

Meeting:	Development Management Committee
Date:	28 th February 2007
Subject:	76 Formby Avenue, Stanmore, HA7 2JZ
Key Decision: (Executive-side only)	No
Responsible Officer:	Group Manager, Planning and Development
Portfolio Holder:	Planning, Development and Enterprise
Exempt:	No
Enclosures:	Site plan

SECTION 1 – SUMMARY AND RECOMMENDATIONS

This report relates to the unauthorised use of a detached outbuilding, sited within the rear garden of a property currently in use as a dwellinghouse (but with the benefit of planning permission for conversion into two flats), as two self-contained residential units.

The unauthorised creation of two additional residential units within the curtilage of the property results in an over-intensive use of the site, causing a loss of amenity to the occupiers of the detached outbuilding and the occupiers of surrounding residential properties in terms of noise and general disturbance. The unauthorised use is also out of keeping with the surrounding area, which predominantly comprises dwellinghouses with fair sized rear gardens, and results in conditions prejudicial to highway safety.

Consequently the unauthorised use is contrary to adopted UDP policies D4, D5, SH1, H9 and T13 and it is recommended that an enforcement notice be served.

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), the Council be authorised to:

- (a) Take all necessary steps for the preparation, issue and service of an enforcement notice requiring within three calendar months;
 - (i) The cessation of the use of the detached outbuilding as a two separate residential units.

- (b) In the event of non-compliance with the above enforcement notice, to;
 - (i) Institute legal proceedings, should it be considered in the public interest to do so, pursuant to Section 179 of the Town and Country Planning Act 1990.
 - (ii) Carry out works in default, should it be considered in the public interest and also financially viable to do so, under the provisions of Section 178 of the Town and Country Planning Act 1990.

SECTION 2 - REPORT

2.1 The site that is the subject of this report, 76 Formby Avenue, Stanmore, consists of a two-storey semi-detached dwellinghouse located on the southern side of this predominantly residential street, comprising semi-detached dwellinghouses.

2.2 The dwellinghouse benefits from planning permission (ref P/2305/06/DFU granted on the 6th October 2006) for single and two storey side, single storey rear extensions, alterations to the roof to provide end gable and rear dormer and conversion to two self-contained flats. This permission is in the process of being implemented.

- 2.3 In January 2006, the Council granted a Certificate of Lawfulness application (ref P/2968/05/DCE) for the detached outbuilding for leisure/recreational use in conjunction with the use of the dwellinghouse. This certificate was issued on the basis that the proposed outbuilding was under 3 metres in height with a flat roof, situated at a distance of more than 5 metres from the dwellinghouse and did not take up more than 50% of the curtilage of the dwellinghouse. The outbuilding was also to be used for purposes ancillary to the use of the main dwellinghouse, thereby making the detached outbuilding fall within permitted development. The approved layout plans for this detached outbuilding shows each unit to be fitted with a shower room and kitchenette. The subsequent use of the detached outbuilding as two self-contained units is a material change of use requiring planning permission.
- 2.4 On the 21st April 2006 the council received a complaint about the detached outbuilding in the rear garden of the property being used as separate self-contained residential units (ref ENF/401/06/P). Subsequent investigations have revealed that the detached outbuilding is used as two self-contained residential units, and that the unauthorised use has not been occurring continuously for over 4 years.
- 2.5 The two self-contained units both contain toilet and bathroom facilities and have their own gas, electric and water supply including boilers. Both units have separate living areas and bedrooms. One of the units has a fitted kitchen with cooker, washing machine and refrigerator. The other has a microwave and washing machine. The detached outbuilding is accessed via a walkway to the side of the main dwellinghouse.
- 2.6 The expediency of enforcement action has been assessed with reference to guidance contained in PPG18 and Circular 10/97, both entitled 'Enforcing Planning Control'.
- 2.7 The expediency of taking enforcement action has also been considered with regard to the statutory Development Plan, which for the Borough

consists of the London Plan (adopted February 2004) and the Unitary Development Plan (U.D.P.), which was formally adopted in July 2004. U.D.P. policies that are relevant to this report include;

