
BREACH OF PLANNING CONTROL AT HOME FARM HOUSE, COMMON ROAD, GREAT WAKERING

1 SUMMARY

- 1.1 To consider the report of the Head of Planning Services regarding the breach of planning control at Home Farm House, Common Road, Great Wakering, where land outside the curtilage of the dwelling is being used as an extension to the lawful garden.
- 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 THE ENFORCEMENT CASE

- 2.1 Home Farm House is a relatively modern property constructed in the last 1980s gaining access from Common Road. To the east of the property (which is to its rear), land previously belonging to the agricultural holding east of the house has been incorporated into the residential garden. Not only has the land been laid to grass, but also children's play equipment has been stationed there.
- 2.2 The property in question lies within the residential area of Great Wakering as zoned on Proposals Map B of the Rochford District Local Plan (RDLP). However, the land incorporated into the garden lies within the Metropolitan Green Belt. The RDLP contains a policy specifically to prevent this sort of encroachment into the green belt. This policy is GB9, which states that:

"THE EXTENSION OF DOMESTIC GARDENS INTO THE GREEN BELT WILL NOT NORMALLY BE PERMITTED."
- 2.3 Section 54A of the Town and Country Planning Act 1990 (as amended) gives primacy to development plan policies unless material planning considerations dictate otherwise. In this case there are no material planning considerations to outweigh the policy.
- 2.4 Members are reminded that the definition of development contained with Section 55 of the Town and Country Planning Act 1990 (as amended) includes "...the making of any material change in the use of any buildings or other land."

- 2.5 The development is not an appropriate use within the MGB and would fall foul of the two stage test relating to green belt development, as there are no very special circumstances relating to its retention. The extension of the garden at this point intrudes into the otherwise open landscape and would create a precedent for other such additions to the adjoining dwellings. It is unlikely therefore that planning permission for such a use would be granted. Enforcement action would seek to cause the cessation of the domestic use of the land.

3 LEGAL IMPLICATIONS

- 3.1 Any action considered necessary through the Courts to remedy the breach.

4 RECOMMENDATION

- 4.1 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 of planning control now reported. (HPS)

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