

## BOROUGH OF KETTERING

<b>Committee</b>	<b>Planning Committee</b>	Item 6.3	Page
<b>Report Originator</b>	Marie Down	ENFO/2012/00149	
<b>Wards Affected</b>	St Michaels and Wicksteed	Date: 15/01/2013	
<b>Title</b>	Authorisation for Planning Enforcement Action at 4 Springfield Close, Kettering		

### **1. PURPOSE OF REPORT**

To seek authorisation to issue an Enforcement Notice in respect of unauthorised development at 4 Springfield Close, Kettering, shown in bold outline for identification purposes on the site plan attached to this report.

### **2. BREACH OF PLANNING CONTROL**

Without planning permission, the erection of a first floor extension to the garage and alterations thereto.

### **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 steps to be taken within the specified time periods; and for the reasons which are set out below:

#### **3.1 Steps to be Taken**

1. Remove the patio doors and frame from the rear elevation of the first floor extension. Block up the lower part of the opening to 1 metre above floor level.  
Time for compliance: 4 months
2. Insert a window into the opening resulting from Step 1 above.  
Time for compliance: 4 months
3. Remove the external staircase from the south west (side) elevation.  
Time for compliance: 4 months
4. Remove the door and frame from the south west (side) elevation. Block up the opening in brick and block materials to match the adjacent facing work.  
Time for compliance: 4 months

5. Remove the external blockwork used to face the increase the height of the flat roof section of the garage. Rebuild this section using red bricks to match those facing the ground floor of the garage.  
Time for compliance: 4 months
6. Render the blockwork faces of the extension in smooth render, painted to match the upper part of the front elevation of the existing dwelling.  
Time for compliance: 4 months

### 3.2 Reasons For Issuing the Notice

The extension in question has not yet been completed. Although planning permission was granted for a first floor extension to the garage, the development carried out is materially different from that approved and therefore does not fully benefit from the permission granted. It is considered that the blockwork walls are not acceptable as an external finish to the extension and results in an adverse impact on character and appearance. It is further considered that the unauthorised openings in the rear and side elevations and the external staircase, results in significant and unacceptable overlooking and loss of privacy to occupiers of nearby properties.

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 secure a high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

#### **North Northamptonshire Core Spatial Strategy**

Policy 13 (h) of the North Northamptonshire Core Spatial Strategy requires development to be of a high standard of design, architecture and landscaping and respect and enhance the character of its surrounding.

Policy 13 (l) of the North Northamptonshire Core Spatial Strategy requires development not to 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**

Officer's site inspection was carried out on 19/09/2012 and 30/11/2012.

Prior to the commencement of the unauthorised development the site consisted of a large trapezoid shaped, flat roofed detached garage. The garage is located to the west of the dwelling towards the rear of the plot. The dwelling itself is a two storey bay fronted terraced dwelling, built predominantly of red brick with some painted render to the front elevation.

The front garden is open plan and the rear garden widens towards the rear boundary. Ground levels increase in height from southeast to northwest towards the rear of the site such that the rear part of the garage is “dug in” to the ground by about one metre.

Boundary treatment with the neighbouring property, No. 5 Springfield Close, consists of brick buildings within this neighbour's property and 1.8 metres high panel fencing. To the northeast (no.3), the boundary treatment is 1.8 metre high panel fencing close to the dwellinghouse, reducing to 1 metre high picket fencing towards the rear. The rear boundary is made up of mature trees and hedging with 1.8 metre high panel fencing behind. Surrounding properties are terraced dwellings, and are of a similar style and design.

The development has resulted in a first floor extension to the garage and the single storey rear element being increased in height. The first floor extension includes two windows at first floor level and asymmetrical garage door at ground floor level in the front elevation, patio doors at first floor level in the rear elevation and an external staircase on the south-west side elevation. The rear most part of the garage which was to be retained as single storey with a flat roof has increased in height by about 450mm and the new work has been undertaken in grey concrete block.

#### 4.2 Planning History

KET/2011/0353 – First floor extension to garage – Approved 23/08/2011

### 5. APPRAISAL

On 23.08.2011 planning permission was granted for a first floor extension to the garage. Subsequent site visits have revealed that the development does not accord with the approval in the following respects:

Aspect	Breach	Comment
Front elevation	Asymmetrical garage doors	Do not warrant enforcement action.
Front elevation	Changes to first floor windows	Do not warrant enforcement action.
Roof planes	Omission of roof lights	Do not warrant enforcement action.
Side and rear elevations	Increase in height of flat roof (rear) section of the garage	Do not warrant enforcement action per se, but the blockwork used externally has an incongruous appearance and should be replaced by red brick.
Rear elevation	Insertion of patio doors at first floor level	Results in minor overlooking and loss of privacy to gardens to the rear. Doors facilitate access to flat roof beyond as a sitting out area which would increase the risk of overlooking and loss of privacy.
Side elevation	External staircase and door	The door is at a higher level than that approved. The raised platform and steps result in overlooking and loss of

		privacy to the neighbouring property.
All elevations	Extension constructed of grey concrete block	Condition 2 of the planning permission required materials to match the building (i.e. red brick). As built the extension has an adverse visual impact on the street scene. It would be reasonable to finish the extension in painted render, which would match elements of the front elevation of the house.

The property owner has been advised that the development was unauthorised. To date, no planning application has been submitted.

Paragraph 207 of the National Planning Policy Framework advises that “enforcement action is discretionary, and local planning authorities should act proportionally in responding to suspected breaches of planning control”.

In this case it is considered that the breach in respect of the windows and asymmetrical garage doors in the front elevation do not result in a significant demonstrable harm and as such it is recommended that no action be taken to remedy this breach. In the case of the opening in the rear elevation the recommended steps seeks to remedy the harm caused by this unauthorised element of the development rather than requiring its removal. In the case of the external staircase in the south-western side elevation it is considered that its removal is the only practicable means to remedy the harm incurred.

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: Marie Down

#### Previous Reports/Minutes:

Ref:  
Date: