

REPORT OF: Head of Planning Services

TO: North Area Committee DATE: 1 August 2013

WARD: Arbury

**PLANNING ENFORCEMENT CONTROL
ENFORCEMENT NOTICE REPORT**

33 Searle Street, Cambridge

Unauthorised Development

1 INTRODUCTION

1.1 This report seeks the authority to close an Enforcement Investigation on the grounds that it is not expedient to pursue the breach of planning control further.

Site: 33 Searle Street, Cambridge.
See Appendix A for site plan.

Breach: Unauthorised Development: alteration to the gable wall of an existing elevation involving the installation of a window that does not benefit from permitted development rights.

2 BACKGROUND (Timeline of Enforcement Investigation)

2.1 On 9th January 2013 City Council Officers received an enquiry that a window had been put in a gable wall at the above property, which may require planning permission.

2.2 A site visit was undertaken on 28 January 2013 to assess the works undertaken on site.

- 2.3 The site inspection confirmed a small window had been placed in the stairwell of the gable wall of the property, facing 31 Searle Street, Cambridge. The window in question was fixed shut but not obscure glazed and was estimated to be under 1m² in size.
- 2.4 The window could normally benefit from “permitted development” rights under Schedule 2 Part 1 Class A of the Town and Country General (Permitted Development) Order 1995 (as amended). In order to benefit from permitted development however, the window, on a side elevation (within a floor height of 1.7m of the internal floor level) would need to be obscure glazed and retained as fixed shut.
- 2.5 Officers recommended that the window could have a “film” applied to obscure glaze the window, but it was considered that this would reduce the light it provides and has not been implemented.
- 2.6 Officers have invited a retrospective application but no planning application has been submitted for the works to date. During the site meeting the owner confirmed that he would prefer not to make an application for such a small matter.
- 2.7 An informal opinion was requested from planning case officers in relation to the works that had been carried out. The informal opinion provided was that if a planning application had been made, it would be likely to have been supported by officers.
- 2.8 To date a breach of planning control remains unresolved. The current Scheme of Delegation does not permit officers to close investigations that have 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 the case concerned are such that it should not be pursued.
- 2.9 All parties connected to this investigation have been made aware that this report is being put before members for consideration and of the opportunity to make representations to the Committee.

3 POLICY AND OTHER MATERIAL CONSIDERATIONS:

3.1 National Planning Policy Framework states:

‘Paragraph 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 breach of planning control relates to a small window within a stairwell, which has been introduced to allow light into the property. When viewed internally officers noted that due to the size of the window, the impact of possible overlooking was minimal.
- 3.4 The informal opinion from planning officers is that the impact of the development in question is very small and should an application have been made to regularise the situation it would have been approved under delegated powers.
- 3.5 Officers do not consider that it would be expedient to pursue formal action in this instance.

4 RECOMMENDATIONS

- 4.1 It is recommended that the Head of Planning Services be authorised to close the investigation into unauthorised operational development at 33 Searle Street, Cambridge 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). 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

The author and contact officer for queries on the report is Alison Twyford on extension 7163.

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