
BREACH OF PLANNING CONTROL 242 EASTWOOD ROAD, RAYLEIGH, ESSEX

SUMMARY

- 1.1 To consider the report of the Head of Planning Services regarding a breach of planning control, namely the non-compliance with the approved plans at 242 Eastwood Road, 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 was brought to the attention of this Authority in December 2002 by a local resident who was concerned that a balcony had been constructed on the rear of the property, not in accordance with the approved plans (01/0005/FUL).
- 2.2 A full inspection of the property was undertaken and, in conjunction with careful study of the plans, it was determined that the flat, enclosed, roof space that had been constructed was in fact shown on the approved plans. What was not show on the plans however were the full-length windows that had been inserted on the property instead of the half-length ones shown on the approved plans.
- 2.3 The owner was contacted and advised that, although the flat roofed rear extension was constructed as shown on the approved plans, the full length windows were unauthorised. The property owner was given the option of either removing the full length windows and replacing them with the smaller approved ones, or of making a full planning application to retain the windows in their altered form.
- 2.4 The owner responded indicating that he was unwilling to either remove the windows or to make a full planning application to retain them in their current form. In light of this, the decision was taken to invite Members to consider the expediency of taking further enforcement action in this respect.

3 PLANNING ISSUES

- 3.1 Policy H11 of the Rochford District Council Local Plan deals with the design and layout of housing development. This policy states that *"in assessing design aspects of housing schemes, the LPA will have regard to its adopted design policies, including aspects of the Essex*

Design Guide for residential areas and related highway standards, as contained in Appendix One of the plan."

- 3.2 Furthermore, Appendix One states that "on the private zone side of the dwelling a high degree of internal privacy shall be provided for living rooms. In particular, careful attention will be paid to ensure that the layout prevents living rooms from being overlooked by opposing dwellings."
- 3.3 Whilst it is true that the flat roofed area was not included as a balcony on the approved plans it, nonetheless, can physically be utilised as such. In an attempt to prevent this and, subsequently, to protect the privacy of the properties immediately behind and below this property, a Condition was attached to the consent preventing the use of this flat roofed enclosed area as a balcony / sitting out area. However, despite the internal inspection of the property revealing that the full length windows were incapable of being opened, it is felt that allowing them to remain in this state will significantly increase the possibility that the flat roofed area will one day be utilised as a balcony. Such a use, whilst currently being restricted by a Condition, would be significantly harder to implement if the windows to the rear elevation were constructed wholly in accordance with the approved plan.
- 3.4 In view of the potential detriment to privacy and residential amenity caused by this non-compliance with the approved plans the decision was taken to seek authorisation for formal Enforcement action. Such action, if approved, will seek the windows to the rear elevation of this extension to be constructed in accordance with the approved plans (01/0005/FUL)

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)

Shaun Scrutton
Head of Planning Services

Background Papers: None

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