

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2012/00012
LOCATION: Rosfryn, 9 Chester Street, St Asaph
INFRINGEMENT: Unauthorised development - erection of extension

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN
Policy GEN 1 – Development within Development Boundaries
Policy GEN 6 – Development Control Requirements
Policy CON 5 – Development within Conservation Areas
SPG 13 – Conservation Areas

GOVERNMENT GUIDANCE

Planning Policy Wales 2011
Technical Advice Note (Wales) 9: Enforcement of Planning Control
Circular 61/96 Planning and the Historic Environment

HUMAN RIGHTS CONSIDERATIONS

The Human Rights Act 1998 is taken into account when considering taking enforcement action against unauthorised alterations to residential premises within a Conservation Area. In this instance, the matter under consideration relates to the rights of an owner of a residential property to erect an extension to the rear of the property where the impact of such development on the amenity of the neighbouring properties and the amenity of occupiers of the property itself are unacceptable. It is considered that such development is not in the general public interest, which outweighs the rights of the owner.

No specific human rights issues have been raised by the owner of the dwelling or any other interested party.

1. BACKGROUND INFORMATION

- 1.1 Rosfryn, 9 Chester Street, St Asaph is a terraced residential property located within the St Asaph Conservation Area. The property is in residential use and therefore falls within Class C3 of the Use Classes Order 1987.
- 1.2 On the 01 July 2011, a complaint was received that a new extension had been erected at the above address. A site visit was undertaken by a Planning Compliance Officer, who was able to verify the complaint.
- 1.3 There was no planning permission in place to authorise the development, nor had an application for planning permission been submitted, as required under the Town and Country Planning Act 1990 and Article 4(2) of the Town and Country Planning (General Permitted Development) Order 1995.
- 1.4 The Planning Compliance Officer made contact with the property owners and provided appropriate guidance. The owners agreed to submit an application for retrospective planning permission for the extension. The application code reference 46/2011/0998/PC was submitted on the 17 August 2011, but was not complete until

the 05 December 2011 due to the requirement for additional information to make it valid in accordance with legislation.

- 1.5 The application has been considered by Planning Officers and the separate report on its merits appears before the Planning Committee immediately prior to this item with a recommendation for refusal.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The unauthorised development has been carried out within the last four years.
- 2.2 The extension by virtue of its scale and location has an unacceptable impact on the amenity of users of adjoining properties due to proximity to existing windows, and has an unacceptable impact on the amenities of occupiers of the dwelling itself due to the loss of virtually all the outdoor amenity space.
- 2.3 The extension is in conflict with Policy HSG 12 of the Denbighshire Unitary Development Plan.
- 2.4 The use of conditions as part of any grant of planning permission for the retention of the unauthorised extension could not address these conflicts with policy.

3. RECOMMENDATION

- 3.1 That authorisation be granted for the following:
- (i) Serve an Enforcement Notice to secure the removal of the unauthorised extension within a period of 6 months
 - (ii) Instigate prosecution proceedings, or the appropriate action under the Planning Acts against the person, or persons upon whom any Enforcement Notice, or other such Notice is served, or against whom legal action is taken should they fail to comply with the requirements of the Enforcement Notice.