

Southend-on-Sea Borough Council

Agenda
Item

Report of the Corporate Director for Place
To
Development Control Committee
On
02nd September 2015

Report(s) Enforcement of Planning Control

A Part 1 Public Agenda Item – Town and Country Planning Act 1990 Section 172

Reports prepared by: Enforcement Officers

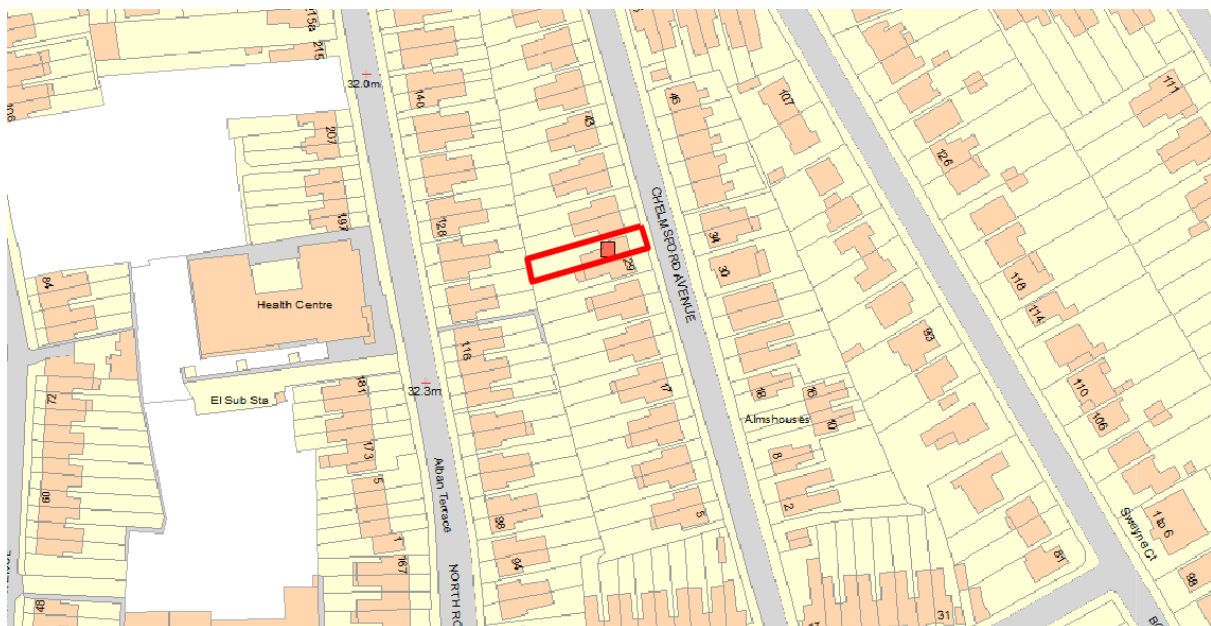
1 Introduction

- 1.1. This report relates to alleged breaches of planning control. Recommendations are made at the conclusion of each item.

WARD	APP/REF NO.	ADDRESS	PAGE
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Enforcement Report			
Victoria	15/00119/UNAU_B	31A Chelmsford Avenue Southend-on-Sea	2
West Shoebury	14/00182/UNAU_B	6 Leitrim Avenue Shoeburyness	6

Reference:	EN/15/00119/UNAU-B
Ward:	Victoria
Breach of Control	Without planning permission, the erection of a single-storey wooden outbuilding to the rear of the residential property.
Address:	31a Chelmsford Avenue, Southend-on-Sea, Essex SS2 6JG
Case Opened:	6 th May 2015
Case Officer:	Neil Auger
Recommendation:	AUTHORISE ENFORCEMENT ACTION



1 Site and Surroundings

- 1.1 Two-storey semi-detached dwellinghouse converted into two self-contained flats (upper and lower) lying to the west side of Chelmsford Avenue approximately 125m to the north of its junction with Sweyne Avenue.

2 Lawful Planning Use

- 2.1 The lawful planning use is as 2 self-contained flats within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

3 Present Position

- 3.1 On 6th May 2015, a complaint was received by the Council in which it was alleged that a large single-storey wooden outbuilding had been constructed in the rear garden of the property.
- 3.2 A site visit was undertaken on 19th May 2015 by a planning enforcement officer when it was established that the allegation was correct. A wooden outbuilding measuring approximately 5.8m x 5.9m x 3.4m high had been constructed to the rear of the property.
- 3.3 An email was sent on 20th May 2015 informing the occupier that planning permission was required to retain the development and advising that this would probably not be granted. The occupier was advised to arrange for the removal of the outbuilding and to consider submitting an application for planning permission for a smaller outbuilding.
- 3.4 No response was received, so a further email was sent on 29th June 2015 enquiring as to the occupier's intentions in the matter.
- 3.5 The occupier telephoned the case officer advising of his intention to submit an application for planning permission and requesting a set of the appropriate forms. These were sent to him on 1st July 2015.
- 3.6 To date, there has been no further contact by the occupier, no planning application has been received and the wooden outbuilding remains as constructed.

