



NOTICE OF MEETING

Meeting:	Planning (Enforcement) Sub-Committee
Date and Time:	Monday 13th September, 2010 at 9.30 am
Place:	Council Chamber, Civic Offices, Fleet
Telephone Enquiries to:	(01252) 774203 (Mrs P Jackson) email: patricia.jackson@hart.gov.uk
Members:	Parker (Chairman), Axaam, Billings, Evans, Henderson, Southern and Street

G Bonner
Chief Executive

CIVIC OFFICES, HARLINGTON WAY
FLEET, HAMPSHIRE GU51 4AE

AGENDA

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AND BRAILLE ON REQUEST**

1. MINUTES OF PREVIOUS MEETING

The Minutes of the meeting held on 19th July 2010 are attached to be confirmed and signed as a correct record. **(Paper A)**

2. APOLOGIES FOR ABSENCE

3. CHAIRMAN'S ANNOUNCEMENTS

4. DECLARATIONS OF INTEREST (PERSONAL OR PERSONAL AND PREJUDICIAL)

See Note below

Date of Despatch: 31st August 2010

The Human Rights Act 1998 (the Act) has incorporated part of the European Convention on Human Rights into English law. Any recommendation either to take or not to take enforcement action has been assessed to make sure that the decision is compatible with the Act. If there is a potential conflict, this will be highlighted in the individual report on the relevant item.

Note: A meeting of the Enforcement Panel will consider outstanding cases (including those with Legal) at the conclusion of the meeting. These will be sent electronically to Members a week before the meeting to ensure they are up-to-date.

**PLANNING (ENFORCEMENT) SUB-COMMITTEE
13TH SEPTEMBER 2010**

CHAIRMAN'S URGENT ITEM

THE SPURS, 93B KENILWORTH ROAD, FLEET

The Chairman is of the opinion that this item should be considered at the meeting as a matter of urgency, pursuant to Section 100B(4)(b) of the Local Government act 1972, because of the need to make a decision prior to the next meeting of the Sub-Committee in December.

A report from the Head of Planning Services is attached.

ENFORCEMENT CASE REFERENCE NO: I0/00216/LP4

COMMITTEE REPORT ITEM NUMBER:

EXECUTIVE SUMMARY

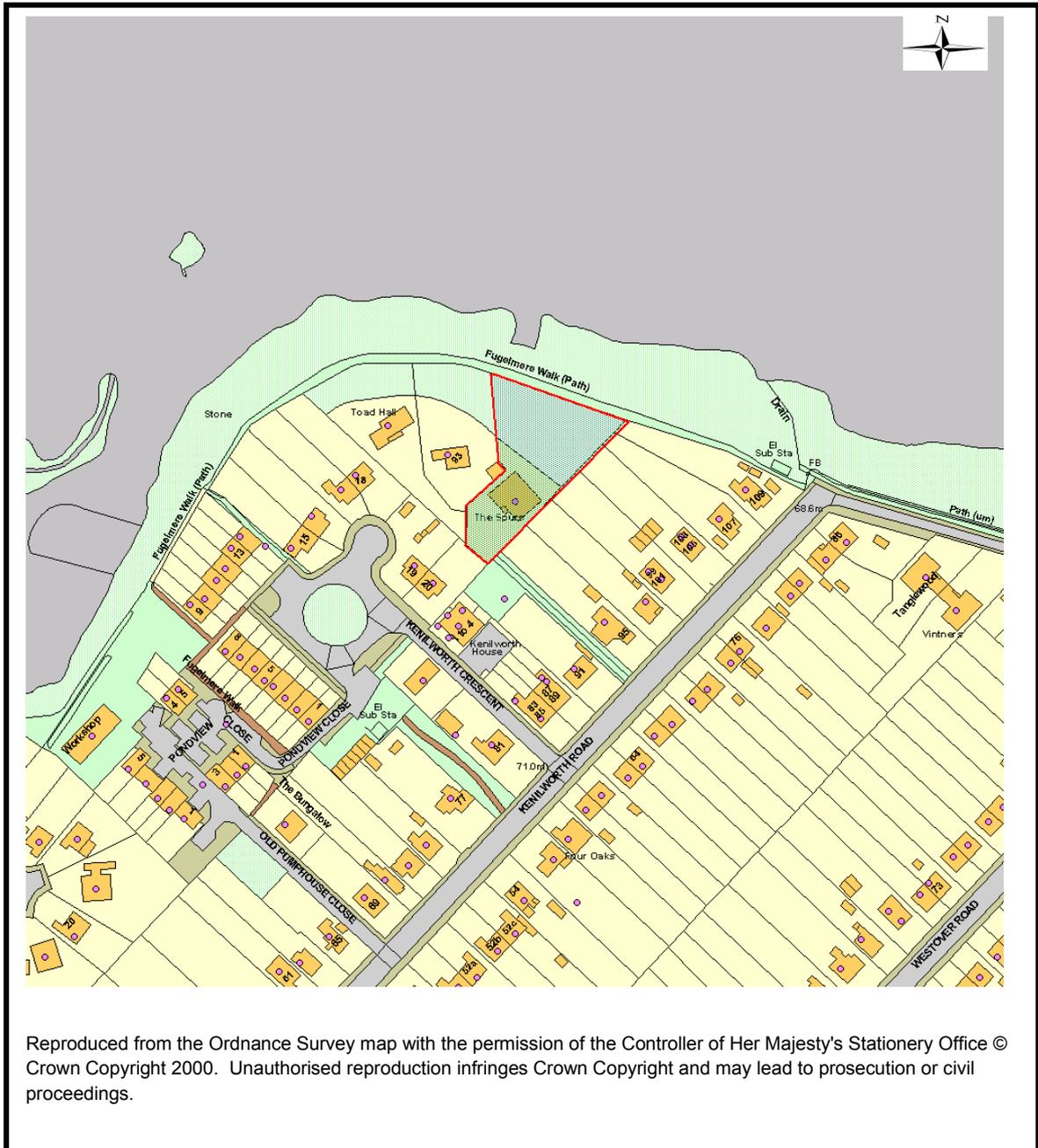
Site Address	The Spurs, 93B Kenilworth Road, Fleet, Hampshire, GU51 3AY
Nature of Complaint	First floor balcony encased in glass, possible wall removed separating room from balcony.

