

Meeting:	Development Control Committee
Date:	27 July 2005
Subject:	46 Repton Road, Kenton
Responsible Officer:	Group Manager Planning and Development
Contact Officer:	Glen More
Portfolio Holder:	Planning, Development and Housing
Enclosures:	Site Plan
Key Decision:	No
Status	Part 1

### **Section 1: Summary**

This report relates to the making of a material change of use from a single-family dwellinghouse to a mixed use, single-family dwellinghouse and builders yard.

The use of part of the property as a builders yard is not compatible with the residential character of the surrounding area, resulting in the harmful impact on adjoining neighbours in particular the loss of amenities of neighbouring occupiers and the character of the locality, contrary to policy EM22 and the more general policy SD3 of the Harrow Council Unitary Development Plan 2004.

### **Decision Required**

#### **Recommend action (for decision by the Development Control Committee)**

The Director of Legal Services be authorised to:

- (a) Issue an Enforcement Notice pursuant to Section 172 of the Town and Country Planning Act 1990 requiring:
- (b) (i) Cease the use of the land as a builders yard;
- (ii) Permanently remove all material related to the use of the land as a builders yard;
- (iii) Demolition of the internal dividing wall and gate separating the rear garden and the builders yard;
- (iv) Permanent removal of their constituent elements from the land;

(c) [(b)] (i) (ii) (iii) and (iv) should be complied with within a period of three (3) months from the date on which the Notice takes effect.

(d) Issue Notices under Section 330 of the Town and Country Planning Act 1990 (as amended) as necessary in relation to the above alleged breach of planning control.

(e) Institute legal proceedings in event of failure to:

(i) supply the information required by the Director of Legal Services through the issue of Notices under Section 330 of the Town and Country Planning Act 1990;

and/or

(ii) comply with the Enforcement Notice

### **Reason for report**

To ensure that the alleged breach of planning control is ceased in the interests of amenity.

### **Benefits**

To enhance the environment of the Borough.

### **Cost of Proposals**

None at this stage.

### **Risks**

Any enforcement notice may be appealed to the Planning Inspectorate.

### **Implications if recommendations rejected**

Failure to take action would mean that the amenities of the neighbouring occupiers properties would continue to be harmed.

## **Section 2: Report**

### **Brief History, Policy Context (Including Previous Decisions)**

2.1 A planning contravention notice was served on the 16<sup>th</sup> December 2004, there has been no response to this notice.

## **Relevance to Corporate Priorities**

- 2.1 This report addresses the Council's stated priority of enhancing the environment of the borough.

## **Background Information and Options Considered**

- 2.2 The property lies to the southern side of Repton Road. To the rear of the property is a long garden. This garden has been divided by a 2 metre high wall and gate, the end section being used as the builders yard.

- Scaffolding
- Piping
- Timber
- Paving material
- Tools
- Skip bins
- Plaster board
- And other building materials

It has independent access to the public highway in Honeypot Lane, via a rear accessway.

- 2.3 Environmental impact of new business development.

Policy EM22 of the Unitary Development Plan 2004, in particular A and B of the policy and section 7.78, which states: -

The Council, in considering applications for all business, industrial and warehousing (B1, B2, B8) development, and redevelopment, will pay due regard to: -

- A) The potential impact on the amenity of adjoining properties and on the character of the area;
- B) The processes to be carried out and the emission of noise, smoke or other pollutants;

In addition, new businesses, which are likely to involve dangerous or noxious processes or otherwise be 'bad neighbours', are unlikely to be acceptable in the Borough because of the proximity of residential areas to most sites.

- 2.4 This policy is reinforced in the more general Policy, SD3 Mixed-Use Development in particular section 2.65 of the Unitary Development Plan 2004.

