

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning & Compensation Act 1991)**

ENFORCEMENT NOTICE

ISSUED BY: The Borough Council of Gateshead (“the Council”)

1. **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of Section 171A(1) of the above Act, at the land described below. They consider it expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. **THE LAND TO WHICH THE NOTICE RELATES**

Plot 1 Rosedale, North Side, Birtley, Chester Le St, Co Durham shown edged red on the attached plan.

3. **THE BREACH OF PLANNING CONTROL**

The erection of a dwelling within the boundary of plot 1 Rosedale, North Side, Birtley, Chester le Street, County Durham without the benefit of planning permission.

4. **REASONS FOR THIS NOTICE**

It appears to the Council that the breach of planning control has occurred within the last four years.

By reason of its location and bulk the dwelling is considered to be visually intrusive and has an adverse impact on the visual amenity of the area. Also the scale of the development is not compatible with the established character of the area and is contrary to policy E3 of the Adopted Unitary Development Plan for Gateshead, which states: -

The design, density and scale of a new development should be compatible with the established character and identity of its proposed locality. All development will be expected to recognise established design principles with regard to such factors as scale, bulk, height, density, views and vistas. The relationship between buildings and the spaces around and between them must be handled in a sensitive manner.

Having regard to the overbearing nature of the property and its relationship to residential properties it is considered that the development is detrimental to the residential amenities of adjacent residents. It is therefore contrary to policy H2 of the Adopted Unitary Development Plan for Gateshead, which states: -

The residential amenity of existing housing areas will be protected. Proposals which may affect existing housing areas should not result in:

- a) adverse impact on visual amenity or character;
- b) overlooking or loss of light affecting the residential amenity of neighbouring properties;
- c) loss of trees or urban green space;
- d) disturbance through commercial intrusion, artificial lighting, noise, vibration, smell, fumes, smoke, ash, dust or grit; or
- e) unacceptable parking or traffic generation.

A retrospective planning application, reference No. DC/05/00310/FUL to retain the development as built was refused by the Planning and Development Committee on 30th March 2005 on the following grounds: -

By reason of its location and bulk the dwelling is considered to be visually intrusive and has an adverse impact on the visual amenity of the area. Also the scale of the development is not compatible with the established character of the area and is contrary to policy E3 of the Adopted Unitary Development Plan for Gateshead and ENV3 of the Deposit Draft Replacement UDP.

Having regard to the overbearing nature of the property and its relationship to residential properties it is considered that the development is detrimental to the residential amenities of adjacent residents. It is therefore contrary to policy H2 of the Adopted Unitary Development Plan for Gateshead and GDC1 of the Deposit Draft Replacement UDP.

The Council does not consider that planning permission should be given, because planning conditions could not overcome these objections to the development.

5. WHAT YOU ARE REQUIRED TO DO

- i. Remove the existing main roof and build it in accordance with plan reference C379-502 revision E that was approved as part of planning application DC/04/00284/FUL on the 22nd December 2004. For the avoidance of doubt the pitch of the roof slope should be 40 degrees, the ridge height should be 3.25 metres above the eaves and there should be no velux window in the front eastern end of the roof.
- ii. Remove the roof of the front projection and build it in accordance with plan reference C379-502 revision E that was approved as part of planning application DC/04/00284/FUL on the 22nd December 2004.

For the avoidance of doubt the ridge height should be 5.35 metres from ground level, the eaves height should be 3 metres from ground level.


6. TIME FOR COMPLIANCE

- i. 2 calendar months after this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 6th May 2005, unless an appeal is made against it beforehand.

Dated: 1st April 2005

Signed: 
Maureen Kesteven
Solicitor to the Council

For and on behalf of the Borough Council of Gateshead.

EXPLANATORY NOTE

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be **received** by the Secretary of State **before** the date specified in paragraph 7 of the notice. The enclosed booklet "Enforcement Notice Appeals – A Guide to Procedure" sets out your rights. Please read it carefully. You may use the enclosed appeal forms.

- One is for you to send to the Secretary of State if you decide to appeal, together with a copy of this enforcement notice.
- The second copy of the appeal form and notice should be sent to the Council.
- The third copy is for your own records.

FEES

Upon lodging an appeal there is deemed to be an application for planning permission, whether or not reliance is placed upon the ground set out under Section 174(2)(a) of the 1990 Act. A fee, equal to twice that which would have been payable if a planning application were made for the development specified in the enforcement notice, is payable to have this ground considered.

No fee is payable if;

- you have already made an application for planning permission, accompanied by the appropriate fee, for the development specified in the enforcement notice, that was undetermined at the time the notice was served, or,
- you have already lodged an appeal with the Secretary of State against the Council's refusal to grant planning permission for the development specified in the enforcement notice that was undetermined at the time the notice was served.