Date Registered	13.08.2010	Case Officer	Mrs Sharon Whittaker
Committee Date	13th September 2010		
Ward Member	Cllr Mrs Sharyn Wheale	Parish Council	Fleet Parish
Date Received	11.08.2010		

Nature of Complaint	First floor balcony encased in glass, possible wall removed separating room from balcony.
Officer Recommendation	That the side elevation be fitted with obscure glazing in accordance with The Town and Country Planning (General Permitted Development) (Amendment) (No2) (England) Order 2008.

ENFORCEMENT SUB-COMMITTEE REPORT
Enforcement Ref: 10/00216/LP4

Location Map



Committee Date: 13th September 2010

**The Spurs
93B Kenilworth Road
Fleet
Hampshire**

GU5I 3AY

1.0 BACKGROUND INFORMATION

A case was opened 13th August 2010 as a query was raised concerning the enclosure of an existing first floor balcony at The Spurs, Kenilworth Road.

2.0 THE SITE

The property is a detached two story dwelling located within the settlement boundary, adjacent to Fleet Pond and the end of Kenilworth Road, Fleet.

3.0 ALLEGATION

A conservatory has been built that now encloses the first floor balcony, under The Town and Country Planning (General Permitted Development) (Amendment) (No2) (England) Order 2008, these works are classed as permitted development subject to certain conditions in that;

any upper-floor window located in a wall or roof slope forming a side elevation of the dwelling house shall be—

- (i) obscure-glazed, and
- (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

4.0 RELEVANT PLANNING/ENFORCEMENT HISTORY

HDC - 306 Land adjacent to Limberlost, Kenilworth Road, Fleet, - Erection of house and Garage - 26th June 1974

5.0 RELEVANT PLANNING POLICIES

GEN I, CON 3, of the Hart District Local Plan 1996 – 2006

PE I, Hart District Councils Planning Enforcement Policy

6.0 CONSIDERATIONS

Consent was granted in 1974 for the property which included the first floor balcony and this has been in use to the present day. The current owners recently decided to enclose the balcony so as to maximise its use, as the rear of the property has views over Fleet Pond. The open balcony was not used to the fullest degree and was decided that it was wasted space.

While the open balcony afforded a wider area for overlooking its use was restricted due to weather, the newly enclosed balcony however is used on a more regular basis as the area is now weather protected. According to the owner the internal layout of the property is 'upside down' with bedrooms on the lower floor and the kitchen dining area on the first floor, as such the balcony is now used on a more regular basis.

They continue, while the regulations state that any upper-floor window located in a wall or roof slope forming a side elevation of the dwelling house shall be obscure-glazed, and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, overlooking to neighbouring properties is restricted due the physical presence of the glass.

On Balance it is considered that the increased use does give rise to unacceptable

overlooking which should be controlled by obscure glazing.

As the balcony is used more frequently in the winter months lighting may become an issue, the open balcony was not illuminated, however as the enclosed area may be used more there could be an issue of excessive illumination adjacent to Fleet Pond and the impact on protected species. However this cannot be given any weight as the structure is permitted development.

