From:	Keith Morgan
Sent:	07 May 2010 08:26
To:	Jeremy Cook
Cc:	James Appleton
Subject:	Ombudsman complaint by K Jamieson about flue at 85 Buckingham Rd, Shoreham
Attachments:	85BuckinghamRdflue.doc

Jeremy,

Please find letter attached, as requested.

Regards, Keith

Keith Morgan - Planning Services Manager | Planning, Regeneration & Wellbeing, Adur District Council
Location: Civic Centre, Ham Road, Shoreham-by-Sea BN43 6PR
Internal: 63239 | External: 01273 263239 | E-mail: keith.morgan@adur.gov.uk

Please think before you print this and save paper

Adur District Council

Planning, Regeneration and Wellbeing

Mr & Mrs Jamieson
85A Buckingham Road
SHOREHAM-BY-SEA
BN43 5UD

Your Ref:
Our Ref: ADC/0303 & 0403/09

Date: 28 April 2010

Dear Mr and Mrs Jamieson,

85 Buckingham Road, Shoreham-by-Sea: Metal flue on side roof slope of new extension not in accordance with planning permission ADC/0303/09 as amended by ADC/0433/09

I refer to our recent communications on the above subject. I note that you subsequently sent letters to each of the Planning Committee members and I confirm that these were distributed to them prior to their meeting (on 26 April 2010).

The Committee were shown photographs of the flue as it now exists, both close-up views and a view from the other side of the road. They debated the matter at some length but eventually came to the conclusion that it was not expedient to serve an enforcement notice.

As stated in the agenda report, although it appears legally possible to take enforcement action concerning unauthorised development not in accordance with the approved plans, the results of such enforcement action in this instance are likely to lead to the owner of the property temporarily removing the flue, completing the extensions and roof and then re-installing the flue claiming it as 'permitted development'.

Although there is a legal point of argument as to whether the extension could be regarded as completed without first building the brick chimney stack to accord with the approved plans, the Council would be unable to justify enforcement action against an extension completed without the brick chimney stack because no visual harm would be caused by such an omission from what is shown on the approved plans. The flue could then subsequently be added under the 'permitted development rights'. In any event, the existence of the 'permitted development rights' for installing flues is clearly a material consideration and it seems likely that it would be taken into account by a planning inspector in deciding any appeal against an enforcement notice if such a notice were to be issued.

I am sorry that this decision is not to your satisfaction. The Committee wished it to be made clear that they do not condone breaches of planning control and that their decision was a pragmatic one based on the most likely eventual outcome.

Yours sincerely,

Keith Morgan
Planning Services Manager

Tel: 01273 263239 (direct line)
e-mail: keith.morgan@adur.gov.uk