
BREACH OF PLANNING CONTROL 13 RONALD DRIVE, RAYLEIGH, ESSEX

1 SUMMARY

- 1.1 To consider the report of the Head of Planning Services regarding a breach of planning control, namely the operation of a gym and swimming pool for commercial clients at 13 Ronald Drive, Rayleigh.
- 1.2 Members will need to consider whether it is expedient to serve enforcement notices, etc. and this function is discretionary. However, the mechanisms of such actions are statutorily controlled.

2 INTRODUCTION

- 2.1 This matter has been brought to the attention of this Authority on a number of occasions, the latest being in March 2001. Local residents were concerned about the detrimental impact that this use was having on their residential amenity.
- 2.2 This use was initially investigated in 1994 when a Planning Contravention Notice was served on the owner of the site. In completing and returning this PCN the owner of the site denied that any commercial use was occurring and that any gymnasium use was purely a hobby and was ancillary to the enjoyment of the dwellinghouse.
- 2.3 A further inspection of the site, prompted by a further complaint, was made in 1996. This revealed that the swimming pool was still in the process of being constructed and that the gym area had not yet been formally plumbed in. At this stage the owner of the site indicated that the gym was purely for his domestic use and enjoyment and, since the site inspection suggested this was the case, no formal action was taken.
- 2.4 Following yet more complaints a further PCN was served on the owner of the site in May 2001 and again it was denied that the use was anything other than their domestic hobby. However, following further reports from concerned neighbour regarding the nature and number of visitors to the site a further PCN was served in September 2001. This time the owner claimed that the site had been used as a commercial gym since October 1990.
- 2.5 Following this, and in light of the owner's claims that the use commenced in 1990, he was invited to apply for a Lawful Development Certificate (LDC) to prove this claim. Such an application was made and following consideration of all the evidence received from the

applicant and other residents a decision to refuse the LDC was made in August 2002. The reason for this refusal was that, on the balance of probabilities, it was felt that the use intensified sometime after 1996 when the pool and changing facilities were completed to the extent that a material change of use of the property occurred. Since this took place within the last ten years it had not become immune from Enforcement action and the LDC could not be granted.

- 2.6 A further, amended, LDC application was then submitted. Whilst this application offered no additional evidence in support of the ten year claim it did re-define the application site to simply apply to one of the outbuildings on the site rather than the entire site. This has now been considered and was refused on the 26th November, 2002.

3 PLANNING ISSUES

- 3.1 Policy EB6 of the Rochford District Council Local Plan deals with non-conforming uses and states that *“where existing employment development seriously inhibits the development of land for an allocated purpose, or has a serious adverse effect on residential...amenities, the Council may consider using its powers...to secure its relocation or extinguishment.*
- 3.2 The use of this site as a commercial gymnasium and swimming pool causes detriment to the residential amenities of the surrounding area and properties. This is partly due to the number of regular callers and deliveries which present potential problems with respect to the parking and turning of vehicles on what is a fairly constrained site frontage.
- 3.3 The rear garden of No. 13 has boundaries with four other private rear gardens and the close nature of these areas exacerbates the level of disamenity caused by this use. Furthermore, the open nature of the pool causes further concern and increases the potential for noise disturbance of an unacceptable level to these and other nearby private gardens. In addition, reports from concerned residents suggest that the noise from the general use of fitness equipment, human voices and the playing of music within the site all increase the level of disamenity caused by this use.
- 3.4 Whilst not wishing to stifle business initiative, this Authority will seek to take Enforcement action against any non-conforming uses such as this, in accordance with Government guidelines on such matters, where they are detrimental to the amenities of the surrounding area.
- 3.5 The use of this site for business purposes must be controlled at this stage before any exemption under the ten-year Enforcement rule is claimed. Unless action is taken within this time there will be no further planning enforcement action that this Authority will be able to take

against this use. It will have been allowed to expand and develop with no planning conditions from this Authority.

- 3.6 In view of the detriment to residential amenity caused by this use the decision was taken to seek authorisation for formal Enforcement action which will seek the extinguishment of the commercial use on this site.

4 RECOMMENDATION

It is proposed that the Committee **RESOLVES**

That the Head of Planning Services be authorised to take all necessary action to secure the remedying of the breach now reported. (HPS)

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Background Papers:

Lawful Development Certificate applications nos. 02/00263 and 00873/LDC

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