

BOROUGH OF KETTERING

Committee	Planning Committee	Item 6.2	Page
Report Originator	Mark Philpott	ENFO/2012/00005	
Wards Affected	Rothwell	Date: 09/10/2012	
Title	Authorisation for Planning Enforcement Action at 2 Ragsdale Street, Rothwell		

1. **PURPOSE OF REPORT**

To seek authorisation to issue an Enforcement Notice in respect of unauthorised development at 2 Ragsdale Street, Rothwell, shown in bold outline for identification purposes on the site plan attached to this report.

2. **BREACH OF PLANNING CONTROL**

Without planning permission, the construction of an extension, measuring 3.5m wide by 3.0m deep by 3.0m high, at second floor (roof) level, on the rear elevation of the dwellinghouse.

3. **RECOMMENDATION**

That in respect of the breach of planning control described above, the Head of Development Services be authorised to issue an Enforcement Notice pursuant to section 172 of the Town and Country Planning Act 1990 (as amended) requiring the step(s) to be taken within the specified time period(s); and for the reason(s) which are set out below:

3.1 **Steps to be Taken**

1. Remove the Juliet balcony, external doors, and window frames from the second floor extension.
Time for compliance: 4 months
2. Insert a window frame, measuring 1.6m wide by 1.2m high, set directly below the existing window head and centrally in the rear elevation of the second floor extension, block up the remaining openings.
Time for compliance: 4 months
3. Clad the side and rear elevations of the second floor extension in horizontal timber boarding, stained in the colour 'Sepia Brown' (reference RAL 8014).
Time for compliance: 4 months

3.2 **Reasons For Issuing the Notice**

The development in question was substantially completed less than four years ago. Although planning permission was granted under reference KET/2011/0273 for a dormer window, the development is materially different from that approved. It is considered that the extension, by virtue of its large area of window, full height doors and juliet balcony results in significant and unacceptable levels of overlooking and a loss of privacy which neighbouring properties may otherwise reasonably expect to enjoy. The extension represents an incongruous form of development which is out of character with its surroundings by virtue of its siting, design and the materials used in the construction of the exterior of the extension.

As such the unauthorised development conflicts with the aims and objectives of the following planning policies:

National Planning Policy Framework

Paragraph 17 states that development should 'always seek to secure a high quality design and a good standard of amenity for all existing and future occupants of land and buildings'.

Paragraph 58 states that development should 'respond to local character and history, and reflect the identity of local surroundings and materials' and be 'visually attractive as a result of good architecture and appropriate landscaping'.

North Northamptonshire Core Spatial Strategy

Policy 13: General Sustainable Development Principles

Policy 13 part (h) states that development should 'be of a high standard of design, architecture and landscaping, respect and exchange the character of its surroundings and be in accordance with the Environmental Character of the area'

Policy 13 part (l) states that development 'should not result in an unacceptable impact on the amenities of neighbouring properties or the wider area, by reason of noise, vibration, smell, light or other pollution, loss of light or overlooking'.

The Council considers that planning permission should not be given, because planning conditions could not overcome these objections to the development.

4. INFORMATION

4.1 Site Description

Prior to the completion of the unauthorised development, the site consisted of a two storey, semi-detached dwellinghouse with rough facing, mixed red brick elevations, white UPVC window frames and a brown, concrete tiled, pitched roof. The roof became hipped to the south as a result of a two storey extension. The dwelling features a single storey lean-to extension to the rear of the property.

To the rear is a large garden which is bound by 1.8m close boarded fencing to the east. A retaining red brick wall is located to the south. The boundary with the adjoining no. 4 Ragsdale Street features a much smaller fence, less than 1m in height.

The site is located to the east of Ragsdale Street, which slopes upwards steeply to the north. As a result, the plots in Glendon Road and Stanley Street are on a lower ground level than the site. The dwellings in both Glendon Road and Stanley Street front their respective highways, with the back gardens to the rear of the plots adjoining the site.

The surrounding area is residential in nature, but mixed in terms of design and character. The surrounding properties in Ragsdale Street consist of a range of housing types; while the properties in Stanley Street are predominantly semi-detached and the adjacent properties in Glendon Road form part of a terrace. Despite the surrounding properties being mixed in type, design and character, the majority of dwellings feature red brick elevations and brown/grey concrete roof tiles.

The completion of the unauthorised development has resulted in a second floor extension to the rear of the dwellinghouse, adjoining the boundary line with no. 4 Ragsdale Street. The development extends out from the roof plane of the original building, but rather than being set back from the eaves of the roof, as would typically be the case with dormer windows, the rear elevation of the unauthorised development is sheer with the remainder of the rear elevation of the dwellinghouse.

The extension features a flat roof and red brick elevations. The development also features a juliet balcony with two white UPVC inward opening doors, with openings inserted into the upper half of the doors, and an additional two window casements to both sides of the doors.

4.2 Planning History

KET/2012/0446 – Retrospective application: Retention of extension at second floor level. REFUSED 12.09.2012

KET/2011/0273 – Full application: Two storey side and single storey rear extensions. Dormer window to rear. APPROVED 09.08.2011

4.3 Planning Policy:

National Planning Policy Framework

Core planning principles

Section 7: Requiring good design

Development Plan

North Northamptonshire Core Spatial Strategy (CSS)

Policy 13: General Sustainable Development Principles

5. APPRAISAL

On 09.08.2011 Planning permission was granted for extensions including a rear dormer.

Although the permission was implemented in some respects, the roof extension constructed was not in accordance with the approved plans. The juliet balcony element and windows on the first floor of the rear elevation area are contrary to the plans approved under reference KET/2011/0273. The extension was closer to no. 4 than was approved, and the extension had been faced in brickwork.

Retrospective planning permission (under reference KET/2012/0446) was refused following consideration by the Planning Committee on 11.09.2012.

The unauthorised extension differs from the development permitted by KET/2011/0273 as it sits on the party wall with no. 4 Ragsdale Street, and features two additional windows, full height doors and a Juliet balcony. In addition, the elevations are constructed from unclad red brick, rather than the previously permitted painted timber clad elevations. The insertion of the additional windows, doors and juliet balcony results in unacceptable levels of overbearing and loss of privacy. This conflicts with paragraph 17 of the National Planning Policy Framework (NPPF) and Policy 13(l) of the North Northamptonshire Core Spatial Strategy (CSS). The siting, design and materials used result in a design which is incongruous to the character of its surroundings. This conflicts with paragraph 58 of the NPPF and Policy 13(h) of the CSS.

Paragraph 207 of the NPPF advises how local planning authorities should determine whether or not it is expedient to take enforcement action in respect of a breach of planning control. In particular it advises that 'enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches in planning control. In this case the recommended steps seek to remedy the harm caused by the unauthorised development rather than requiring its removal. It is considered that, having regard to the permissions available to the developer (either the extant permission or a dormer extension via the GPDO), complete removal of the unauthorised works would be disproportionate in this instance.

It is considered that the unauthorised development has an unacceptable adverse impact which conflicts with the Development Plan and therefore it is recommended that enforcement action is authorised.

Human Rights Implications

Service of an enforcement notice in this instance is not a breach of the property owner's human rights. Whilst it does affect their property rights they will have an opportunity to challenge the decision by way of an appeal against the enforcement notice and that provides adequate safeguards in accordance with the Human Rights Act 1998 incorporating the European Human Rights Convention.

Background Papers:

Title of Document:

Date:

Contact Officer: Mark Philpott

Previous Reports/Minutes:

Ref:

Date: