



# DEVELOPMENT CONTROL COMMITTEE

WEDNESDAY 11 JANUARY 2006

## SUPPLEMENTAL COMMITTEE AGENDA

### AGENDA - PART I

- Enc. 5. **Minutes:** (Pages 1 - 6)  
That it be agreed that, having been circulated, the Chair be given authority to sign the minutes of the meetings held on 7 December 2005 and 19 December 2005 as a correct record, once they have been printed in the Council Bound Minute Volume.
- [Note: The minutes of the meeting held on 7 December 2005 were circulated on the main agenda].
- Enc. 14. **Cost of Fees for High Hedge Formal Complaints:** (Pages 7 – 12)  
Report of the Group Manager (Planning and Development).
- Enc. 19. **Urgent Non-Executive Action – Appeal: 19 & 21 & R/O 11-29 Alexandra Avenue, South Harrow:** (Pages 13 – 16)  
Report of the Director of Legal Services.

### AGENDA – PART II – NIL

*Note: In accordance with the Local Government (Access to Information) Act 1985, the following agenda item has been admitted late to the agenda by virtue of the special circumstances and urgency detailed below:-*

<u>Agenda item</u>	<u>Special Circumstances/Grounds for Urgency</u>
5. Minutes	The minutes of the meeting held on 19 December 2005 had not been finalised at the time the agenda was printed and circulated.
14. Cost of Fees for High Hedge Formal Complaints	This report was not available at the time the agenda was printed and circulated. Members are requested to consider this item, as a matter of urgency.
19. Urgent Non-Executive Decision – Appeal: 19 & 21 & R/O 11-29 Alexandra Avenue, South Harrow	This report was not available at the time the agenda was printed and circulated. Members are requested to consider this item, as a matter of urgency.

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**REPORT OF DEVELOPMENT CONTROL COMMITTEE**

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**(SPECIAL) MEETING HELD ON 19 DECEMBER 2005**

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Chair: \* Councillor Anne Whitehead

Councillors: \* Marilyn Ashton \* Idaikkadar  
\* Billson \* Miles  
\* Blann (2) \* John Nickolay (4)  
\* Branch (1) \* Mrs Joyce Nickolay  
\* Janet Cowan \* Mrs R Shah (4)

\* Denotes Member present  
(1), (2) and (4) Denote category of Reserve Members

**PART I - RECOMMENDATIONS - NIL**

**PART II - MINUTES**

1062. **Attendance by Reserve Members:**

**RESOLVED:** To note the attendance at this meeting of the following duly appointed Reserve Members:-

Ordinary Member

Councillor Mrs Bath  
Councillor Bluston  
Councillor Choudhury  
Councillor Thornton

Reserve Member

Councillor John Nickolay  
Councillor Mrs R Shah  
Councillor Blann  
Councillor Branch

1063. **Right of Members to Speak:**

**RESOLVED:** That, in accordance with Committee Procedure Rule 4.1, Councillor John Cowan, who was not a Member of the Committee, be allowed to speak on agenda item 7 – planning application relating to the Royal National Orthopaedic Hospital, Brockley Hill, Stanmore.

[Note: Councillor Jean Lammiman, who had written to the Chair with a request to speak on item 7, was unable to attend the meeting.]

1064. **Declarations of Interest:**

**RESOLVED:** To note the following declarations of interest made by Members present relating to the business to be transacted at this meeting: -

- (i) Planning Application (Item 7) – Royal National Orthopaedic Hospital (RNOH), Brockley Hill, Stanmore  
Councillor Marilyn Ashton declared a personal interest in the above application in that she was a member of the Stanmore Society with a non-executive role. Accordingly, she remained in the room and took part in the discussion and decision-making on this item.
- (ii) Planning Application (Item 7) – Royal National Orthopaedic Hospital (RNOH), Brockley Hill, Stanmore  
Councillor Janet Cowan declared a personal interest in the above application in that she was a member of the Stanmore Society with a non-executive role. Accordingly, she remained in the room and took part in the discussion and decision-making on this item.
- (iii) Planning Application (Item 7) – Royal National Orthopaedic Hospital (RNOH), Brockley Hill, Stanmore  
Councillor John Cowan, who was not a Member of the Committee, declared a personal interest in the above application in that he was a member of the Stanmore Society.

(See also minute 1063).

1065. **Arrangement of Agenda:**

**RESOLVED:** That (1) in accordance with the provisions of the Local Government (Access to Information Act 1985, the following information be admitted to the agenda by reason of the special circumstances and grounds for urgency stated:-

<u>Agenda Item</u>	<u>Special Circumstances / Reasons for Urgency</u>
Addendum	This contained information relating to item 7 in the agenda and was based on information received after the agenda was despatched. It was admitted to the agenda in order to enable Members to consider all information relevant to the item before them for decision.

(2) That all items be considered with the press and public present.

1066. **Deputations:**

**RESOLVED:** To note that no deputations had been received at this meeting under the provisions of Committee Procedure Rule 16 (Part 4B of the Constitution).

1067. **Representations on Planning Applications:**

**RESOLVED:** That, in accordance with the provisions of Committee Procedure Rule 17 (Part 4B of the Constitution), representations be received in respect of the planning application at item 7 – Royal National Orthopaedic Hospital (RNOH), Brockley Hill, Stanmore – from the objectors and the applicant's representatives listed on page 5 of the addendum tabled at the meeting.

1068. **Planning Applications Received:**

**RESOLVED:** That authority be given to the Group Manager (Planning and Development) to issue the decision notice in respect of the application considered, as set out in the schedule attached to these minutes.

(Note: The meeting, having commenced at 7.30 pm, closed at 9.16 pm).

(Signed) COUNCILLOR ANNE WHITEHEAD  
Chair



- ix) The submission of, and compliance with, a phasing plan prior to the submission of any application for approval of reserved matters pursuant to the planning permission that ensures that the first phase of development is the construction of the hospital. The phasing plan shall include full details of the phasing of the demolition of those existing buildings to be demolished as part of the development.
- x) The use of reasonable endeavours by the applicants to promote and recruit employees, contractors and sub contractors from within the Council's geographical area throughout the construction phase of the development.
- xi) Compliance with an Environmental Management Plan to be agreed in writing with the Council prior to the implementation of the development. This will mitigate the impact of the demolition of the buildings on the land and the construction of the development on the surrounding environment.
- xii) Compliance with the Ecological Management Plan submitted with the application, or an amended plan as agreed in writing with the Council.
- xiii) Compliance with the Landscape Management Plan submitted with the application, or an amended plan as agreed in writing with the Council.
- xiv) The provision of 10% renewable energy in the development by one or a combination of the alternative renewable energy options set out in the Renewable Energy Statement that has been submitted with the application.
- xv) Prior to the demolition of the southern extensions to Eastgate House, the preparation of an appropriate standing building record of the building following any necessary survey that shall be submitted to the Council for its retention, and the use of all reasonable endeavours to retain key structural elements from the aforesaid demolition and to incorporate in these new structures where possible.
- xvi) The submission within eighteen months of the implementation date of details of works for the restoration and continued maintenance of the Ancient Monuments, to include provision of paths and seating and the erection of interpretation boards, and the agreement of arrangements for public display of any archaeological finds from the site.
- xvii) The payment to the Council of a Green Belt Management contribution of £250,000.
- xviii) Access to the car parking area adjacent to the existing sports field shall be maintained, and the car park retained, for public use in accordance with details to be agreed in writing with the Council.
- xix) The provision of a replacement Hospital School and measures to ensure continuity of provision during, and post, construction, in conjunction with the Local Education Authority.
- xx) To enter into highway agreements, prior to implementation, with the Council and other highway authorities as appropriate regarding works to:
  - the access off Wood Lane on the southern and western boundaries;
  - improvements to the main access from Brockley Hill; and

- the construction of a new roundabout at the existing Brockley Hill / Wood Lane priority junction at the south east of the land.
- 2) A formal decision notice, subject to the planning conditions noted below, be issued only upon the completion, by the applicant, of the aforementioned agreement.
  - 3) GRANTED permission in accordance with the development described in the application and submitted plans, subject to the conditions and informatives reported.

[Notes: (1) Prior to discussing the above application, the Committee received representations from two objectors from and two representatives of the applicants, which were noted. Following receipt of the representations, some Members of the Committee and a Member, who was permitted to speak in accordance with Committee Procedure Rule 4.1, asked questions of the applicant's representatives;

(2) To note that an e-mail (and not a letter as stated in the addendum) had been received from the RNOH Trust confirming that it would welcome the continuing involvement of local groups including HA21, the Nature Conservation Forum and the Harrow Heritage Trust in the finalisation of the Landscape and Ecology Management Plans and their implementation;

(3) Prior to the Committee taking a decision on the application, additional questions from members of the public present were answered by the Director of Strategic Planning during which he indicated that regular Part I progress reports would be provided to future meetings of the Development Control Committee on the RNOH development;

(4) Councillors Blann, Idaikkadar, Miles, Mrs R Shah and Anne Whitehead wished to be recorded as having voted for the decision to grant the application;

(5) Councillors Marilyn Ashton, Billson, Janet Cowan, Mrs Joyce Nickolay and John Nickolay wished to be recorded as having abstained from voting on the application.]

