

CAMBRIDGE CITY COUNCIL

REPORT OF: Head of Planning Services

TO: South Area Committee DATE: 09/05/13

WARD: Queen Ediths

PLANNING ENFORCEMENT CONTROL ENFORCEMENT NOTICE REPORT

28 Almoners Avenue, Cambridge Unauthorised Development

1 INTRODUCTION

- 1.1 This report asks members to authorise the closure of an Enforcement Investigation into works, which are not in accordance with the approved plans for 11/0781/FUL on the grounds that it is not expedient to pursue the breach of planning control further.

Site: 28 Almoners Avenue, Cambridge.
See Appendix A for site plan.

Breach: Unauthorised Operational Development.

2 BACKGROUND

- 2.1 On 2nd November 2011 planning application reference 11/0781/FUL was approved for: 'Part two storey, part single storey rear extension, erection of carport and erection of front porch.'
- 2.2 On 19th December 2012 officers received an allegation that the position of the balcony screening was not as shown on the approved plans for planning reference 11/0781/FUL.
- 2.3 A site visit was undertaken to assess the works undertaken on site, officers confirmed that the position of the balcony screening was closer to the edge of the balcony than shown on the approved plans. The increase in distance between the two screens (in width) affords a

greater potential for overlooking. Whilst the balcony screens have the effect of screening the balcony and removing the possibility of direct overlooking, their position nearer the edge of the balcony increases the potential for looking around the screen and this has a significantly detrimental effect on neighbour amenity. Photographs of the development can be found in Appendix B, some of the photographs included have been provided by the agent acting on behalf of the owners of the property.

2.4 The Planning Case Officer has advised that the difference in the position of the balcony is material enough to require a new full planning application and cannot be dealt with as a Non Material Amendment because it would involve consultation with the neighbour. In reaching this view she was mindful of the comments made by the neighbours on either side of the site. The occupiers of 26 Almoners Avenue were of the view that following receipt of revised plans the change 'makes little difference to the overall and overpowering effect of the extension'. The occupiers of 30 Almoners Avenue also commented as follows:

'Worse however – and this is the really astonishing bit – it seems that these glass screens are placed at either end of a large balcony. It will be apparent from our previous letters that we consider that a two storey extension, with a much larger area of glazing than in the existing building, would have a considerable detrimental impact on our use of our garden because of the greatly reduced level of privacy.'

2.5 The agent acting on behalf of the owner of the property considers that an application for a Non Material Amendment would be the appropriate way forward. Informal officer opinion is that if a retrospective application was to be made, it would be likely to be supported by officers.

2.6 The current Scheme of Delegation does not permit officers to close investigations where there is an outstanding breach of planning control. A decision therefore needs to be taken as to whether formal action should be taken forward or if the particular details of this case are such that it should not be pursued.

2.7 All parties connected to this investigation were advised this report is being put before members for consideration and were made aware that they could make representations to the Committee.

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. Paragraph 6.2 of the Planning Investigation Service’s Enforcement Policy states ‘The impact of some developments are more harmful than others and therefore action will be in the public interest and commensurate with the breach of planning control’ and paragraph 6.3 states that an appropriate course of action where the breach is minor with no significant effects may be that no further action is required.

3.3 The informal opinion from planning officers is that the impact of the development on the amenities of neighbours is not significantly greater than in comparison with the approved development and would be acceptable should an application have been made to regularise the situation. A retrospective application would have been likely to be approved under delegated powers. Therefore officers do not consider that it would be expedient to pursue formal action in this instance. Clearly the neighbours raised significant objections to the application but in itself this is not sufficient justification for either the refusal of planning permission or the initiation of enforcement action.

3.4 If members authorise the closing of this investigation, the unauthorised operational development in question would become immune from enforcement action after a period of four years.

4 RECOMMENDATIONS

4.1 It is recommended that the Head of Planning Services be authorised to close the investigation into unauthorised operational development at 28 Almoners Avenue on the grounds that it is not expedient to pursue the matter further.

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).

BACKGROUND PAPERS: <http://www.cambridge.gov.uk/public/pdfs/PIS-enforcement-policy.pdf>

APPENDICES

- Appendix A Site plan
- Appendix B Photographs of unauthorised development

The contact officer for queries on the report is Debs Jeakins on ext 7163.