

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Enforcement Sub-Committee

20 April 2010

AUTHOR/S: Executive Director (Operational Services) / Corporate Manager (Planning and New Communities)

Town and Country Planning Act 1990 Unauthorised Land Level Raising at the Rear of 9 High Street, Orwell

Purpose

1. This item is to inform Members about unauthorised earth works that have raised land level to the rear garden of 9 High Street, Orwell and to seek authority to take no further action.

Recommendations and Reasons

2. Planning officers recommend that **No further action be taken**. Taking into consideration the overall extent of the land level increase and its siting it is considered that the development does not cause significant harm to the local area or to residential amenity. Consequently, it is not considered expedient to take further action.

Background

3. The original land level of the site showed an increase in gradient from the High Street to the rear boundary, with some areas of land rising sharply. The approved landscaping scheme for the new dwelling (planning ref **S/1149/07/F**) proposed two retaining walls, creating a middle section of level lawn and a rear grassed end to the garden. The affected land is situated to the top end of the garden above the approved 750mm high retaining wall.
4. On 23rd June 2009, the planning enforcement officer observed that excavated material (evidently from the excavations for the new dwelling) had been deposited towards the rear boundary of 9 High Street, Orwell to an approximate height of one metre. The height of this area of land was subsequently reduced either through compaction of the soil or levelling of the land and now remains higher than the previous ground level. Whilst the developer has argued that the works were approved in the agreed landscaping scheme, the extent of land increase has resulted in an estimated rise of 0.5m or more to the top section of the garden above the retaining wall creating a raised, level platform. Such works are considered to be substantial given both the area of the land affected and the increased land height. Consequently, the works do not fall within the scope of a landscape scheme and represent engineering works or 'other works' that have been judged to represent new development for which a retrospective application is required.
5. Following extended discussions with the developer to resolve the breach of planning control, no subsequent retrospective planning application has been submitted to the Local Planning Authority to date.

Considerations

6. The raised ground level is located to the top, rear end of the garden, which, alongside neighbouring gardens, is elevated above the main dwelling and neighbouring dwellings. Consequently, one of the main considerations is the impact of the works on residential amenity.
7. Spot height data and photographs of the site prior to the works indicate a general rise in land level both towards the rear of the plot and rising from the west side to the east side of the plot at the top section. The raised area therefore affects land towards the west side boundary, which is the adjoining rear garden of 5 High Street and the neighbouring dwelling and rear garden at 7 High Street, to the south. Whilst the works are located close to the rear garden of 13 High Street, the impact on this neighbour is not considered to be significant given the boundary treatment in place and the similar land level between the two sites.
8. Boundary treatment to the west side of the site is currently limited with a low 1m wire fence and a few trees giving rise to mutual overlooking between the gardens of 5 and 9 High Street. Whilst the raised ground level would increase the viewing height of a person standing near to the west boundary at the top section of the garden, the elevated nature of the top garden already presents a certain degree of overlooking, which is recurrent in the area due to the topography of the land. The degree of land level increase is, in this case, not considered to result in an adverse loss of privacy taking into account the existing level of privacy enjoyed by neighbouring properties. Furthermore, the development is not considered to have an unacceptable adverse overbearing impact.
9. Drainage is another concern that has been raised. The developer has explained that drainage runs to a new double soakaway on the development site, which has been approved by a private building inspector, although no details have been submitted to confirm this. The affected area is however noted to slope down to the neighbour at 5 High Street and does not directly abut the side boundary at the maximum raised height. There has been no evidence to date to suggest significant drainage problems or movement or subsidence from the deposited earth.
10. Views of the development from the streetscene and within the Conservation Area are considered to be limited due to the positioning of buildings along the front of the High Street. Consequently, the development is considered to have an acceptable impact on the character of the area.

Options

11.
 - (a) Take no further action, which would result in the raised land level remaining unauthorised.
 - (b) Issue an Enforcement Notice for the reinstatement of the original ground level.

Implications

12.	Financial	Preparation of legal documents. Council defending appeal
	Legal	Drafting documents in accordance with the Town and Country Planning Act, consideration of expediency or not in issuing a notice and being challenged by a third party
	Staffing	SCDC frontline staff consisting of planning enforcement officers, legal and conservation staff
	Risk Management	-

Equal Opportunities	Equal opportunities applied in line with guidelines set down
Climate Change	-

Consultations

13. (a) Local Member (Councillor David Bird)
- (b) Chairman of Planning Committee
- (c) Enforcement Officer
- (d) Conservation Officer
- (e) Corporate Manager (Planning and New Communities)

Effect on Strategic Aims

14. This report has been generated following correspondence with local residents and the developer and relates to our commitment to be a listening Council.

Conclusions / Summary

15. Taking into consideration the overall extent of the land level increase and its siting it is considered that the development does not cause significant harm to the local area or to residential amenity. Consequently, it is considered expedient to take no further action in this case.

Background Papers: the following background papers were used in the preparation of this report:

Local Development Framework Development Control Policies 2007

Contact Officer: Andrew Winter – Planning Officer
Telephone: (01954) 713082