(See also Minutes 1063 and 1064).

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### Agenda Item

<b>Meeting:</b>	Development Control Committee
<b>Date:</b>	Wednesday 11 January 2006
<b>Subject:</b>	Cost of Fees for High Hedge Formal Complaints
<b>Responsible Officer:</b>	Andy Parsons, Group Manager Planning & Development
<b>Contact Officer:</b>	Glen More, Enforcement Manager
<b>Portfolio Holder:</b>	Councillor Keith Burchell, Planning, Development and Housing
<b>Key Decision:</b>	No
<b>Status:</b>	Part 1

### Section 1: Summary

This report seeks agreement to introduce a charge to facilitate the processing of complaints under the new High Hedges legislation.

### Decision Required

#### Recommended (for decision by the Development Control Committee)

- 1 The Committee agree the introduction of a charging structure, as set out in this report, for the processing of complaints about high hedges under Part 8 of the Anti-Social Behaviour Act, 2003 legislation.
- 2 The Committee agree that such complaints may be determined under the Delegated powers of the Group Manager Planning & Development, or his nominated deputy.

### Reason for report

The new legislation came into effect on 1<sup>st</sup> June, 2005 (Part 8 of the Anti-Social Behaviour Act, 2003) which gives local authorities powers to deal with complaints about high hedges.

Responsibility for dealing with this legislation has recently been passed to the Planning Enforcement Team. A formal complaint needs to be accompanied by whatever fee has been set by the Council.

Whilst there are well established procedures for assessing the financial burdens imposed on Council's by new initiatives, and for providing appropriate resources through the revenue support grant, the Government have also taken a view of what proportion of the cost to Councils the complainant should pay. Accordingly, the Act allows Council's to charge a fee for determining a complaint about a high hedge. Furthermore, the Government advise that should they wish, Council's may charge different amounts to different groups of people, as Council's might wish to offer the service at a reduced fee, or for free, to those with disabilities, the elderly and those receiving benefits, while making a charge to others based on the cost of providing the service.

Taking account of this advice, it is proposed that the fee be placed at £200 plus an additional £100 for administration. This brings the charge in line with the approximate average fee charged by other councils (£300). It is proposed that the £200 fee should not be charged to the elderly and those claiming benefits. The £100 administration fee will always be charged. It is a requirement that the fee is payable on submission of an application, the application will not be valid until the correct fee has been paid.

If the Council are able to resolve the matter without the issue of a decision notice, the fee of £200 will be returned to the applicant (where such a fee has been paid). The administration fee of £100 will be retained. If the Council issue a decision notice the Council will retain all fees.

It is proposed that if a notice requiring work to be carried out is issued as a result of the complaint, it will not be necessary to retake a fee if the same complainant wishes to make a complaint that the same neighbour is not complying with the decision notice, at a future time.

### **Benefits**

To enhance the environment of the Borough.

### **Cost of Proposals**

Contained within current service budget and resources.

## Risks

If the Council does not set a fee it is open to the accusation that such investigations are not in line with other Council charging policies.

## Implications if recommendations rejected

There will be an additional burden on the budget of the Department, which in turn will impact on performance and service delivery.

## Section 2: Report

### 2.1 Brief History

New legislation came into effect on 1<sup>st</sup> June, 2005 (Part 8 of the Anti-Social Behaviour Act, 2003) which gives local authorities powers to deal with complaints about high hedges. Responsibility for dealing with this legislation has recently been passed to the Planning Enforcement team.

The Anti-Social Behaviour Act 2003 allows the Council to charge a fee to the complainant when they submit their formal hedge complaint. According to the ODPM's 'Frequently Asked Questions on High Hedges', this is because the Government followed well-established procedures for assessing the financial burdens imposed on Councils by new initiatives such as the Anti-Social Behaviour Act 2003. In following these procedures, the Government has taken the view that a portion of the costs to councils should be met through fees to be paid by complainants. Several reasons have been put forward as to why this is thought fair and reasonable by the ODPM:

- 1) Most people who responded to questions about fees in the 1999 consultation *High hedges - possible solutions* thought it was fair that the complainant should pay something for the Council to intervene in their hedge dispute.
- 2) Payment of a fee will encourage people to try to settle these disputes amicably, making sure that involvement of the Council really is a last resort.
- 3) A fee also helps to deter frivolous or vexatious complaints.
- 4) It is common practice for Councils to charge a fee for a service which is likely to benefit an individual (in this case, the complainant) rather than the community in general.