4 Appraisal

- 4.1 Planning permission should have been obtained for the erection of a single-storey wooden outbuilding here because the lawful planning use of the land is as two self-contained flats. This means it does not benefit from the same permitted development rights which would generally be enjoyed by a single dwellinghouse.

However, planning permission would still be required in this case, even if the property was a single dwellinghouse, because the outbuilding is located within 2.0m of a boundary and has a height exceeding 2.5m which is the maximum permitted for an outbuilding in such a location under Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015.

- 4.2 The unauthorised wooden outbuilding is not visible from the public domain but it is clearly visible from the rear windows and gardens of the surrounding residential properties.
- 4.3 Domestic outbuildings should be constructed so that they are subservient to the original dwellinghouse located within the curtilage. As a result of its excessive height and bulk and the relatively small size of the surrounding gardens, the outbuilding here appears as a dominant feature which is overbearing and visually obtrusive to the occupiers of the surrounding residential properties resulting in loss of outlook and an unreasonable sense of enclosure. As such, it is considered that the unauthorised outbuilding causes unmitigated demonstrable harm to the amenities and character of the area.
- 4.4 It is unclear what the proposed use of the outbuilding is intended to be, but, given the relatively small size of the garden and that the single owner occupies a self-contained flat, it is considered unlikely that a building of such a substantial size would be necessary for the storage of domestic and/or garden equipment or for a use in association with the pursuit of a hobby etc. Such uses would, of course, be lawful in planning terms because they would be deemed ancillary or incidental to the enjoyment of the residential use of the land. However, it is not currently considered that a material change of use has taken place.
- 4.5 The unauthorised wooden outbuilding is considered to be detrimental to the character and visual amenities of the area and the residential amenities of adjacent properties in that it is an overbearing structure causing an unreasonable sense of enclosure and loss of outlook contrary to the National Planning Policy Framework (NPPF), Core Strategy (DPD1) Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance), Policy DM1 of the Development Management DPD and the Design and Townscape Guide (SPD1).
- 4.6 Taking enforcement action in this case may amount to an interference with the owners' and/or occupiers' Human Rights. However, it is necessary for the Council to balance the rights of the owners and/or occupiers against its legitimate aims to regulate and control land within its area. In this particular case it is considered reasonable, expedient, proportionate and in the public interest to pursue enforcement action on the grounds set out in the formal recommendation.

5 Relevant Planning History

None.

6 Planning Policy Summary

- 6.1 The National Planning Policy Framework (NPPF).
- 6.2 The National planning Practice Guidance (NPPG).
- 6.3 Core Strategy (DPD1) Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance).
- 6.4 Development Management DPD Policy DM1 (Design Quality).

6.5 Design and Townscape Guide 2009 (SPD1).

7 Recommendation

- 7.1 **Members are recommended to: AUTHORISE ENFORCEMENT ACTION** to secure the removal of the single-storey wooden outbuilding constructed to the rear of the property on the grounds that the unauthorised development is detrimental to the character and visual amenities of the area by reason of its excessive scale and bulk and detrimental to the residential amenities by reason of being overbearing and causing an unreasonable sense of enclosure and loss of outlook contrary to the National Planning Policy Framework (NPPF), Core Strategy DPD Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance), Policy DM1 of the Development Management DPD and the Design & Townscape Guide (SPD1).
- 7.2 The authorised enforcement action to include (if/as necessary) the service of an Enforcement Notice under Section 172 of the Act and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of the Enforcement Notice.
- 7.3 When serving an Enforcement Notice the local planning authority must ensure a reasonable time for compliance. In this case, the necessary remedial works would probably require quotes to be obtained and contractors to be engaged so a compliance period of 3 months is considered reasonable.

Reference:	EN/14/00182/UNAU-B
Ward:	West Shoebury
Breach of Control	Without planning permission, the erection of a single-storey garage building.
Address:	6 Leitrim Avenue, Shoeburyness, Essex SS3 0HD
Case Opened:	1 st August 2014
Case Officer:	Neil Auger
Recommendation:	AUTHORISE ENFORCEMENT ACTION



1 Site and Surroundings

- 1.1 Two-storey detached dwellinghouse occupying the corner plot located to the east side of the junction between Thorpe Esplanade and Maplin Way. The front of the property is to the north facing onto, and accessed from, Leitrim Avenue.

2 Lawful Planning Use

- 2.1 The lawful planning use is as a single dwellinghouse within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

3 Present Position

- 3.1 On 13th March 2014, an application for planning permission to “erect single storey side extension to existing garage, alter vehicular access and erect front boundary wall” made under reference 13/01835/FULH was refused on the grounds that:

“The proposed extension, by virtue of its forward projection with respect to the Maplin Way frontage, would result in an incongruous and misaligned addition to the detriment of the visual amenities of the immediate area, contrary to Policy C11 of the Local Plan and KP2 and CP4 of the Southend-on-Sea Core Strategy”

- 3.2 On 25th July 2014, an application for a Lawful Development Certificate – Proposed was received for a “single storey side garage extension” This was given the reference 14/01219/CLP

- 3.3 It was established that the development had already been constructed so the application for a ‘proposed’ development was inappropriate. As a result, application reference 14/01219/CLP was withdrawn on 10th September 2014.

