

DELEGATED

AGENDA NO:

**REPORT TO PLANNING
COMMITTEE**

DATE: 19th April 2006

**REPORT OF CORPORATE
DIRECTOR OF DEVELOPMENT
AND NEIGHBOURHOOD
SERVICES**

**13/15 STATION ROAD EAGLESCLIFFE - PLANNING APPROVAL 05/0178/FUL. -
INCREASE IN WIDTH OF EXTENSION TO BUILDING AND ENCROACHMENT
TOWARDS THE HIGHWAY.**

SUMMARY:

A number of complaints have been brought to the attention of the Head of Planning regarding the exact size of the development regarding ref 05/0178/FUL for a two storey extension to extend 4no flats granted approval on 11th January 2006.

After investigations it is now the purpose of this report to consider whether it would be expedient to take any enforcement action with regards to this complaint.

RECOMMENDATION:

It is recommended that Members resolve that it is not expedient to take any enforcement action against the owner of 13/15 Station Road Eaglescliffe for the following reasons: -

- 1. It is the opinion of the Head of Planning that the increase in length of the rear wall of the extension by a maximum of 0.08 metre would be regarded as de minimis.**
- 2. It is the opinion of the Head of Planning that the increase in the depth of the bay window by 0.01 metre would be regarded as de minimis.**

BACKGROUND:

- 1. The Head of Planning has received complaints from a local resident group and local residents over a number of issues: -**

- a) That the rear wall of the approved extension had increased in width and is therefore encroaching towards the highway
 - b) That the bay window facing Swinburne Road is projecting closer to the highway than approved.
2. The Enforcement Officer checked the planning history of the site and an inspection took place with a Highway Engineer where the following measurements were noted in comparison with approved plan SBC1 Drawing No (204-03) 05 B. It should also be noted that the verified plan measurements were corroborated with an Area Team Leader & Senior Planning Officer before inspections took place.
 3. On inspection it was verified the following:-
 - 3.1. The rear wall of the extension on site measured 10.63 metres where the approved plan shows the length of the rear wall as 10.55 metres an increase of 0.08 metres. (See appendix 1 Points B - C)
 - 3.2. The distance from the party wall between the rear yards of 11 Station Road and 13 Station Road up to the end of the extension of 13/15 Station Road fronting onto Swinburne Road measured 13.13 metres on site where the approved plan shows this distance to be 13.10 metres an increase of 0.03 metres. (See Appendix 1 Points A - C)
 - 3.3. The footpath in Swinburne Road according to Highways Dept plans of the adopted highway measures 1.95 metres. The edge of the footpath adjoining 15 Station Road is undefined at present due to the construction work. (See Appendix 1 Points D - E). It should also be noted that the footpath is not shown as part of the scaled drawings as it is outside the red lined area of the site.
 - 3.4. A distance of 1.95 metres was measured from the edge of the kerb in Swinburne Road. This was marked to indicate the width of the footpath. The distance from this point to the wall of the extension was measured at 2.33 metres. A decrease of 0.07 metres.
 - 3.5. The bay window was measured on site as protruding 1.09 metres from the main wall of the extension. The approved plan shows this distance as 1.08 metres an increase of 0.01 metre. (See Appendix 1 Points C - F).
 4. On looking at the above information in paragraph 3 there is a discrepancy in the measurements in point 3.2 & 3.4 of 0.04 metres. This is due to the fact the boundary wall of the property has not been built yet & the difficulty in identifying the public footpath, which has been removed at present. However it should be pointed out that the Planning Division has no powers to require

accurate dimensions outside the site. The siting of the building works has been checked with fixed points within the site and is in accordance with the approved plans. The public footpath shown on the layout has no status as reflecting an accurate representation of the public footpath other than measuring from the indicative back of footpath shown on the plan. Therefore the issue of the public footpath is a matter for Engineers to check that the footpath has not been obstructed or encroached upon once the boundary wall has been built.

CONSIDERATIONS:

5. Whilst it is clear planning permission should have been obtained for any changes to the extension this in its own right is not sufficient justification for pursuing enforcement action. The minor measurement changes are deemed to be de minimis and could not be realistically defended on an appeal if an enforcement notice was served.

THE DEVELOPMENT:

6. The site is a two-storey rear extension to a large Victorian house on a corner site in a residential area of Eaglescliffe. Which when completed will consist of 5no 1 and 2 bedroom flats, a shop and dentists surgery.

CONCLUSION:

7. The Head of Planning is of the opinion that, taking into account all the above information the minor difference in the size of the extension would be classed as de minimis and therefore it is not expedient to take enforcement action against these complaints.

Corporate Director of Development and Neighbourhood Services

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Financial Implications.

Possible costs in defending an appeal should enforcement action be pursued.

Environmental Implications.

As Report.

Community Safety Implications.

Not Applicable.

Human Rights Implications.

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

Background Papers.

05/0178/FUL.

Ward(s) and Ward Councillors(s).

Eaglescliffe: Councillor M F Cherrett.
 Councillor J A Fletcher
 Councillor M Rigg