

Meeting:	Development Management Committee
Date:	Wednesday 28 th February 2007
Subject:	35 Turner Road, Edgware
Responsible Officer:	Group Manager Planning and Development
Contact Officer:	Adam Beamish
Portfolio Holder:	Planning, Development and Enterprise
Enclosures:	Site Plan
Key Decision:	No
Status	Part 1
Ward	Queensbury

Summary of report

This report relates to the unauthorised construction of a detached outbuilding in the rear garden of a terraced dwellinghouse at 35 Turner Road, Edgware.

As the outbuilding is within 5 metres of the extended dwellinghouse, and the combined cubic content of the unauthorised outbuilding and an existing extension to the dwellinghouse exceeds 50 cubic metres, planning permission (which has been neither sought nor granted) is required for the erection of the outbuilding under the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

The outbuilding, by reason of its excessive size, scale and inappropriate positioning, is unduly obtrusive and results in a loss of light and outlook, detrimental to both the visual and residential amenity of the occupiers of the adjacent resident properties, and also fails to complement the appearance and character of the surrounding area. Consequently the outbuilding is contrary to policies SD1 and D4 of the Harrow Council Unitary Development Plan 2004, and the Council's adopted Supplementary Planning Guidance entitled 'Extensions : A Householders Guide'.

Accordingly it is recommended that an enforcement notice be served requiring the removal of the unauthorised detached outbuilding.

Recommendation

- 1.1 It is recommended that, 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 Director of Legal Services 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 demolition of the detached outbuilding, and;
 - (ii) The removal of all materials and debris from the land arising from compliance with requirement (i).
 - (b) Issue Notices under Section 330 of the Town and Country Planning Act 1990 (as amended) as necessary in relation to this alleged breach of planning control.
 - (c) Institute legal proceedings, should it be considered in the public interest to do so, in the 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) fully comply with the requirements of the enforcement notice.

Background information and relevant planning/enforcement history

- 2.1 35 Turner Road, the site that is the subject of this report, comprises a two-storey mid terrace dwellinghouse located on the south-western side of this predominantly residential street. The rear boundary of the site backs onto the embankment of a railway line.
- 2.2 The dwellinghouse has been previously extended by way of a single storey rear extension, which was built under permitted development rights, i.e. without requiring planning permission, and this extension was the subject of a Certificate of Proposed Lawful Development (application ref. EAST/820/02/CLP) issued by the Council in July 2002.
- 2.3 Both adjacent properties are of a similar size, with No. 33 having been extended by way of a similar rear extension to the dwellinghouse, whilst No. 37 has no rear extension.
- 2.4 The cartilage of the site incorporates a small rear garden, which originally was approximately 7.5 metres in depth and 6 metres wide, and therefore had an area of approximately 45 square metres. The rear garden has been substantially reduced in size as a consequence of the erection of the rear extension, and therefore the remaining rear garden (excluding the area of the detached outbuilding that is the subject of this report) is approximately 32.5 square metres.

- 2.5 In November 2005, following a complaint being made to the Planning Enforcement Team, enforcement investigations established that a detached outbuilding had been erected in the rear garden of the site.
- 2.6 This detached outbuilding is 5.4 metres long and 3.15 metres deep, with a flat roof 2.15 metres high. It has white rendered walls with a window and door in its elevation facing the dwellinghouse, and the distance between the dwellinghouse (as extended) and the detached outbuilding is approximately 1.84 metres. As a result of the erection of this outbuilding the area of undeveloped rear garden remaining is only approximately 15.5 square metres.
- 2.7 The detached outbuilding requires planning permission, which has been neither sought nor granted, as it is located within 5 metres of the dwellinghouse as extended, and the combined cubic content of the outbuilding and the existing rear extension is approximately 68.3 cubic metres. This is considerably in excess of the 50 cubic metre permitted development tolerance set out within Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and accordingly a breach of planning control has occurred.
- 2.8 Despite several letters being sent to the owners of the site, no action has been taken to either remedy or attempt to regularise this breach of planning control.

Assessment of the expediency of taking formal enforcement action

- 3.1 The expediency of enforcement action is assessed with reference to guidance contained in PPG18 and Circular 10/97, both entitled 'Enforcing Planning Control'.
- 3.2 Expediency is also assessed 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 SD1 (Quality of Design)
- 3.3 As the outbuilding is within 5 metres of the dwellinghouse it is considered to be an extension to the dwellinghouse, and accordingly Section C of the Council's Supplementary Planning Guidance, entitled '*Extensions : A Householders Guide*' relating to rear extensions is also considered of relevance in assessing the expediency of taking enforcement action.

- 3.4 The unauthorised detached outbuilding and the existing lawful extension take up almost 66% of the original rear garden of the site, leaving less than 35% of the rear garden undeveloped, whereas the surrounding area is characterised by small brick built or wooden sheds which leave the rear gardens of other properties nearby predominately undeveloped.
- 3.5 With so little of the rear garden left undeveloped, the outbuilding is not appropriate, in terms of its size, scale and positioning, in relation to the scale and character of the adjoining properties and surrounding streetscene. Furthermore, the large bulk of the outbuilding, taking up almost the entire width of the site and its consequent position almost adjacent to both flank boundaries, fails to respect the form of the surrounding area, nor does it have a satisfactory relationship with adjoining properties.
- 3.6 Due to the positioning of the outbuilding almost adjacent to both flank boundaries of the site, and its depth of 3.15 metres within such small rear gardens, it is also considered to adversely affect the residential amenities of the occupiers of both adjoining properties, in terms of loss of light and outlook.
- 3.7 In particular (but not exclusively as No. 33 would also be affected) the residential amenities of the occupiers of No. 37 are adversely affected, as from this property there is development along almost the whole of the south-eastern boundary, consisting of the lawful extension and the unauthorised outbuilding. Furthermore, the south-eastern orientation of the outbuilding means that it results in some loss of light and overshadowing to the rear garden of No. 37.
- 3.8 Although it is accepted that the outbuilding is only 0.15 metres higher than the height that a fence could be erected without requiring planning permission, given the small, compact size of the rear gardens it is considered that it is essential that any new development has not detrimental impact upon the residential amenities of adjoining properties.
- 3.9 Consequently the unauthorised detached outbuilding is considered to be contrary to adopted UDP Policies D4 and SD1, and also the Council's adopted Supplementary Planning Guidance, as due to its excessive size, scale and inappropriate positioning the outbuilding fails to complement the appearance of the surrounding area, and results in a loss of residential amenities for the occupiers of adjoining properties.
- 3.10 It is therefore not considered that planning permission would be granted for the detached outbuilding, or that any conditions that could be imposed upon the granting of any planning application would overcome the Council's objections.

3.11 Accordingly it is recommended that an enforcement notice be served requiring the demolition of the unauthorised outbuilding within three calendar months, whilst noting that any recipient of an enforcement notice has the right of appeal against such a notice to the Planning Inspectorate, and could lodge an application for costs in relation to this appeal should the recipient consider the Council has behaved unreasonably.

Statutory Officer Clearance

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

Section 4 - Contact Details And Background Papers

Contact

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

Background Papers

- Unitary Development Plan adopted 30th July 2004
- Supplementary Planning Guidance entitled 'Extensions : A Householders Guide'
- EAST/820/02/CLP – Certificate of Lawful Proposed Development: Single Storey Rear Extension

IF APPROPRIATE, does the report include the following considerations?

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



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