
BREACH OF PLANNING CONTROL AT THE REAR OF 9-15 MALYONS LANE, HULLBRIDGE.

1 SUMMARY

- 1.1 To consider the report of the Head of Planning Services regarding a breach of planning control, namely the extension of the domestic garden southwards incorporating land within the Metropolitan Green Belt, at land rear of 9-15 Malyons Lane, Hullbridge.
- 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 breach is occurring on land rear of 9-15 Malyons Lane, Hullbridge, Essex. It involves the change of use of land behind the authorised garden from open land to a domestic garden, which it then further sub-divided into separate plots by each of the individual property owners at 9, 10, 11, 12, 14 and 15 Malyons Lane (there is no No. 13).

3 PLANNING HISTORY

- 3.1 An application was first submitted in 1998, while the bungalows were still in the process of being constructed, to incorporate this land within the curtilage of Plot Three (No. 11). The applicants claimed that the exceptional circumstance to justify this proposal was the need to safeguard the amenity of the rear gardens of the neighbouring properties, should the land here ever be formally adopted as open space. This circumstance was not deemed enough and the application was rejected.
- 3.2 A joint retrospective application was then submitted to Rochford District Council in late 2001 by the owners of all the properties concerned, to change the use of this land to a domestic garden. This involved the change of use of the land immediately behind each property to domestic land attached to each property individually.
- 3.3 Support was received in respect of this application from Essex County Council Social Services, on the grounds that the resident of No. 15 had exceptional circumstances for an approval due to the disabilities experienced by her son. However, it was not felt that these circumstances were justification for the whole application being approved since they only applied to the area of the site behind No. 15.

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- 3.4 This application was therefore refused because it was felt that allowing this would result in the land becoming lawfully domestic in appearance, due to the presence of fences and other garden features such as flower beds. It was felt that this would be detrimental to the character and appearance of the Green Belt.

4 PLANNING ISSUES

- 4.1 Extensions to domestic gardens are often injurious to the visual appearance of the Green Belt, especially given the propensity for the erection of additional buildings, fences and other structures.
- 4.2 Permission for the extension of domestic gardens into the Green Belt will only be permitted where it can clearly be demonstrated that a proposal will not affect the visual appearance of the Green Belt, or cause fragmentation of a farm holding.
- 4.3 It is felt that by allowing this land to be used as a domestic garden will reduce the open nature of the Green Belt as a direct result of the change in the physical appearance of the land in what is a very important fringe area. From being open in character, it will gradually become more akin to a domestic garden, as a result of the change of use of the land, its domestication together with likely sculpting and structures erected upon it. Such a change must be resisted if the openness of the Green Belt is to be preserved.
- 4.4 Furthermore, should this change of use be allowed then it will set an undesirable precedent, making it difficult to resist similar proposals elsewhere in the District, to the long term detriment of the Green Belt.
- 4.5 Policy GB9 of the Rochford District Local Plan reads as follows. "*The extension of domestic gardens into the Green Belt will not normally be permitted.*" In this instance it is felt that the use of this land as a domestic garden will be injurious to the visual appearance of the Green Belt. This Enforcement action therefore seeks to see the use of this land as a domestic garden cease and any structures and fences placed upon it removed.

5 RECOMMENDATION

- 5.1 It is proposed that the Committee **RESOLVES**

That the Corporate Director (Law, Planning and Administration) be authorised to take all necessary action including the issue of Notices and action in the Courts to secure the remedying of the breach now reported. (HPS)

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