows was already restricted by the orientation of the windows and the original buildings, while the approved extension would have further restricted light to those windows anyway. This has already been acknowledged by this Authority and remedial action is being taken to address this. The additional increase in height above the approved scheme is relatively insignificant in terms of any additional loss of light while the agreed remedial measures will address this.

### **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**

No further action is taken.

### **List of Background Papers**

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