

PLANNING COMMITTEE

13 DECEMBER 2011

REPORT OF THE TEMPORARY HEAD OF PLANNING

A.2 UNAUTHORISED ADVERTISEMENTS, ST OSYTH

1. PURPOSE OF THE REPORT

- 1.1 This report relates to the unauthorised display of advertisements on residential properties in St Osyth village objecting to the St Osyth Priory development proposals.
- 1.2 It considers whether there has been a breach of planning control and considers this against Government Advice, Human Rights and the powers available to the local planning authority under the Town and Country Planning Control of Advertisements) Regulations 2007 to determine the expediency of formal action against the use.
- 1.3 The report advises the Committee that there has been a breach of planning control and recommends no formal action be taken while the Council is considering an application for residential development at St Osyth Priory.

2. BACKGROUND

- 2.1 The display of advertisements on properties within the village was brought to the Council's attention in August this year when we were asked to confirm whether express consent was required for the display of advertisements objecting to the development scheme at St Osyth Priory.
- 2.2 An inspection of the displays confirms that a number of residents in Mill Street and other locations within the village have affixed banners/signs to their houses or displayed them in the curtilage, some of which are listed buildings, protesting against the proposed development at the Priory. All the properties are within the St Osyth Conservation Area. The banners are temporary in nature and can be removed without causing damage to the fabric of the buildings.
- 2.3 Those properties displaying banners/signs at the time when investigations took place are;

Nos. 82 and 157 Clacton Road, No. 1 The Bury, Nos. 26, 31 (listed), 37, 38, 39 (listed), 45 (listed) , 51, 53, 55, The Old Mill House (listed) and the gates to the boat yard in Mill Street; and No. 305 Point Clear Road.
- 2.4 None of the displays are excluded from control under the Regulations and do not benefit from any of the provisions for deemed consent. All property owners protesting against the development at The Priory who are displaying such a banner/sign have therefore committed an offence in planning law. Each of the property owners has been informed of the offence that has been committed and the options they have to submit an application to rectify the breach, however no proposals have been received.

- 2.5 Unlike other breaches of planning control, anyone who displays an advertisement without the consent required for it is acting illegally. It is then immediately open to the planning authority to bring a prosecution in the Magistrates' Court for an offence under Section 224 of the Town and Country Planning Act 1990. To ensure each owner is aware of the severity of the actions, they were advised of the Council's ability to pursue this matter in the Courts when we invited the submission of applications or the removal of the displays.

3. REPRESENTATIONS

- 3.1 Representation objecting to the display of the advertisements has been received from a local resident, who points out the displays have persisted in excess of 12 months and are contrary to planning policies EN17-20 as they do not enhance the conservation area.

4. ADVERTISEMENT CONTROL

- 4.1 The two issues that must be addressed in accordance with the Regulations are highway safety and amenity. There has been no objection on highway safety grounds and your officers are satisfied that this is not at issue.
- 4.2 There is an issue on the grounds of amenity. All the signs are in the Conservation Area and are harmful to the Conservation Area. In addition some of the signs are on listed buildings and are harmful to the appearance of the listed building. On amenity grounds action is justified against all the signs.

5. HUMAN RIGHTS

- 5.1 In considering whether enforcement action is expedient in this case, the Committee is advised that it must take into account Human Rights factors.
- 5.2 The principal task is to strike a balance between the rights of the individual, who is alleged to be in breach of planning requirements, and the rights of neighbours and others whose Human Rights may be affected.
- 5.3 In most enforcement matters the Human Rights most likely to arise are the rights to privacy of one's home, family life and correspondence (Art. 8) and the right to protection for one's possessions (First Protocol, Art. 1). In all cases where enforcement action is a possibility the qualifications to those Articles show that the rights themselves are not absolute.

6. CONCLUSIONS

- 6.1 It is clear from paragraph 2 and 4 above that the display of the banners/signs is a breach of planning control and as such the Council needs to consider whether it is in the public interest to pursue this matter in the Courts.
- 6.2 The display of the banners/signs on properties in St Osyth is harmful to the interests of amenity. However, the displays are of a temporary nature that can be removed easily, without causing damage to the property. Owners of properties displaying the banners/signs have stated that they are exercising their freedom of speech in objecting to the proposed development at The Priory and are bringing this to the attention of potential property buyers.

- 6.3 Members need to balance these competing issues. The signs are harmful to the amenity but they are reflecting the widespread view within the local community. Your officers recommend that a balance would be to take no action against the signs whilst there are live applications for enabling development at St Osyth Priory. However, once these applications are determined the signs must be promptly removed.

7. RECOMMENDATIONS

- 7.1 That no action be taken in respect of the current displays of banners/signs objecting to the St Osyth Priory enabling development within the village while the applications are undetermined. That if the banners/signs are not removed within 28 days of the determination of the enabling development applications, that prosecution action to secure the removal of the banners/signs is taken.