

# CAMBRIDGE CITY COUNCIL

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REPORT OF: Head of Planning Services

TO: East Area Committee

DATE: 06/09/12

WARD: Coleridge

## **PLANNING ENFORCEMENT CONTROL ENFORCEMENT NOTICE REPORT**

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**86 Brooks Road, Cambridge**

**Unauthorised Development**

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### **1 INTRODUCTION**

1.1 This report seeks the authority to serve an Enforcement Notice to address a breach of planning control.

Site: 86 Brooks Road, Cambridge.  
See Appendix A for site plan.

Breach: Unauthorised Development: erection of an extension without planning permission.  
See Appendix B for photographs.

### **2 BACKGROUND (Timeline of Enforcement Investigation)**

2.1 On 13th December 2011 the Planning Enforcement Service received a complaint alleging that an extension that may require planning permission had been built to the rear of 86 Brooks Road, Cambridge. The complainant also contacted Building Control about possible building regulation contraventions.

2.2 The owner of 86 Brooks Road, Mrs Thi-Mynga, was not able to attend a site visit until 7th February 2012. The visit established that in 2011 two extensions had been built at the rear and side of the

property, these extensions had later been joined to create one extension. Mrs Thi-Mynga was advised that the extension would require planning permission due to both its size and the materials used (plasterboard and wood cladding).

- 2.3 On 13th February 2012 Mrs Thi-Mynga Ha was sent a letter requesting the submission of an application for planning permission for the unauthorised extension within 28 days.
- 2.4 On 29th February 2012 Mrs Thi-Mynga Ha visited the Guildhall to explain to officers that a partial brick extension was in place when she bought the house four years ago. Officers explained that as she had removed the wall of the previous extension she needed planning permission for the new extension.
- 2.5 On 14th March 2012 the Planning Enforcement Officer met Mrs Thi-Mynga Ha at 86 Brooks Road and confirmed the position of original house before any extensions were added.
- 2.6 On 15th March 2012 the Planning Enforcement Officer wrote to Mrs Thi-Mynga Ha to repeat the verbal advice given and request that she inform officers of her intentions within 14 days. Copies of this letter and the five other letters which have been sent to Mrs Thi-Mynga Ha regarding the breach of planning control can be found in Appendix C.
- 2.6 On 4th April 2012 Mrs Thi-Mynga Ha advised officers that she intended to put a door and window in the extension and then draw up plans and submit an application for planning permission. A letter was sent to Mrs Thi-Mynga Ha advising her again of the need to submit a planning application or remove the extension.
- 2.8 On 18th April 2012 officers from Planning Enforcement and Building Control met with Mrs Thi-Mynga Ha and her son. Mrs Thi-Mynga Ha provided a letter confirming that she had refused the services of a translator (see Appendix D). Mrs Thi-Mynga Ha confirmed her intention to scale back the side extension, rebuild a new exterior wall with a window and cover the area where the side extension currently is with a roof. Officers repeated the advice that planning permission would still be required and agreed to visit 86 Brooks Road one further time to explain where the extension needed to be scaled back to.
- 2.9 On 25th April 2012 officers from Planning Enforcement visited 86 Brooks Road, showed Mrs Thi-Mynga Ha the line of the original house and explained that the extension needed removal to that line.

Mrs Thi-Mynga Ha was advised that if she did not submit a an application for planning permission or remedy the breach within 28 days to the City Council would need to proceed with enforcement action.

