



OVERVIEW AND SCRUTINY BOARD

20 OCTOBER 2009

FINAL REPORT OF THE ECONOMIC REGENERATION AND TRANSPORT SCRUTINY PANEL

OPEN PLAN ESTATES

PURPOSE OF THE REPORT

1. To present the findings of the Economic Regeneration and Transport Panel's review of Open Plan Estates.

AIM OF THE SCRUTINY INVESTIGATION

2. The overall aim of the Scrutiny investigation was to consider the relevance and the appropriateness of the Council's current open plan policy.

TERMS OF REFERENCE OF THE SCRUTINY INVESTIGATION

3. The panel concentrated their investigation around the following questions:
 - (a) What is the Council's current open plan policy?
 - (b) Is that policy still appropriate?
 - (c) How effective is the enforcement of the policy?

METHODS OF INVESTIGATION

4. Members of the Panel met formally for a one off meeting on 6 July 2009 to discuss/receive evidence relating to this investigation and a detailed record of the topics discussed at the meeting is available from the Committee Management System (COMMIS), accessible via the Council's website.
5. Members met with the Development Control Manager who took the panel through the history relating to the development of open plan estates.

MEMBERSHIP OF THE PANEL

7. The membership of the Panel was as detailed below:

Councillor Cole (Chair), Councillor Kerr (Vice-Chair), Councillors Lowes, Hubbard, Khan, Mawston, Rehman, G Rogers and Taylor

BACKGROUND INFORMATION

8. The panel learnt about the history of suburbanization of Middlesbrough. At the turn of the twentieth century residential development took on two different forms of layout. Houses were either terraced or semi-detached. Some terraces did have enclosed front gardens and almost all semi and detached houses had a front garden. This marked the arrival of the design known as the 'Garden City'
9. There was a growth in suburbanization in all towns and cities in the UK following the Second World War. In Middlesbrough housing estates in Acklam were built, followed by new building on the Kader estate, Marton and Nunthorpe. Overspill development later followed in Hemlington in the 1970s and Coulby Newham developing from 1975 onwards.

The Development of the Open Plan

10. In the 1960s architectural fashions changed and it became fashionable to hide cars away from housing and onto service roads. In addition, the higher costs of building new houses meant that developers were constructing houses at higher densities. The design solution at the time was an open plan front garden that gave the illusion of lower density with wide green vistas on estate roads. Developers also benefited from saving on the cost of building walls and fences.
11. Local Planning Authorities embraced the open plan concept, however it was slow to be accepted in Middlesbrough. The former Middlesbrough C.B.C did not restrict the planning permissions with conditions that stipulated an open plan layout (the developers did with covenants). With the introduction of the new Teesside C.B.C all new housing estates were granted planning permission subject to conditions, which then stipulated an open front and required planning applications for any type of enclosure of those front gardens.
12. The open plan concept was reinforced by the introduction of what was called 'mixer courts' in the 1980s. It was another new architectural design which was not only dependant on open front gardens but used a 1m strip of garden alongside the highway to locate the service routes (gas/electricity/water). The land could not therefore be built on because it had been adopted by the Highway Authority.

Open Plan in the 1970s

13. By the 1970s the open plan style had been around for about 10 years and experience had revealed some problems associated with the design. It came to a head with the responses from residents following a consultation exercise on the 1978 south Middlesbrough District Plan. At that time, people supported the principles of the design but not the practicalities, for example the owners of corner plots were finding that their land was being used as a short cut or subject to trespassing and were wanting to enclose their plots to stop this.

14. A Council Working Party in 1978 considered the issue and concluded that the overall open plan principle should be maintained and that any planning applications for enclosure of front gardens should be considered on their merits, paying particular attention to the problems people had that were associated with corner plots.
15. In 1989 the Economic Development and Planning Committee (ED&P) considered the open plan issue and resolved to maintain the open plan policy and again pay attention to corner plots. Officers would however encourage developers to design on non-open plan principles.
16. The issue continued and the ED&P committee again considered complaints from residents, in particular those at Coulby Newham, who were seeking enclosure of plots which were not located on corners. In 1995 the ED&P Committee reaffirmed the open plan principle with enclosure only being allowed on problem plots located on corners. It was also agreed that officers should seek to identify a standard wall type on 2 sites in Coulby Newham which would allow enclosure and present a uniform appearance. Unfortunately though residents at that time could not agree on a standard type.