The fee in this case would be £220.00, half of which should be paid to the Planning Inspectorate (made payable to the Office of the Deputy Prime Minister) and the other half to the Council (made payable to Gateshead Council).

If a fee is due, and you do not pay it within the period specified by the Secretary of State, the deemed application will not be considered by the Planning Inspector.

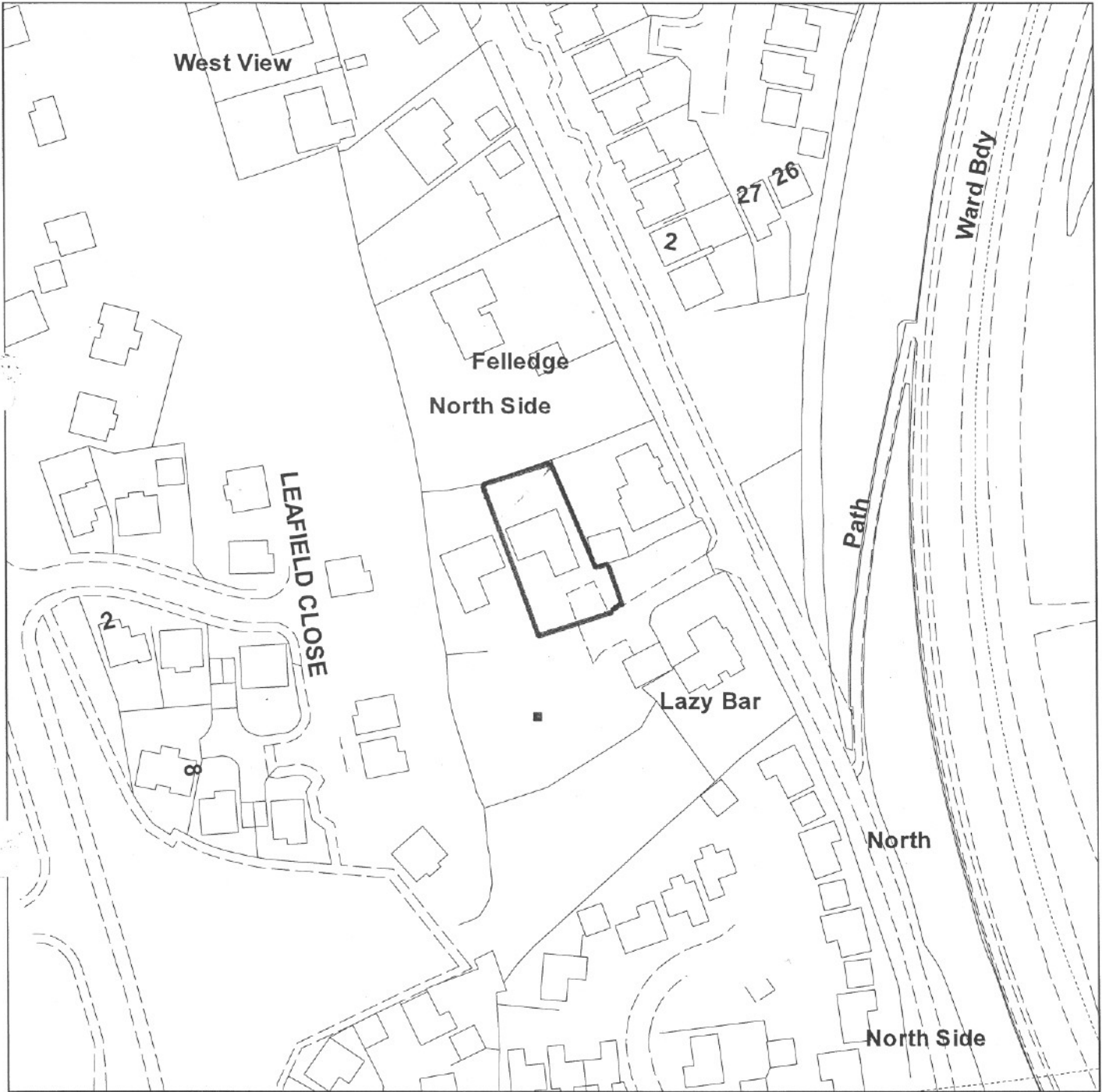
WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period(s) specified in paragraph 6 of the notice. Failure to comply with an enforcement notice, which has taken effect, can result in prosecution and / or remedial action by the Council.

PERSONS ON WHOM THIS NOTICE HAS BEEN SERVED

Khosrow Golzar
1 Rosedale
North Side
Birtley
DH3 1RD

Mr Emadi
2 Rosedale
North Side
Birtley
DH3 1RD



Scale : 1:1250

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Organisation	Gateshead Council
Department	Development Control
Comments	Plot 1 Rosedale, North Side, Birtley
Date	31 March 2005
SLA Number	GC 100019132 2004