## “Mixed Use Development”

- 2.5.1 Policy SD3 of the Unitary Development Plan 2004 states:-  
D3 The Council will promote mixed-use development, particularly in town centres and other areas with good public transport accessibility, and seek to retain development already in mixed use in other locations, a mixture of uses may be sought.
- 2.65 In promoting mixed use developments, either in conversions or on redevelopment, the Council will require a satisfactory relationship to be achieved between the constituent uses and with adjoining properties and the surrounding area, such that the amenities of occupiers and nearby residents are not adversely affected. The Council acknowledges that the mix, proportion and relationship between uses in any individual proposal will differ, depending on the location, and that it would therefore be inappropriate to be unduly prescriptive in its approach to assessing its merits. Innovative mixtures of uses and design solutions, which secure the most effective use of land, will generally be supported.
- 2.6 Complaints have been received from members of the public alleging the use of part of 49 Repton Road, Kenton as a builders yard. It appears from the Council’s records that the approved use of the property is as a single-family dwellinghouse.
- 2.7.1 Members of the Council’s Planning Enforcement Team visited the site at 7:15am on a week day. At that time they found several builders loading/unloading a van. An inspection of the site revealed that the rear garden had been subdivided by a wall and gate approximately 2 metres in height. Furthermore, the rear section of garden, including a detached garden building, were in use as a builders yard.
- Scaffolding
  - Piping
  - Timber
  - Paving material
  - Tools
  - Skip bins
  - Plaster board
  - and other building materials
- 2.8 This random visit adds credibility to the allegations of local people that the use of the land as a builders yard, early in the morning, is a regular occurrence.
- 2.9 Since the visit local residents have reported that the builders now start earlier in the morning, and that the use continues to be on a regular basis
- 2.10 The dividing wall separates the rear garden of the dwelling house from the activities of the builders yard, resulting in what appears to be the formation of a separate planning unit. The unauthorised use of the land as a separate planning unit is obvious from the nature of the occupation of the

property. The main dwellinghouse and some of the rear garden is let to a group of students, who do not have access to the builders yard at the end of the rear garden. This land has been kept for use by the owner of the land and others not associated with the occupation of the dwellinghouse.

- 2.11 The noise from the deposit and collection of building materials, plant and builders waste associated with the activities of the builders yard are detrimental to the surrounding neighbours, in particular adjoining neighbours. This is contrary to section 7.78 under policy EM22 that states, “new businesses which are likely to involve dangerous or noxious processes or otherwise be ‘bad neighbours’, are unlikely to be acceptable in the Borough because of the proximity of residential areas” and policy SD3 where the activities and noise associated with the builders yard is “not a satisfactory relationship to be achieved between the constituent uses and with adjoining properties and the surrounding area, such that the amenities of occupiers and nearby residents are not adversely affected”.
- 2.12 The unauthorised use of the land as a builders yard has lead to open storage of building materials, equipment and waste materials in a large skip. The area in which these items are stored is overlooked from many properties and is detrimental to visual amenity.
- 2.13 It is considered that significant harm is caused by this development, therefore, it is recommended that a planning enforcement notice be issued.
- 2.14 The builders yard and the factors associated with that change of use are out of character with the residential character of the area. As such it is not compatible with adjoining residential property and is contrary to policies EM22 and SD3. The development is harmful to the amenity of the surrounding neighbours and the area as a whole.

## **2.15 The alleged breach of planning control**

Without planning permission, the change of use of the land from a single-family dwellinghouse to a single-family dwellinghouse and a builders yard.

## **2.16 Reasons for issuing the notice**

It appears to the Council that the above breach of planning control occurred within the last 10 years.

The use of the land as a builders yard is out of character with, and detrimental to the amenity of this residential area, contrary to policies EM22 and SD3 of the Harrow Unitary Development Plan 2004.

The council do not consider that planning permission should be granted because planning conditions cannot overcome these problems.

## **2.17 Consultation with Ward Councillors**

Copied for information

## **2.18 Financial Implications**

There are no financial implications at this stage. Any costs incurred in the issuing of notices will be met from existing budgets.

## **2.19 Legal Implications**

See Risks Section

## **2.20 Equalities Impact**

None

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

None