The current picture

17. As a result of the Council's decisions in 1989 and 1995 the Planning Service has maintained the principle of open plan throughout south Middlesbrough. The precedent set by earlier decisions on planning applications for new housing estates has necessitated a consistent line and thus Coulby Newham, Hemlington and Marton Moor estates have been completed on that basis. Developers continue to favour the open plan principles.
18. There have been sporadic enquiries about enclosing front gardens although the actual number of planning applications requesting enclosure of front gardens is very low (25 applications in the last 5 years)
19. There have been some significant planning applications that have happened due to a wall or fence that has been erected without authorisation. In some cases the Council has authorised the structures to be removed. This is supported by the Appeal Inspectors stance and they have demonstrated that they attach great importance to the open plan principle.

Enforcement of the Open Plan Principle

20. The panel learnt that the enforcement of open plan is not pursued proactively. This was because the housing estates in the south of Middlesbrough were extensive and contained many dwellings. It was often the case that householders constructed walls and fences and neighbours have not made a formal complaint and the structure goes unnoticed. After a period of 4 years the structure then becomes immune from planning enforcement action. Many of the walls/fences that exist have been in place for many years and it is too late for the Council to seek to remove them. The Planning Service was not in a position to have the resources to survey all the estates to check for unauthorised structures and to be able to proactively inspect them.

THE PANEL'S FINDINGS

21. Members discussed why this issue had been brought to the panel's attention. There was a recent case where a resident had been unsuccessful in their application to build a wall around their property. The resident appealed and drew attention to a number of examples where people had built walls in open plan areas including some that had been built on sites that were not on corner plots. However the resident's plans were again dismissed. The appeal inspectors highlighted the importance that they placed on the open plan principle and the Council's approach, stating the benefits of the design and the 'verdant vistas'.
22. The panel queried why some residents had been able to erect walls/fences around non corner plots in open plan areas. As previously detailed this was where structures had been built and where no one had complained about them or brought them to the Council's attention. After 4 years of the structure being built it would become immune from planning enforcement action and be left as it was. At present capacity the Council did not have the resources to proactively check what was being built and where. The panel learnt that there were some examples of where this had occurred.
23. It was the policy that where residents lived in non corner plots and wanted to erect a boundary to define their property that officers would encourage people to use hedgerows, plants or rockeries because no planning permission was needed for this.
24. The panel discussed whether or not a standard approach could be taken for all walls/fences which would ensure that the design was in keeping with the area, however it was agreed that a standard design would have its difficulties and that in previous consultations residents had failed to reach a consensus about a preferred design.
25. The panel wanted to explore the issue of enforcement and how easy it was for the Council to ensure that residents were not erecting structures without planning permission. The panel learnt that currently there was only one enforcement officer, whose job was more wide ranging than just enforcing the open plan estates policy. A full scale survey would be needed of all the streets to ascertain the extent of the problem and the panel learnt that even with all members of the team being used to concentrate solely on this policy it would take months to complete.
26. It was suggested that 2 enforcement officers would ease the situation however would still not be able to proactively enforce the policy. For this to happen it was thought that at least 4 officers would be needed. However this too had implications, not only in cost but if more violations of the planning law were found then it would create more casework for officers to deal with.

CONCLUSION

27. Based on evidence given throughout the investigation the Panel concluded:
 - a) That the current open plan policy was important and the Council should ensure that open plan areas continued to be protected under that policy.

- b) That residents needed to be aware of the open plan policy and that more publicity was needed. It was important that residents knew that they had to get planning permission for walls/fences in designated open plan areas.
- c) That there needed to be greater enforcement of the policy to stop walls/fences being erected without permission.

RECOMMENDATIONS

28. That the Economic Regeneration and Transport Scrutiny Panel recommends to the Executive:
- a) That the current open plan policy was appropriate and should be continued.
 - b) That more publicity needed to be given to ensuring that residents were aware of the policy.
 - c) In order to ensure greater enforcement of the policy a review of staffing should be undertaken with a view to increasing the number of enforcement officers.

ACKNOWLEDGEMENTS

29. The Panel would like to thank Ernie Vickers, Development Control Manager for his help with this review.

COUNCILLOR JOHN COLE
CHAIR OF THE ECONOMIC REGENERATION AND TRANSPORT SCRUTINY PANEL

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