7.0 RECOMMENDATION

That the side elevation be fitted with obscure glazing in accordance with The Town and Country Planning (General Permitted Development) (Amendment) (No2) (England) Order 2008.

Comments from neighbouring property in connection with enforcement case 10/00216/LP4 - The Spurs, 93B Kenilworth Road, Fleet, Hampshire GU51 3AY

Concerns:

- The only objection we have to the extension is that there is floor to ceiling glass (with an opener) on the side elevation and we feel that this substantially reduces the privacy of our back garden and house. This is made worse by the fact that the extension is now part of the Spur's lounge. We would encourage the panel to visit the property to see for themselves the impact on our privacy.

Privacy concerns:

- The main reason we bought 93 Kenilworth Road was because of its unusually high degree of privacy. The house is set back from the road and was completely un-overlooked from all directions when we bought it (apart from the spurs balcony which has hardly been used). A block of four flats has since been built in Kenilworth crescent which overlooks the front of the house to a small extent.
- The side elevation is clear glass (floor to ceiling) with an opener that looks down onto our entire back garden and some of our front drive.
- It looks down into our kitchen and lounge.
- It looks across to two bedrooms.
- It looks across our garden and on to our other neighbours garden at "Toad Hall". This will get worse when we remove some trees on that boundary.
- We had planned to thin the trees at the boundary to Spurs to increase light - this will no longer be an option and we may well be forced to erect more trees for privacy thereby reducing our light further. The extension itself also slightly reduces light to our garden.

Conversion of balcony to conservatory is further invasion of privacy:

- Usage of a balcony is much less than usage of an inside space - especially the lounge. Having this space inside as part of the lounge will dramatically increase the amount of time that is spent in this space.
- Potential to overlook without being seen. It is creepy being looked down on from a lounge on the first floor so close to our boundary.
- The balcony railings prevented to a very large extent overlooking from a seated position.

Fairness

- I am told that had building regulation approval been sought before the development they would have been instructed to fit obscured glass or brick on the side elevation.
- We were not informed or consulted at all about the development and it went up very quickly. We would have requested that they did not fit clear glass to the side elevation had we known about the development.
- I can see very little benefit to Spurs for having this side elevation as clear glass given the entire frontage is floor to ceiling clear glass. They also have a similar extension on the other side of their house providing light to the upstairs.
- The implication for us however is very serious as our house no longer feels private. We are now seriously overlooked by the Spur's upstairs lounge.

PLANNING (ENFORCEMENT) SUB-COMMITTEE

Date and Time: Monday, 13th September 2010 at 9.30 am

Place: Council Chamber, Civic Offices, Fleet

Present:

COUNCILLORS –

Parker - Chairman

Billings Southern
Evans Street

Officers Present:

Robert Jackson - Development Control Manager
Sharon Whittaker - Enforcement Officer
Sylvia O'Connor - Enforcement Officer
Tricia Jackson - Senior Committee Services Officer
Nathalie Heaselden - Shared Legal Services

11. MINUTES OF PREVIOUS MEETING

The Minutes of the meeting held on 19th July 2010 were confirmed and signed as a correct record.

12. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Axam and Henderson.

13. CHAIRMAN'S ANNOUNCEMENTS

The Chairman had no announcements.

14. DECLARATIONS OF INTEREST (PERSONAL OR PERSONAL AND PREJUDICIAL)

There were no declarations of interest.

15. CHAIRMAN'S URGENT ITEM

The Chairman was of the opinion that the following item should be considered at the meeting as a matter of urgency, pursuant to Section 100B(4)(b) of the Local Government act 1972, because of the need to make a decision prior to the next meeting of the Sub-Committee in December.

16. THE SPURS, 93B KENILWORTH ROAD, FLEET

The Sub-Committee considered a report from the Head of Planning Service as a result of a complaint that the first floor balcony had been encased in glass causing overlooking to the neighbouring property at 93 Kenilworth Road.

The conservatory had been built under The Town and Country Planning (General Permitted Development) (Amendment) (No2) (England) Order 2008, which was classed as permitted development subject to certain conditions in that;

any upper-floor window located in a wall or roof slope forming a side elevation of the dwelling house shall be—

- (i) obscure-glazed, and
- (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

RESOLVED

- (1) That enforcement action be taken to secure the windows in the side elevation be fitted with obscure glazing.
- (2) That no further action be taken in respect of the opening window.

Note:

- (1) Mr Allaway (93B Kenilworth Road, Fleet) spoke AGAINST enforcement action.
- (2) Mr Hill (93 Kenilworth Road, Fleet) spoke FOR enforcement action.

The meeting closed at 9.50 am