

CAMBRIDGE CITY COUNCIL

REPORT OF: Head of Planning Services

TO: North Area Committee

03/07/2014

WARDS: West Chesterton

21 BELVOIR ROAD – REQUEST FOR WITHDRAWAL OF ENFORCEMENT NOTICE

1 INTRODUCTION

- 1.1 On 4 January 2010 a Planning Enforcement Notice was served on the owner of 21 Belvoir Road. The Enforcement Notice remains extant however the implementation of Planning Permission 12/1096/FUL (granted at appeal) has remedied the breach of planning control. The owner of 21 Belvoir Road has requested that the Enforcement Notice is now withdrawn. Officers are not able to take such action under the Delegation Scheme; therefore this decision falls to be made by members of North Area Committee.

2. RECOMMENDATIONS

- 2.1 There has now been implementation of Planning Permission 12/1096/FUL, this has effectively secured compliance with the terms of the Enforcement Notice served on the owner of 21 Belvoir Road on 4 January 2010. Given this, the enforcement notice could now be withdrawn.

3. BACKGROUND

- 3.1 21 Belvoir Road is located on the west side of the street, about 30 metres south of the junction with Aylestone Road. It is the southern half of a pair of semi-detached bungalows, which when built each had an L-shaped footprint, combining to form a U-shape; the main roof of the pair has a ridge parallel with Belvoir Road and was high enough to allow some accommodation in the roof and was hipped at the ends, with lower ridges at 90 degrees to the main ridge, projecting down the gardens over the rear 'wings'. At some time both properties have introduced small additions (not as deep as the rear 'wing') to the centre of the 'U'. No 21 has had a flat roof, timber-clad, 'garden room' built a short distance back from the rear wing.
- 3.2 In late 2008 works were commenced to the roof of 21 Belvoir Road. The works comprised a change to the main roof involving the introduction of a gable to the southern end instead of a hip, and behind the newly extended main ridge a substantial 'box' dormer projecting out from just below the ridge; it is 6 metres wide (from the new gable to the chimney), 3.6 metres deep and stands 3.0 up from a point about 300 mm above the eaves. A further addition was made above the rear wing, projecting a further 3.2m out from the back of the box dormer already referred to (7.0 metres in all from the ridge) at the same height as the 'box dormer' with a lean-to over the last 1.4m of the 'wing'. Tiles were used on the front of the hip to gable element and the box dormers were finished in painted timber. To the rear a casement window was added in the study/bedroom and French doors and a 'Juliet'

balcony introduced to the bedroom. These works did not have the benefit of planning permission.

- 3.3 The planning history of the site is long and complex and includes planning enforcement action. The following table indicates the application history and outcomes.

Reference	Description	Outcome
08/0625/FUL	Addition of new first floor accommodation. Rooms in new roof with dormers to side and rear.	Refused
09/0798/FUL	Loft conversion with roof extension	Withdrawn
09/1089/FUL	Loft conversion with roof extension (retrospective)	Refused Appeal dismissed
11/0405/FUL	Proposed alterations to reduce bulk of existing loft rooms.	Refused Appeal dismissed
12/0322/FUL	To reduce height of dormer.	Refused
12/1096/FUL	Side and rear roof extension	Refused Appeal allowed
12/1583/FUL	Side and rear roof extension	Refused

- 3.4 On 4 January 2010 a Planning Enforcement Notice was served on 21 Belvoir Road for “Without planning permission, the carrying out of operational development, namely the erection of a full width roof dormer on the rear and side of the property”. The requirements of the Enforcement Notice were: “To remove the roof extension and reinstate the roof to its original condition” within a period of 6 months.
- 3.5 The Notice was appealed to the Planning Inspectorate. The Inspectorate upheld the Notice but varied the period for compliance so that the removal of the roof extension should take place by 23 September 2011. The Enforcement Notice was not complied with.
- 3.6 On 24 November 2011 members of this Committee considered a report regarding the failure to comply with the Notice. Members authorised the Head of Planning and Head of Legal Services to take further action in respect of failure to comply with the Notice if a new application was not submitted within 4 weeks. On 19 December 2012 Cambridge City Council successfully pursued a prosecution for Failure to comply with requirements of the Enforcement Notice under Section 179 of the Town and Country Planning Act 1990 (as amended).
- 3.7 Application ref. 12/1096/FUL which was submitted in August 2012 sought retrospective planning permission for the roof extension and alterations including changes to the ‘as built’ structure. These comprised:
- The removal of the roof extension that projected over the original single storey rear wing of the property, save for a 400 mm nib that allowed the airing cupboard and toilet to remain. This extension was 3.2 m in length and of the same height as the main box dormer.
 - The removal of the extension referred to in (a) to allow the applicant to restore the roof of the former single storey rear extension to a dual pitched roof with

hipped north elevation. The eaves of the restored single storey rear extension would match the existing and the ridge would be no more than 4 m in height.

This application was refused against officer recommendation but subsequently allowed at appeal.

