

Meeting:	Development Control Committee
Date:	25 th January 2007
Subject:	4 Latimer Gardens, Pinner
Key Decision: (Executive-side only)	No
Responsible Officer:	Group Manager, Planning and Development
Portfolio Holder:	Planning, Development and Housing
Exempt:	No
Enclosures:	Site plan

SECTION 1 – SUMMARY AND RECOMMENDATIONS

Members are requested to agree to withdraw an enforcement notice issued by the Council in respect of the insertion of replacement uPVC double glazed windows to this mid-terraced dwellinghouse. Following the serving of this enforcement notice evidence has been submitted, which the Council has no evidence of its own to contradict or cast doubt upon, proving on the balance of probability that the replacement windows had been installed more than four years prior to the serving of the enforcement notice.

Consequently the Council considers that the replacement windows are now immune from enforcement action and therefore lawful, and therefore wishes to withdraw its enforcement notice to avoid appeal proceedings which could lead to an award of costs on the grounds of unreasonable behaviour, hence the urgent nature of this report.

RECOMMENDATION:

That the Council exercises its rights under Section 173A of the Town and Country Planning Act 1990 (as amended) to withdraw an enforcement notice issued by the Council on 19th December 2006 in relation to the installation of replacement uPVC replacement windows to the front (northern) elevation of the dwellinghouse at 4 Latimer Gardens, Pinner.

SECTION 2 - REPORT

- 2.1 The site that is the subject of this report, 4 Latimer Gardens, Pinner, consists of a two-storey mid-terrace dwellinghouse located on the southern side of this predominantly residential street, comprising terraced and semi-detached dwellinghouses, typically with steeply pitched roofs and symmetrical design elements.
- 2.2 The dwellinghouse that is the subject of this report and the surrounding area fall within the Pinnerwood Park Estate Conservation Area, which was designated in August 1989 and the area is also covered by an Article 4(2) Direction from 1995 removing certain permitted development rights, including the replacement of windows on the elevations of dwellinghouses fronting a highway, waterway or open space without planning permission.
- 2.3 The dwellinghouse has not been extended or altered other than by the unauthorised installation of replacement uPVC double glazed windows, and it is these windows that are the subject of this report.
- 2.4 Members may recall that in October 2006 they authorised the service of an enforcement notice in respect of the replacement uPVC double glazed windows. Following the carrying out of the necessary legal checks and drafting of the appropriate notices, on 19th December 2006 the enforcement notices were served upon all individuals and organisations with a legal interest in the property.

- 2.5 Prior to the enforcement notice taking effect on 30th January 2007 (also the date by which the owners must have lodged an appeal to the Planning Inspectorate against the enforcement notice), agents acting on behalf of the owners of the property have written to the Council. In this correspondence, the agents advise the Council that it is their intention to appeal the enforcement notice on the grounds that the replacement windows had been in place more than four years prior to the service of the enforcement notice, and are therefore lawful and immune from enforcement action.
- 2.6 To support their contention, the agents have provided a copy of a letter from the window company who purportedly installed the windows. This letter is dated 13th December 2002 and confirms that the installation has been completed to the satisfaction of the owners.
- 2.7 Circular 10/97, entitled 'Enforcing Planning Control' states that the onus is on the appellant to prove their contention, on the balance of probability. However, whilst one letter would not usually be sufficient proof, in this case the Council has no evidence to contradict this contention. The first complaint drawing the Council's attention to this matter was not received until 8th January 2003, and at the time of writing this report the complainant has not been contactable, as it may be that the complainant has moved away.
- 2.8 The Council has no other evidence available to it, and therefore has no evidence to contradict either the contention put forward by the owners or the evidence produced to support their contention. In such circumstances, Circular 10/97 advises that Councils should accept that the development is lawful.

2.9 Consequently this report seeks Members' authority to withdraw the Council's enforcement notice under the provisions of Section 173 of the Town and Country Planning Act 1990 (as amended). If the enforcement notice is not withdrawn it is almost certain that the owners will appeal against the enforcement and that appeal is likely to take the form of a public inquiry. Given that the Council has no evidence to present to a public inquiry to contradict the contention of the owners it is considered inevitable that not only would such an appeal be successful, but also that costs would be awarded against the Council for unreasonable behaviour which has caused the appellant un-necessary financial expense. The withdrawal of the enforcement notice would avoid any potential costs to the Council as the appellant would not longer need to make an appeal.

SECTION 3 - STATUTORY OFFICER CLEARANCE

Chief Finance Officer	<input type="checkbox"/>	Name: ...Anil Nagpal.....
		Date:23 January 2007.....
Monitoring Officer	<input type="checkbox"/>	Name: ...David Galpin.....
		Date:23 January 2007.....

SECTION 4 - CONTACT DETAILS AND BACKGROUND PAPERS

Contact: Adam Beamish (adam.beamish@harrow.gov.uk) tel. 0208 7366160

Background Papers

- DC Committee report from 17th October 2006

IF APPROPRIATE, does the report include the following considerations?

1.	Consultation	NO
2.	Corporate Priorities	NO
3.	Manifesto Pledge Reference Number	