

Reference:	16/00048/UNAU-B
Ward:	Thorpe
Breach of Control	Without planning permission, the erection of an outbuilding which exceeds 2.5m in height and is located within 2.0m of a boundary of the curtilage of the dwellinghouse.
Address:	42 Kensington Road, Southend-on-Sea SS1 2SY.
Case Opened:	4 th March 2016
Case Officer:	Neil Auger
Recommendation:	TAKE NO FURTHER ACTION



Deferred from the Development Control Committee meeting held on 6th July 2016

1 Site and Surroundings

- 1.1 Two storey semi-detached dwellinghouse located to the east side of Kensington Road approximately 90m from its junction with Woodgrange Drive to the north.

2 Lawful Planning Use

- 2.1 The lawful planning use is as a dwellinghouse within Class C3 of the Town and Country Planning Use Classes (Amendment) Order 2005.

3 Present Position

- 3.1 On 4th March 2016, an enforcement case was opened as a result of concerns raised by a local resident about an outbuilding which had been constructed within the curtilage of this property.
- 3.2 On 8th April 2016, a site visit was carried out when it was confirmed that an outbuilding with a height of approximately 3.0m had been constructed within 2.0m of the rear and side boundaries of the curtilage of the dwellinghouse.
- 3.3 The householder advised that the outbuilding was proposed to be used for purposes ancillary to the dwellinghouse.
- 3.4 The householder was informed that planning permission was required to retain the outbuilding and a letter confirming this and inviting the submission of a retrospective application was sent on 14th April 2016.
- 3.5 No application for planning permission was received so the matter was reported to the Development Control Committee on 6th July 2016. Members will, of course, recall that a decision was deferred pending information about the householder's proposed finishes for the outbuilding.
- 3.6 On 20th July 2016, a letter was sent to the householder requesting details of the proposed finishes.
- 3.6 On 25th July 2016, an email was received from the householder advising that the outbuilding is proposed to be finished in larch cladding with Uvpc windows and black plastic rainwater goods.
- 3.7 To date, no application for planning permission has been received.

4 Appraisal

- 4.1 In order for outbuildings located within 2.0m of a boundary of the curtilage of a dwellinghouse to benefit from permitted development rights 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)), they must not exceed 2.5m in height.

- 4.2 The outbuilding here has a height of approximately 3.0m which means it cannot be classed as 'permitted development' and specific planning permission is, therefore, required. As such, in planning terms, the building is unauthorised.
- 4.3 Members will be aware, of course, that the carrying out of operational development works without the necessary authorisation is not, in itself, reason for a local planning authority to take enforcement action. This must only be taken if the development in question is considered to result in demonstrable harm to the amenities of the area.
- 4.4 If a retrospective application for planning permission to retain the outbuilding had been submitted, the key considerations would be the principle of the development, the design and impact on the character of the area and the impact on residential amenity.
- 4.5 Policy CP4 of the Core Strategy requires new development to contribute to a sustainable urban environment by maintaining and enhancing amenities, appeal and character of residential areas securing good relationships with existing developments.
- 4.6 In the Council's Development Management DPD, policy DM1 states that development should "add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features."
- 4.7 The outbuilding is being constructed to a standard design with mono-pitched roof using traditional materials. To date, no windows or doors have been installed nor has the front elevation been finished. However, the householder has advised that the outbuilding is proposed to be finished in larch cladding with Uvpc windows and black plastic rainwater goods (Para 3.6).
- 4.8 The outbuilding is not visible from the public domain and it is not higher than the outbuilding located in the adjacent garden to the south which has not been the subject of any complaints to the Council. The outbuilding does not appear over-scaled in the context and the proposed finishes are considered acceptable.
- 4.9 If a retrospective application for planning permission had been submitted as invited, it is considered that it would have been recommended for approval for the reasons given.
- 4.10 The impact of the building on the residential amenities and character of the area is considered to be minimal due to reasonable garden depths and separation distances between properties.
- 4.11 For the reasons given, it is considered that the development is generally in accordance with Policies CP4 of the Core Strategy and DM1 of the Development Management DPD and, as such, it is not considered expedient, reasonable, proportionate or in the public interest to take enforcement action.

5.0 **Relevant Planning History**

5.1 None.

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 Development Management DPD Policy DM1 (Design Quality)

6.4 Design and Townscape Guide 2009 (SPD1).

6.5 Community Infrastructure Levy Charging Schedule.

7 **Recommendation**

7.1 **Members are recommended to TAKE NO FURTHER ACTION.**