

BREACH OF PLANNING CONTROL AT 1 BROCKSFORD AVENUE, RAYLEIGH, ESSEX

1 SUMMARY

- 1.1 To consider the report of the Head of Planning Services regarding a breach of planning control, namely the non-compliance with conditions three and four of planning application reference F/0431/98/ROC at 1 Brocksford Avenue, 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 The property itself is a semi-detached bungalow that had permission granted for a ground floor side and rear extension in 1998. Attached to this permission were a number of conditions. Specific to this enforcement investigation were conditions three and four which read as follows

- 2.2 Condition three – *“Notwithstanding the provisions of Article 3, Schedule 2. Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995, (including any Order revoking or re-enacting that order, with or without modification) no window, door or other means of opening shall be inserted on the garage side, side elevation of the ground floor side and rear extension hereby permitted, in addition to those shown on the approved drawing, date stamped 3rd July 1998”*

Condition four – *“Notwithstanding the provisions of Article 3, Schedule 2. Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995, (including any Order revoking or re-enacting that order, with or without modification) the windows marked OBS on the approved drawing, date stamped 3rd July 1998, shall be glazed in obscure glass and shall be of a design not capable of being opened below a height of 1.7 m. above first floor finished floor level. Thereafter, the said windows shall be retained and maintained in the approved form.*

3 PLANNING HISTORY

- 3.1 Contact was received from a concerned neighbour in late 2001 and the site was visited by a planning officer. This visit revealed that not only had none of the windows been glazed with obscure glass but that

additional windows that were not shown on the approved plan had been integrated into this development.

- 3.2 The owner of the property was then contacted. Officers pointed out that not only should these windows be fitted with obscure glazing but that details of the amendments undertaken should be submitted to this Authority so that a formal consideration of the new arrangement could be made. No such submission was received. A further visit to the site revealed that the windows still contained non-obscure glazing and the new window layout was still present. The decision was therefore taken to proceed with the matter to this Committee.

4 PLANNING ISSUES

- 4.1 The original conditions were included to enable the Local Planning Authority to retain adequate control over the approved fenestration in the interests of protecting the privacy and amenity of neighbouring occupants.
- 4.2 This side and rear extension constructed is located close to the boundary with the rear gardens of adjoining dwellings and, as such, it was felt necessary that obscure glazing be installed to prevent serious disamenity to the neighbouring properties. There is the possibility of serious overlooking occurring into the private rear space of these properties.
- 4.3 Furthermore, the windows as built are capable of being opened below a height of 1.7 metres, thus even if they were to be obscured glazed they would result in a loss of privacy to the neighbouring properties. The following recommendation therefore seeks to ensure that the windows on the side elevation of the single storey extension are modified to prevent such loss of privacy.

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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