Importantly, the Government does not make a decision as to what is to be charged for the high hedge complaints. Instead it is up to each Council to make a decision. Councils are therefore free to choose whether they pass on to complainants, through the fee, the full costs

of providing this service, or whether they fund a portion either from central Government grant or through council tax.

It is beneficial for discounts to be given to the elderly, disabled people and those receiving benefits since they should be able to make formal complaints if they feel it is necessary.

It is beneficial for the fee be made returnable if it is not necessary to issue a remedial notice since this means the amount charged is proportionate to work undertaken. Similarly, this is the reason it is proposed for it to be unnecessary to retake a fee if the same complainant wishes to make a complaint about the same hedge, if a notice has been issued.

## 2.2 Options Considered

The ODPM indicate that most people who responded to questions about fees in the 1999 consultation *High hedges - possible solutions* thought it was fair that the complainant should pay something for the Council to intervene in their hedge dispute.

Research by Harrow Council has found complaint charges either proposed or applied at a selection of other councils to be as follows:

Council	High Hedge Formal Complaint Fee
Enfield	£200
Gloucester	£300
Richmond	£300
Westminster	£340
Birmingham	£350
Charnwood	£350
Three Rivers DC	£395
Hertsmere	£400
New Forest	£450
Hillingdon	£500
Stockport	£500

In addition, a number of councils are applying exemptions or discounts for the elderly, disabled people and those claiming benefits.

Option Considered:	Comment:
Fee below £100	This would not deter frivolous or vexatious complaints. This would be out of step with other Councils.

Fee of £200	This would not deter sufficient frivolous or vexatious complaints.  This would be out of step with many other Council's charges.
Fee of £400 or more	This would not be affordable by many people who feel it is necessary to make a high hedge complaint. This would be out of step with many other Council's charges.
Standard fee without deductions in certain circumstances.	This would mean making formal complaints would not be affordable by many people who feel it is necessary to make a high hedge complaint. This would be out of step with many other Council's decisions.

## 2.2 Proposed Charging Structure

It is proposed that the fee be placed at £300, to include £100 for administration. This would bring the charge in line with the approximate average fee charged by other councils (£300). It is proposed that the £200 fee should not be charged to the elderly (elderly people will be determined as those in receipt of a state pension), disabled people (disabled status will be determined in the same manner as is used to determine the right to free planning or certificate of lawfulness applications) and those claiming benefits. The £100 administration fee will always be charged. It is requirement that the fee is payable on formal submission of a complaint application; the application will not be considered to be valid until the correct fee had been paid.

If the Council are able to resolve the matter without the issue of a decision notice, the fee of £200 will be returned to the applicant (where such a fee has been paid). The administration fee of £100 would be retained. If the Council issue a decision notice the Council would retain all fees.

It is proposed that if a notice requiring work to be carried out is issued as a result of the complaint, it will not be necessary to retake a fee if the same complainant wishes to make a complaint that the same neighbour is not complying with the previously issued decision notice.

## 2.3 Consultation

None undertaken.

#### 2.4 Financial Implications

All costs must be met from existing departmental budgets. This will generate a small amount of income for the Council.

#### 2.5 Legal Implications

Contained within report.

#### 2.6 Equalities Impact

The proposed charging structure would reflect the diverse elements within the borough.

### **Section 3: Supporting Information / Background Documents**

Background Documents: Section 8, Anti-Social Behaviour Act 2003.

High Hedge Complaints, Prevention and Cure (ODPM).



Meeting:	Development Control Committee
Date:	11 January 2006
Subject:	Action taken under the Urgent Non-Executive Decision Procedure: Appeal: 19 & 21 & R/O 11/29 Alexandra Avenue, South Harrow
Responsible Officer:	Director of Legal Services
Contact Officer:	Kate Boulter, Committee Administrator Tel: 020 8424 1269 (or Ext 2269) Email: kate.boulter@harrow.gov.uk
Portfolio Holder:	Planning, Development and Housing
Key Decision:	No
Status:	Public (Part I)

### **Section 1: Summary**

#### **Decision Required**

To note the action taken under the Urgent Non-Executive Decision procedure, as outlined in Section 2.1 below.

#### **Reason for report**

The Urgent Non-Executive Decision procedure requires all decisions taken under the procedure to be reported to the appropriate Committee.

#### **Benefits**

Not applicable as this report is for information only,

## **Cost of Proposals**

Not applicable as this report is for information only,

## **Risks**

Not applicable as this report is for information only,

## **Implications if recommendations rejected**

This report is for noting only.

