

Meeting:	Development Control Committee
Date:	Tuesday 17 October 2006
Subject:	46 Howberry Road, Edgware
Key Decision: (Executive-side only)	No
Responsible Officer:	Andy Parsons, Head of Planning
Portfolio Holder:	Councillor Marilyn Ashton
Exempt:	Part 1
Enclosures:	1:1250 OS Site Plan Photograph of front extension taken from junction of Howberry Road / Cloyster Wood

SECTION 1 – SUMMARY AND RECOMMENDATIONS

This report relates to the construction, without planning permission, of a front extension to an existing detached garage within the curtilage of this semi-detached dwellinghouse, located on a corner plot at the junction of Howberry Road and Cloyster Wood.

This extension was erected as a consequence of incorrect verbal advice provided by a planning officer. Planning permission is required as it is closer to a highway than the original dwellinghouse.

Having regard to the provisions of the Unitary Development Plan, and all other material planning considerations, including the circumstances surrounding the construction of the front extension, it is considered that it would not be expedient in this particular case to take enforcement action, and accordingly no further action should be taken

RECOMMENDATIONS:

Having regard to the provisions of the Unitary Development Plan and all other material planning considerations (in accordance with Section 172 of the Town and Country Planning Act 1990 (as amended)), no further action be taken in respect of the unauthorised front extension to the existing garage within the curtilage of 46 Howberry Road, Edgware.

REASON: *(For recommendation - Executive-side reports only)*

SECTION 2 - REPORT

Brief History, Policy Context (Including Previous Decisions)

- 2.1 Although there are a number of previous planning applications have been granted in respect of extensions to this property, none of these permissions have been implemented within the relevant time period.
- 2.2 However, planning permission was granted in August 1957 for a detached garage close to the eastern boundary of the site, and that permission was implemented. It is an extension to that garage that is the subject of this report.

Background Information and Options Considered

- 2.3 46 Howberry Road is a two-storey semi-detached dwellinghouse sited on a corner plot. The western and southern boundaries of the curtilage of the site are adjacent to the roundabout junction of two highways, Howberry Road and Cloyster Wood. The surrounding area is predominantly residential and consists of semi-detached houses all of a similar style and age.
- 2.4 The site has previously been added to by way of the erection of a flat roof brick-built detached garage, suitable for the parking of one car, located close to the western boundary of the site adjacent to No. 6 Cloyster Wood, and sited approximately 7 metres from the back edge of the pavement.
- 2.5 In April 2004, it was reported to the Planning Enforcement Team from an employee of another Council department that the existing garage was being extended by way of a front extension.
- 2.6 Subsequent enforcement investigations established that an extension to the existing garage, projecting from the front of the existing garage to the boundary of the site with Cloyster Wood, and the same width as the existing garage, was being carried out. The garage extension has now been completed to roof level. The extension has been constructed out of un-rendered breeze block with a flat roof slightly below the height of the existing garage.
- 2.8 Planning permission, which has not been sought at the time of writing, is required for the erection of this garage extension as it is closer to the highway known as Cloyster Wood, which bounds the southern boundary of the site, than the original dwellinghouse, and therefore does not constitute permitted development under Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).
- 2.9 As a result of written correspondence between the owner of the site and the Council, it has been established that prior to the commencement of any works on the garage extension the owner emailed the Council seeking advice as to whether or not planning permission would be required for the work.
- 2.10 A Planning Officer sent a response to the owner by email directing the owner to an independent website which set out permitted development rights. Regrettably, this

website did not state that if the garage extension was closer to any highway bounding the curtilage of the site than the original dwellinghouse, planning permission would be required. The owner then spoke to another Planning Officer at Harrow who confirmed verbally that planning permission was not required.

- 2.11 Consequently the owner, believing the information on the independent website that he had been directed to by a Planning Officer, and the further verbal advice, commenced building works on the garage extension. Subsequently, a complaint about the building works was received from a Highways Officer. No complaints have been received from neighbouring residents.
- 2.12 Despite writing to the owner and requesting that a retrospective planning application be submitted for the retention of the garage extension, at the time of writing no such application has been submitted and accordingly the owner has been advised that the matter was to be referred to the Development Control Committee for further consideration.
- 2.13 In terms of the legal position, technically the Council is not prevented from taking formal enforcement action as the contents of an email, telephone conversation or letter do not, in planning law, constitute a formal determination as to whether or not planning permission is required. Nevertheless, it is a fact that the work has only been carried out following incorrect from the website to which the owner was referred, and incorrect Harrow Planning officer advice.
- 2.14 On the issue of provision of advice by Officers, to avoid a repetition of this unfortunate situation, all Development Control staff have been instructed not to refer any informal enquiries to the independent website, and to advise all persons seeking to determine the need for planning permission of the mechanism to seek a Certificate of Lawful Development.
- 2.15 It should be noted that there is no uniform front building line along Cloyster Wood. The adjacent property, No. 6 Cloyster Wood, has a single storey side extension, abutting the original garage at 46 Howberry Road. No.4 Cloyster Wood, which lies to the east of the site, also has a front extension to the original dwellinghouse and a garage that is sited to the front of that dwellinghouse.
- 2.16 It could be argued that the garage extension that is the subject of this report is not entirely out of keeping with the surrounding streetscene.
- 2.17 Given the particular circumstances surrounding the erection of this unauthorised front extension, the Committee may consider that it would be expedient to take no further action in this particular case.

The alleged breach of planning control

- 2.18 Without planning permission, the erection of a front extension to an existing detached outbuilding within the curtilage of a dwellinghouse, closer to a highway bounding the curtilage of that dwellinghouse than the original dwellinghouse.

Consultation

- 2.19 - Ward Councillors copied for information
- Harrow Council Legal Services
- Harrow Council Financial Services

Financial Implications

- 2.20 If an appeal against an enforcement notice is upheld any subsequent complaint to the Local Government Ombudsman that finds maladministration is likely to result in an award of compensation to the owner of the property, based on, inter alia, the cost of the abortive work.

Legal Implications

- 2.21 The Council may issue an enforcement notice where it appears that there has been a breach of planning control and it is expedient to issue a notice, having regard to the provisions of the development plan and other material considerations. Policy I4 of the development plan sets out the situations in which the council will take enforcement action. The fact that a person may complain to the Ombudsman and seek compensation if enforcement action is taken is not a relevant consideration.

Equalities Impact

- 2.22 None for the purposes of this report.

Section 17 Crime and Disorder Act 1998 Considerations

- 2.23 None for the purposes of this report.

SECTION 3 - STATUTORY OFFICER CLEARANCE

Chief Finance Officer	<input checked="" type="checkbox"/>	Name: Anil Nagpal Date: 4 October 2006.
Monitoring Officer	<input checked="" type="checkbox"/>	Name: David Galpin Date: 4 October 2006

SECTION 4 - CONTACT DETAILS AND BACKGROUND PAPERS

Contact: Frank Stocks, ext. 6144

Background Papers:

None

IF APPROPRIATE, does the report include the following considerations?

1.	Consultation	YES/ NO
2.	Corporate Priorities	YES / NO
3.	Manifesto Pledge Reference Number	N/A