- 3.8 On 4 March 2014 officers confirmed that planning reference 12/1096/FUL had been fully implemented and the development was in accordance with the approved drawings and planning conditions. The Enforcement Notice relating to unauthorised operational development at 21 Belvoir Road remains extant however the implementation of 12/1096/FUL has remedied the breach of planning control and officers have closed their planning enforcement investigation
- 3.9 In March 2014 a Briefing Note was circulated to North Area Committee members to update them on the outcome of the planning enforcement action. A copy is attached to this report (Appendix A). The Briefing Note advised Members that the owner of 21 Belvoir Road has requested that the Enforcement Notice be withdrawn.
- 3.10 There is no legal requirement to withdraw an Enforcement Notice once it has been complied with and the Council practice is generally not to withdraw an Enforcement Notice in such cases. Officers have advised the owner that a note can be placed on the Land Search system advising that the Notice has been complied with. He is not satisfied with this approach for the following reason:

‘We are hoping to either sell, or raise funds on, the property once we have completed some internal works and are concerned that the continued existence of the Enforcement Notice (even though the land charges register would show compliance) could place unwarranted doubts in the minds of potential purchasers and/or lenders.’

- 3.11 There are no legal reasons why the Enforcement Notice should not be withdrawn and no outstanding enforcement investigations relating to 21 Belvoir Road. Commonly, local authorities including this Council will decide not to withdraw a notice if there is any chance of a further breach of the notice in the future. However here, officers are satisfied that the notice has been complied with and while it is still technically possible for another breach to occur this is highly unlikely. For these reasons, although not necessary I think it would be reasonable to agree to withdraw the notice as requested. No other parties would be prejudiced.

4 **CONSULTATIONS**

- 4.1 Advice has been provided by legal officers in relation to the procedure for dealing with the request to withdraw the enforcement notice and the need for a committee resolution has been confirmed.

5 **OPTIONS**

Option 1

- 5.1 To withdraw the Enforcement Notice. If committee decides that the notice can be withdrawn, the reference to the existence of an outstanding enforcement notice would be removed from the Local Land Charges Register, but any search of the Register would still reveal the history of an enforcement notice having been issued and then complied with.

Option 2

5.2 Not to withdraw the Enforcement Notice. Also, to request that a note is added to the Local Land Charges Register to state that the notice has been complied with. In this case the Enforcement Notice would remain extant and this would be clear from any Local Search carried out in respect of 21 Belvoir Road.

6 **CONCLUSIONS**

6.1 I recommend withdrawal of the Enforcement Notice for the reasons set out above.

*. **IMPLICATIONS**

(a) **Financial Implications - None**

(b) **Staffing Implications - None**

(c) **Equalities and Poverty Implications - None**

(d) **Environmental Implications – None**

(e) **Community Safety - None**

BACKGROUND PAPERS: The following are the background papers that were used in the preparation of this report:

Planning history – 21 Belvoir Road

To inspect these documents contact Sarah Dyer on extension 7153

The author and contact officer for queries on the report is Sarah Dyer on extension 7153.

Report file:

Date originated: 25 June 2014

Date of last revision: 25 June 2014

Appendix A

Briefing Note

To: North Area Committee

From: Head of Planning

21 Belvoir Road, Cambridge - Planning Enforcement Update

1 Background and Enforcement history

On 4 January 2010 a Planning Enforcement Notice was served on 21 Belvoir Road for “Without planning permission, the carrying out of operational development, namely the erection of a full width roof dormer on the rear and side of the property”.

The requirements of the Enforcement Notice were: “To remove the roof extension and reinstate the roof to its original condition” within a period of 6 months.

The Notice was appealed to the Planning Inspectorate. The Inspectorate upheld the Notice but varied the period for compliance so that the removal of the roof extension should take place by 23 September 2011. The Enforcement Notice was not complied with.

On 24 November 2011 members of this Committee considered a report regarding the failure to comply with the Notice. Members authorised the Head of Planning and Head of Legal Services to take further action in respect of failure to comply with the Notice if a new application was not submitted within 4 weeks.

On 19 December 2012 Cambridge City Council successfully pursued a prosecution for Failure to comply with requirements of the Enforcement Notice under Section 179 of the Town and Country Planning Act 1990 (as amended).

2 Current Position

Application reference 12/1096/FUL for a reduced side and rear dormer at the property was refused by North Area Committee on 22 November 2012.

This application was granted on appeal on 5 March 2013, subject to conditions relating to the time scale for implementation, the approved drawings and the materials to be used.

On 4 March 2014 officers confirmed that planning reference 12/1096/FUL had been fully implemented and the development was in accordance with the approved drawings and planning conditions.

The Enforcement Notice relating to unauthorised operational development at 21 Belvoir Road remains extant however the implementation of 12/1096/FUL has remedied the breach of planning control and officers have closed their investigation.

3 Request for withdrawal of the Notice

The owner of 21 Belvoir Road has requested that the Enforcement Notice is now withdrawn. There is no requirement for the Local Planning Authority to withdraw an Enforcement notice once it has been complied with and it is not City Council policy to formally do so.

Officers have advised that a note can be placed on the Land Search system advising that the Notice has been complied with however if members are minded to they are able to instruct officers to withdraw the Notice.