- 2.11 On 26th April 2012 Mrs Thi-Mynga Ha attended the Guildhall and provided documents relating the sales details and size of the house when she bought 86 Brooks Road. Mrs Thi-Mynga Ha was advised that the need to remedy the breach of planning control had not changed and this was confirmed that in writing later that day. The letter requested the removal of the extension within 28 days and included photographs clearly indicating where to remove the extension to (see Appendix C).
- 2.12 On 14th May 2012 Mrs Thi-Mynga Ha requested a further two weeks to remove the unauthorised extension, the time extension was granted.
- 2.13 On 31st May 2012 Mrs Thi-Mynga Ha requested a meeting to discuss putting a door in the extension to create a porch, she confirmed that no alteration to the extension had taken place. Mrs Thi-Mynga Ha was advised that officers would now seek the authority to serve a Planning Contravention Notice as a pre requisite to formal enforcement action.
- 2.14 On 12<sup>th</sup> June 2012 a Planning Contravention Notice was served on Mrs Thi-Mynga Ha. The completed notice was returned on 19<sup>th</sup> June 2012. A copy of the Notice and a letter from Mrs Thi-Mynga can be found in Appendix D.

### **3 POLICY AND OTHER MATERIAL CONSIDERATIONS:**

#### **3.1 National Planning Policy Framework states:**

‘Para 207. Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.’

- 3.2 Enforcement is a discretionary power. The Committee should take into account the planning history and the other relevant facts set out in this report. Officers only recommend the service of an Enforcement Notice when all attempts at negotiating a resolution to remedy the breach of planning control have failed.
- 3.3 The owner of the property was first made aware of the breach of planning control on 13<sup>th</sup> February 2012. Officers have sent six letters of explanation to the owner of 86 Brooks Road and met with her four times at the property and four times at the Guildhall and the unauthorised development remains in place. It is considered that the owner of the property has been given adequate time to remedy the breach of planning control and it is therefore considered expedient to issue the notice.
- 3.4 In order to issue an Enforcement Notice there must be sound planning reasons to justify taking such action. The extension at the side and rear of 86 Brooks Road extends beyond the permitted development limit of 3 metres from the original house and so requires express planning permission. The extension is unlikely to gain approval because the design and materials used is are contrary to policies 3/4 and 3/14 of the Local Plan which refer to Responding to Context and Extending Buildings.

## **4 RECOMMENDATIONS**

- 4.1 It is recommended that the Head of Legal Services be authorised to commence enforcement proceedings under the provisions of Section 172 of the Town and Country Planning Act 1990 (as amended), for unauthorised operational development.
- 4.2 Steps to Comply:  
1. Remove the extension at the side and rear of 86 Brooks Road, Cambridge to the line of the original house as shown in the photographs DJ1, DJ2, and DJ3 dated 25<sup>th</sup> April 2012.
- 4.3 Period for Compliance:  
3 months from the date the notice comes into effect.
- 4.4 Statement of Reasons:

It appears to the Council that the breach of planning control has occurred within the last four years. The applicant has undertaken development without planning permission.

Mindful of the NPPF and to all other material considerations, the Council consider it expedient to serve enforcement notices in order to remedy the clear breach of planning control.

## **5 IMPLICATIONS**

- (a) **Financial Implications** - None
- (b) **Staffing Implications** - None
- (c) **Equal Opportunities Implications** - None
- (d) **Environmental Implications** - None
- (e) **Community Safety** - None
- (f) **Human Rights** - Consideration has been given to Human Rights including Article 1 Protocol 1 (protection of property), Article 6 (a right to a fair hearing within a reasonable time), Article 8 (right to respect for private family life) and Article 14 (prohibition of discrimination). It is considered that enforcement notices in this case would be lawful, fair, non-discriminatory, and necessary in the general public interest to achieve the objective of upholding national and local planning policies, which seek to restrict such forms or new residential development. The time for compliance will be set as to allow a reasonable period for compliance.

### **BACKGROUND PAPERS:**

No background papers were used in the preparation of this report:

### **APPENDICES**

Appendix A	Site plan
Appendix B	Photographs of unauthorised extension
Appendix C	Correspondence sent to Mrs Thi-Mynga Ha
Appendix D	Correspondence from Mrs Thi-Mynga Ha

The author and contact officer for queries on the report is Deborah Jeakins on extension 7163.

Date originated: 03 August 12

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