- 3.4 On 29th September 2014, a retrospective application for full planning permission to “erect single storey side extension to existing garage and erect front boundary wall” was received and given the reference 14/01569/FULH. This was subsequently refused on 8th December 2014 on the grounds that:

“The proposed extension, by virtue of its scale, design and forward projection with respect to the Maplin Way frontage, would result in an incongruous and misaligned addition to the detriment of the visual amenities of the immediate area, contrary to National Planning Policy Framework, Core Strategy” Policies KP2 and CP4, Borough Local Plan Policies C11 and H5 and the Design and Townscape Guide 2009 (SPD1).

- 3.5 On 22nd December 2014, an application for a Certificate of Lawful Use for an Existing Development was received for “single storey side outbuilding extension and layout hardstanding to front and side”. This was given the reference 14/0204/CLE but found to be invalid and, as such, was never determined.

- 3.6 An appeal, dated 5th March 2015, against the Council's refusal of application reference 14/01569/FULH was lodged with the Planning Inspectorate. However, this was received after the time limit for such appeals and was turned away by the Inspectorate.
- 3.7 Currently, the garage extension remains as an unauthorised development.

4 Appraisal

- 4.1 The garage extension cannot benefit from permitted development rights because its height exceeds 4.0m which is the maximum permitted for outbuildings under Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (formerly the Town and Country Planning (General Permitted Development) Order 1995 (as amended)).
- 4.2 Specific planning permission is required to retain the development and this has been refused under application references 13/01835/FULH and 14/01569/FULH for the reasons given at 3.1 and 3.4 respectively.
- 4.3 The boundary wall, included as part of the development proposed under planning applications 13/01835/FULH and 14/01569/FULH, has been constructed and is considered acceptable in this location. No action is therefore proposed in its regard.
- 4.4 The unauthorised development is considered to be detrimental to the character and amenities of the area by reason of unsightliness in that the garage extension, by reason of its scale, design and forward projection with respect to the Maplin Way frontage, results in an incongruous and misaligned addition contrary to the National Planning Policy Framework (NPPF) Core Strategy DPD Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance), Policy DM1 of the Development Management DPD and the Design and Townscape Guide (SPD1).
- 4.5 Taking enforcement action in this case may amount to an interference with the owners' and/or occupiers' Human Rights. However, it is necessary for the Council to balance the rights of the owners and/or occupiers against its legitimate aims to regulate and control land within its area. In this particular case it is considered reasonable, expedient, proportionate and in the public interest to pursue enforcement action on the grounds set out in the formal recommendation.

5 Relevant Planning History

- 5.1 13th March 2014 – permission refused to “erect single storey side extension to existing garage, alter vehicular access and erect front boundary wall” (13/01835/FULH).
- 5.2 25th July 2014 – application received for a Certificate of Lawful Development Proposed to erect “single storey side garage extension” This was given the reference 14/01219/CLP but subsequently withdrawn.

- 5.3 8th December 2014 – permission refused to “erect single storey side extension to existing garage and erect front boundary wall (Retrospective) (Amended Proposal)” (14/01569/FULH)
- 5.4 22nd December 2014 – application received for a Certificate of Lawful Development Existing received for “single storey side outbuilding extension and layout hardstanding to front and side”. This was given the reference 14/0204/CLE but found to be invalid and, as such, was never determined.

6 Planning Policy Summary

- 6.1 The National Planning Policy Framework (NPPF).
- 6.2 Core Strategy (DPD1) Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance).
- 6.3 Policy DM1 of the Development Management DPD.
- 6.4 Design and Townscape Guide 2009 (SPD1).

7 Recommendation

- 7.1 **Members are recommended to: AUTHORISE ENFORCEMENT ACTION** to secure the removal of the single-storey garage extension on the grounds that the unauthorised development is detrimental to the character and amenities of the area by reason of unsightliness in that its scale, design and forward projection with respect to the Maplin Way frontage results in an incongruous and misaligned addition contrary to the National Planning Policy Framework (NPPF) Core Strategy DPD Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance), Policy DM1 of the Development Management DPD and the Design and Townscape Guide (SPD1).
- 7.2 The authorised enforcement action to include (if/as necessary) the service of an Enforcement Notice under Section 172 of the Act and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of the Enforcement Notice.
- 7.3 When serving an Enforcement Notice the local planning authority must ensure a reasonable time for compliance. In this case, the necessary remedial works would probably require quotes to be obtained and contractors to be engaged so a compliance period of 3 months is considered reasonable.