## **Section 2: Report**

### **2.1 Brief History**

On 8 December 2004 the Development Control Committee considered a planning application in respect of 19 & 21 & R/O 11/29 Alexandra Avenue, South Harrow for demolition of existing dwellings and redevelopment to provide 14 two storey terraced houses with access and parking. The development involved a site comprising a pair of semi-detached houses in Alexandra Avenue and parts of the rear gardens of nos. 11-29 Alexandra Avenue. The proposal was for demolition of the frontage pair of semi-detached houses, the introduction of an access road and the construction of 14 houses in the rear garden area.

Planning permission was refused, for the following reasons:

1. The density of the development would be detrimental to the residential amenities of the properties in the surrounding area by reason of noise and disturbance generated by the number of units on the site.
2. The proposal represents a backland development to the detriment of the status of similarly situated sites in the locality, which will give rise to an increase in such developments since a precedent would have been set.

An appeal was lodged against the refusal and dismissed by decision letter dated 20 May 2005. Although the Inspector dismissed the appeal, he did not support either of the Council's reasons for refusal. He saw no objection in principle to the redevelopment of the appeal site for housing. He felt that, in view of the relatively large gardens of many nearby properties, the spacious character of the area would be maintained. He also felt that the access would be well landscaped and that no material parking or traffic problems would arise in the slip road alongside Alexandra Avenue. However, the Inspector did raise a new issue, namely the setback between the rear elevations of the existing frontage houses, nos. 15, 17 and 25 Alexandra Avenue, and the proposed flank elevations of the first two new houses, plot nos. 1 and 14 on either side of the proposed new access road. He was concerned about the relatively short separation distances –



some 20 metres – between the existing and the new elevations, and the resulting poor outlook for the existing occupiers: "...the proximity of the flank walls of the proposed houses would mean that the outlook would be limited and oppressive. Moreover, this part of the development would be at odds with the relatively spacious surroundings and would be cramped. This would harm the character of the locality...".

A revised planning application was submitted in May 2005 and considered by the Development Control Committee on 27 July 2005. This application proposed two amendments:

- a reduction in the number of houses from 14 to 12; and
- an increase in the separation distances between the first two new houses (plots 1 and 12) and the existing houses in Alexandra Avenue

The separation distance at ground floor level was increased by 4m so that the ground floor level of the nearest new houses (with their attached single storey garages) would increase from 20m to 24m, and the first floor level would increase from 22.5m to 26.5m.

Planning permission was refused for two reasons:

1. The relationship and distance between the existing houses 15, 17, 23 and 25 Alexandra Avenue and the new development houses 1 and 12 will be insufficient and will give rise to an oppressive and limited outlook and will be at odds with the spacious surroundings of the area.
2. This proposal represents an overdevelopment and would be detrimental to the residential amenity of the properties in the surrounding area.

The applicants lodged an appeal against this refusal, which was to be heard at a public inquiry. In seeking to defend the reasons for refusal it became quite apparent that the second reason for refusal would be very difficult to defend. As a result, the following executive action was sought:

Subject: Appeal: 19 & 21 & R/O 11/29 Alexandra Avenue, South Harrow

Action Proposed: That (1) the Council formally withdraw Reason 2 of the refusal of application P/1354/05/CFU dated 29 July 2005 in order to avoid the appellant in any additional cost in defending their appeal; (2) officers be instructed to advise the appellant accordingly.

Reason for Urgency: The next meeting of the Development Control Committee was not until 7 December 2005.

Decision: Officer Recommendation agreed.

[Notes: (1) The Nominated Members consulted were unable to agree on whether to support the proposed action. The Procedure for Urgent Non-Executive Action states that, in the event of disagreement, the matter will be referred to the Chief

Executive, who may take the decision after consultation with the Leaders of all political groups (or their nominees) and, if appropriate, with the statutory officers;

(2) The decision of the Chief Executive was to support the officer recommendation].

2.2 Options considered

None.

2.3 Consultation

Not applicable as this report is for information only,

2.4 Financial Implications

Not applicable as this report is for information only,

2.5 Legal Implications

Not applicable as this report is for information only,

2.6 Equalities Impact

Not applicable as this report is for information only,

2.7 Section 17 Crime and Disorder Act 1998 Considerations

None applicable to this report

### **Section 3: Supporting Information/Background Documents**

Background Papers:

- Individual Urgent Non-Executive Decision Form (Ref: P/1354/05/CFU), as reported.
- Minutes of the Development Control Committee meetings 8 December 2004 and 27 July 2005.