
BREACH OF PLANNING CONTROL AT LAND REAR OF 53 BRANKSOME AVENUE, HOCKLEY, ESSEX

1 SUMMARY

- 1.1 To consider the report of the Head of Planning Services regarding a breach of planning control, namely the use of the land for the parking of vehicles, trailers, etc and the laying of hardstanding at land rear of 53 Branksome Avenue, Hockley, Essex.
- 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 within the metropolitan Green Belt on a site immediately adjacent to the gardens of residential properties and on the edge of Beckney Woods. Members will remember a report, which resulted in authorisation being given to pursue the breach that involved the storage of waste and building materials in conjunction with a property maintenance business (Minute 89 from 2003). However, since the last report to Members, the use has evolved slightly and so the authorisation is required to be extended to include the parking of vehicles, trailers, etc, as well as the laying of hardstanding.

3 PLANNING HISTORY OF THE SITE

- 3.1 The site is located on the northern edge of Hockley and east of a new residential development in Etheldore Avenue. The site historically was part of Beckney Woods with trees dispersed throughout the site.
- 3.2 This case was first raised as an enforcement matter in May 2003 following a complaint and the refusal of a Lawful Development Certificate (LDC) application. The owner of the property had submitted an LDC Application "For A Certificate Of Lawful Use In Respect Of An Existing Use Namely The Use Of Land As Part Of The Garden Of 53 Branksome Avenue", application reference: 02/00926/LDC. However, this was refused in March 2003 due to insufficient evidence and the fact that this piece of land is physically cut off from the rear garden of 53 Branksome Avenue.
- 3.3 A new LDC was submitted and this Authority was satisfied that there was enough evidence to issue an LDC for the use of the land as domestic garden. However, this decision did not mean that this land was within a residential "curtilage" and so the usual permitted development rights do not apply, eg, for outbuildings, as usual domestic gardens have.

- 3.4 Officers have continued to monitor the site and advised the owner of the requirement for planning permission to lay the hardstanding. However, an application to retain this has not been submitted by the owner and subsequent site visits have shown that it still remains. This hardstanding is used to park both domestic vehicles and also trailers.

4 PLANNING AND HUMAN RIGHTS ISSUES

- 4.1 This site lies within the metropolitan Green Belt, (MGB) where there is a general presumption against development.
- 4.2 The parking and storage of vehicles and trailers, etc, and the laying of hardstanding is not consistent with the lawful use as a residential garden. This also can lead to gradual erosion of the openness of the MGB. Such a use appears incongruous and detracts from the appearance of the Green Belt. These uses are also contrary to both Policy GB1 and GB5 of the Rochford District Local Plan (RDLP). GB1 limits new uses within the Green Belt to those linked to agriculture, forestry or recreation, while GB5 states that open storage uses within the Green Belt will not normally be permitted.
- 4.3 The site is also located adjacent to a residential area and the use of the site for such storage purposes is likely to have a significant impact on the residential amenities of nearby properties. This use is therefore contrary to Policies H24 and EB6 of the RDLP, which deal with safeguarding amenities in residential areas and the issue of non-conforming uses, respectively.
- 4.4 In view of the detrimental effect that both the storage of vehicles, trailers, etc, and the hardstanding have on both the open nature of the site, and also on views in and out of it and on the surrounding residential areas, this enforcement action seeks to secure the cessation of this land for the siting and storage of these items and the removal of the hardstanding.
- 4.5 Human rights issues were considered, but these did not appear to outweigh the serious environmental concerns.

5 RISK ASSESSMENT

5.1 Strategic Risk

The Council is required to produce a Local Plan detailing its policies in the District and should demonstrate its commitment to delivering the aims and objectives, in line with this document.

5.2 Resources Risk

The Council may be liable for costs incurred during the defence of any appeal including the appellants' claims for costs if the Authority's action is judged to be unreasonable. Costs may also be claimed during legal action to obtain compliance with a notice.

5.3 Reputation Risk

If action is not taken in this case Rochford District Council will be seen to not implement its policy objectives to the full. A precedent may also be set, making it difficult for the Authority to resist similar unauthorised development. Consequently, unless the Authority is serious in its commitment to ensure development is in line with its Local Plan policies, these very policies will be undermined.

6 RECOMMENDATION**6.1 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.

Shaun Scrutton

Head of Planning Services

Background Papers:

None

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