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## BREACH OF PLANNING CONTROL ON LAND REAR OF 120 ALEXANDRA ROAD, GREAT WAKERING, ESSEX

### 1 SUMMARY

- 1.1 To consider the report of the Head of Planning Services regarding a breach of planning control, namely the extension of a domestic garden outside the curtilage of the property, on land rear of 120 Alexandra Road, Great Wakering.
- 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

- 2.1 120 Alexandra Road is a modern property built relatively recently as part of a housing estate in Great Wakering. The rear garden of this particular property backs onto open countryside. Whilst the property and curtilage are designated for housing purposes, that land rear of the garden is in fact allocated as Metropolitan Green Belt.

### 3 PLANNING HISTORY OF THE SITE

- 3.1 This matter was first brought to officers' attention in summer 2002 and an inspection revealed that a swimming pool was in the process of being constructed, partially outside the curtilage of the property. The owners were advised, verbally and then again in writing, that the works required planning permission. A deadline was set for the works to either be removed or for a valid application for their retention to be submitted. Further research at the expiration of this deadline revealed that neither option had been exercised.
- 3.2 However, a more recent visit to the site revealed that although the swimming pool **had** been relocated within the existing curtilage of the dwelling, the fence has now been extended by approximately 12 metres from the rear of the property for the entire width of the rear garden.

### 4 PLANNING ISSUES

- 4.1 In the Green Belt generally, Policy GB1, as supported by Policy C1 of the Essex Structure Plan, is applicable. Amongst other things, this states that permission will not be granted, except in exceptional circumstances, for purposes other than agriculture, forestry and mineral extraction, or for outdoor participatory sports. A major purpose of the Metropolitan Green Belt (MGB) policy is to prevent unacceptable development outside the built up areas.
- 4.2 However, there is also a specific policy regarding such additions, 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."*

- 4.3 The garden and fencing protrudes beyond the line of the existing rear gardens here and it is felt that the siting and location of this development is detrimental to the open nature of the MGB. The use of this land as a domestic garden with the possibility of domestic items (eg, washing lines), outbuildings, etc being erected upon will be injurious to the visual appearance of the Green Belt. This enforcement action therefore seeks the cessation of the domestic use of the land and the removal of any such items.
- 4.4 There is also a planning condition attached to the planning permission for this housing estate (ref: F/0429/95/ROC) regarding the maintenance of approved fencing. This has been removed as part of this garden extension.

## **5 RISK ASSESSMENT**

### **5.1 Strategic Risk**

The Council is required to produce a Local Plan detailing the Authority's policies in the District and the Authority 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 this 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 it is serious in its commitment to ensure development is in accord with 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.

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**Background Papers:**

None

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