- Policy D4 - The Standard of Design and Layout
- Policy D5 - New Residential Development – Amenity Space and Privacy
- Policy T13 - Parking Standards
- Policy SH1 - Housing Provision and Housing Need
- Policy H9 - Conversions of Houses and Other Buildings to Flats

2.8 The Council considers that the use of the detached outbuilding as two self-contained residential units, in addition to the main dwellinghouse (which also benefits from planning permission to convert into two self-contained flats), is detrimental to the amenity of the occupiers of neighbouring residential properties. This use is objectionable in principle and fails to safeguard the amenity of the occupiers of neighbouring residential properties, due to the increase in comings and goings as well as increased noise and disturbance. This is contrary to policies D4, D5, and SH1 of the Unitary Development Plan 2004.

2.9 The unauthorised use of the detached outbuilding as two self-contained units is also detrimental to the amenities of the occupiers of the units themselves. This is contrary to policy H9 of the Unitary Development Plan 2004. Due to the size of the units created, insufficient space is provided in terms of living accommodation. Each unit has a floor area of only 18 square metres and the layout and internal divisions are not satisfactory to prevent the transmission of noise, to the detriment of the amenity of the occupiers of the detached outbuilding. The provision of amenity space for the residential units is also not satisfactory. The property has a rear garden of 160 square metres, although this will be substantially reduced upon completion of the extensions to the property, which are currently being constructed. The amenity space is not satisfactory for the 2 units created and is also not subdivided. The approved planning application for the conversion of the main house to 2 additional flats puts additional

pressure on the amenity space on the property, with the occupiers of 4 residential units sharing an unsatisfactory amount of amenity space.

2.10 The Council's parking standards, set out in the Unitary Development Plan 2004, recommends 1.4 spaces for the main dwellinghouse (i.e. one space on the forecourt and a small amount of incidental on street parking). With the addition of the two residential units in the detached outbuilding, the recommendation rises to 4 spaces. With room for only one vehicle on the forecourt, this puts pressure on an already congested residential street resulting in actual and potential injudicious parking, and the likely increase in parking on the neighbouring highway (Uppingham Avenue). This is detrimental to the free flow and safety of traffic on the highway and is contrary to policy T13 and H9 of the Unitary Development Plan 2004. Although the property is located close to a bus route, it is around 1 mile away from the nearest underground/train station, meaning that the residential use is likely to be heavily car reliant.

2.11 The two new residential units have inadequate off-street parking and amenity space, with excessive levels of occupation and activity. The conversion of the detached outbuilding to two self-contained residential units is an inappropriate form of development, which is detrimental to neighbouring residential amenity and highway safety, contrary to policies, D4, D5, SH1, H9 and T13 of the Harrow Council Unitary Development Plan 2004. The unauthorised use is contrary to policy SH1 as it fails to protect and safeguard the character and amenity of surrounding residential areas. For those reasons, it is not considered that planning permission would be granted for the outbuilding as separate residential units, and the imposition of conditions would not overcome the Council's fundamental objections. Accordingly enforcement action is recommended to secure the cessation of this unauthorised use.

2.12 The recipient of an enforcement notice can appeal against it to the Planning Inspectorate under Section 174 of the Town and Country Planning Act 1990.

SECTION 3 - STATUTORY OFFICER CLEARANCE

Chief Finance Officer	<input type="checkbox"/>	Name: ...Sheela Thakrar.....
		Date: ...13 February 2007.....
Monitoring Officer	<input type="checkbox"/>	Name: David Galpin
		Date: 13 February 2007.

SECTION 4 - CONTACT DETAILS AND BACKGROUND PAPERS

Contact: Nicholas Ray (Nicholas.ray@harrow.gov.uk) tel. 0208 736 6187

Background Papers

- Unitary Development Plan

IF APPROPRIATE, does the report include the following considerations?

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



Site Plan - 76 Formby Avenue