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REPORT TO:	Development Control Committee	AGENDA ITEM:
DATE OF MEETING:	11 February 2003	CATEGORY: DELEGATED/
REPORT FROM:	Deputy Chief Executive	OPEN
MEMBERS' CONTACT POINT:	John Birkett (5742)	DOC:
SUBJECT:	Breach of Condition – planning permission 9/2002/698/F- 66 Valley Road Overseal	REF:
WARD(S) AFFECTED:	Overseal	TERMS OF REFERENCE: DC01

1.0 Recommendations

1.1 That no action be taken.

2.0 Purpose of Report

2.1 To obtain the Committee's instructions on enforcing the staining of a fence in accordance with Condition 1 of the above planning permission.

3.0 Detail

3.1 Permission for retaining a close boarded boundary fence on the corner plot at 66 Valley Road, Overseal was granted last September, subject to a condition requiring that it should be stained to match the original darker colour of the fence previously erected further into the site. Only a small part of the original fence is still open to view. The condition has not yet been complied with, within the time allowed and the matter is the subject of ongoing correspondence with the Service.

3.2 The owner does not wish to comply with the condition because he believes the fence is toning down naturally, the darker colour is not to his liking, nor would it be more in keeping. He also intends to erect a garage for which he also has permission that would affect the fence and require its partial removal and making good. The older part would be removed. He considers that the discontinuity in colouring would continue to be apparent after this work had been carried out, when the fence came to be finished off after completing the garage. He intends to commence this work in February.

3.3 The Parish Council has requested that the condition be enforced.

3.4 The original fence was stained dark brown. The new fence is a new - wood, light brown. Were the intention not to remove the older part of the fence, there is an argument for achieving a continuous colour throughout. However, the proposed works would remove the bulk of the discrepancy in colour in the fence. Secondly, fences in the immediate vicinity range in colour from almost black to light grey and

include green, and various shades of brown. Therefore there would not be a justification for insisting on the colour being dark. In time the new appearance inevitably fades and is subject to the growth of algae, tending toward a grey/green colour that is prevalent hereabouts.

3.5 A plan of the site which is 190 sq. metres in area is attached at Annexe A.

4.0 Financial Implications

4.1 Should the Committee be minded to institute legal proceedings the Council might become liable to costs.

5.0 Conclusions

5.1 Enforcing the condition would not be reasonable in the circumstances at this time.