

Meeting:	Development Management Committee
Date:	Wednesday 6 <sup>th</sup> June 2007
Subject:	4 Aylwards Rise, Stanmore
Responsible Officer:	Director of Planning Services
Contact Officer:	Graham Jones
Portfolio Holder:	Planning, Development and Enterprise
Enclosures:	Site Plan
Key Decision:	No
Status	Part I
Ward	Stanmore Park

#### **Summary of report**

This report relates to the erection of a detached dwellinghouse and detached garage within the curtilage of land at 4 Aylwards Rise, Stanmore ("the Site") and considers the expediency of taking enforcement action.

Planning permission (application ref. P/979/06/DFU) was granted in June 2006 for the erection of a replacement two storey detached house with rooms in the roofspace and a detached garage on the Site.

The planning permission is in the process of being implemented and construction of the replacement dwellinghouse is significantly advanced. In October 2006, an adjoining owner complained to the Council about a number of discrepancies between the dwellinghouse being erected and that approved by the granting of planning application ref. P/979/06/DFU.

Following thorough investigations by officers, it was established that: -

- the original dwellinghouse on the Site was not actually sited as far from the south-western boundary (with No. 5 Aylwards Rise) as plotted on the submitted plans and Ordnance Survey maps;
- consequently, the replacement dwellinghouse is not sited as far from the south-western boundary of the site as shown on the submitted plans;
- the replacement dwellinghouse has been built on virtually the same south-western front building line as the dwellinghouse that it replaced.
- The detached garage has been built 0.13 metres closer to the south-western boundary of the site than as shown on the submitted siting plan.

- The plans submitted with the planning application (ref. P/979/06/DFU) currently being implemented did not include elevations of the proposed garage.
- A single storey side projection on the south-western corner of the replacement dwellinghouse has, due to the construction of a rooflight and a parapet wall around the projection, been erected 0.6 metres higher than as shown on the submitted plans.

Due to the sensitive nature of this matter, the Council also appointed an external consultancy to consider the issues established and assess the expediency of taking formal enforcement action. This report and its recommendations are based around the findings and conclusions of that independent report which is attached in Appendix 3.

Members are invited to consider and note the contents of this report and Appendix 3. In the circumstances, it is recommended that the committee agree to defer the determination of the expediency of taking enforcement action so that the opportunity is given to the owners of the site and their architect to submit a retrospective planning application to regularise outstanding matters taking into account the recommendations made by the external consultant.

### **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)), no formal enforcement action be taken at this time in respect of the erection of a replacement dwellinghouse and detached garage at 4 Aylwards Drive, Stanmore.
- 1.2 However, it is also recommended that, if no planning application is submitted to regularise the outstanding matters within 21 days of the committee meeting, a final report be brought to the next available meeting to consider the expediency of taking formal enforcement action.

### **Background information and relevant planning/enforcement history**

- 2.1 The site that is the subject of this report, 4 Aylwards Rise, Stanmore ("the Site"), is part of a large plot of land located at the northerly end of Aylwards Rise cul-de-sac which is entirely residential and comprises nine large detached dwellinghouses each set within sizeable grounds.
- 2.2 Until 2006 the Site was occupied by a two-storey detached dwellinghouse. A copy of an aerial photograph of that property dating from 2001 at a scale of 1:500 is attached in Appendix 1. This shows the actual siting of the previous dwellinghouse in relation to the boundaries of the Site.
- 2.3 In March 2006 at a Development Control Committee meeting, planning permission was granted (under application ref. P/2712/05/DFU) for the

- erection of a replacement two-storey detached dwellinghouse with detached garage on the Site.
- 2.4 Prior to the commencement of any work, a revised planning application (under ref. P/979/06/DFU) was submitted proposing the erection of a two-storey replacement dwellinghouse with rooms in roof-space and a detached garage.
- 2.5 This revised application differed from the previous application in that it proposed a dwellinghouse: -
- that would be 1.3 metres wider at ground level (0.3 metres wider at first floor level);
  - 0.3 metres deeper on its eastern flank side and 0.7 metres deeper on its western flank side; and
  - with a front dormer window and rooms in the roof-space.
- 2.6 In June 2006, under delegated powers, planning permission was granted for the revised planning application (ref. P/979/06/DFU) except the front dormers which were omitted from the application as a result of objections. In his report, the planning officer in assessing the revised application considered the increased bulk and took the view that it “would not be significant in relation to the redevelopment as a whole and would not present any issue of infringement on the amenity of either adjoining property”. Subsequently, works commenced on the Site.
- 2.7 In August 2006 the Council received a complaint relating to the hours of construction. These concerns were referred to the Environmental Health department for investigation. In October 2006 a further complaint was received alleging that the replacement dwellinghouse was not being sited in accordance with the approved plans and that the dwellinghouse was closer to the south-western boundary of the site than approved by the granting of the relevant planning application (ref. P/979/06/DFU). Subsequent complaints have alleged that the detached garage has also not been sited nor built in accordance with the approved plans and a single-storey projection to the south-western corner of the replacement dwellinghouse has been built higher than approved.
- 2.8 The investigations undertaken by both Council Officers and the appointed external consultancy have made the same factual conclusions, and to avoid unnecessary repetition Members are directed to the contents of the report produced by the external consultancy, which is attached to this report as Appendix 3. Whilst a 1:500 scale Ordnance Survey plan of precisely the same location as the aerial photograph is attached in Appendix 2.
- 2.9 It should be noted that it has also been established that the plans approved by the granting of planning application ref. P/979/06/P only showed the siting of the detached garage, but failed to include any elevations of the detached garage and therefore only the siting of the detached garage (which was shown on a submitted siting plan) has been

- approved. At the time of the production of the report of the external consultancy the author was not aware of this discrepancy.
- 2.10 During the enforcement investigation, on two occasions the Council has written to both the owners of the Site and their architect requesting that action be taken to either remedy or attempt to regularise matters. The architect was also present during the site visit undertaken by the external consultancy in early May 2007. However, at the time of writing no action has been taken to either remedy or attempt to regularise the outstanding matters.

### **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 D5 (New Residential Development – Amenity Space and Privacy)
  - Policy SD1 (Quality of Design)
- 3.3 Again, in order to avoid unnecessary repetition Members are directed to the contents of the report of the external consultancy, which forms the basis for the conclusions reached in this section of the report. Members are asked to note the contents of this report and to agree to its conclusions.
- 3.4 It is concluded from the investigations undertaken by both Council Officers and the appointed external consultancy that the owners of the Site and their architect be given the opportunity to submit a planning application to the Council for determination, taking into account the suggestions made by the external consultancy.
- 3.5 Such an application would therefore be for the retention of the replacement dwellinghouse and detached garage as built, incorporating the provision of obscure glazing in the first floor bathroom windows of the dwellinghouse on the south and west elevations, and an amendment to the garage driveway to facilitate a landscaping scheme along part of the south-western boundary of the site.
- 3.6 This application should be based upon a full topographical survey of the Site accurately reflecting the developments, and the siting of these developments in respect of the neighbouring properties.

- 3.7 It is therefore recommended that at this time the owners of the Site and their architect be given a period of 21 days from the date of the committee meeting to submit a planning application in an attempt to regularise the outstanding matters by incorporating the alterations and amendments suggested by the external consultant.
- 3.8 If, after the expiry of this period, no such application has submitted to the Council for determination, the matter will be referred back to the next available committee for a final decision as to the expediency of taking formal enforcement action.
- 3.9 The report of the external consultancy also makes a number of procedural recommendations to the Council in respect of the required content of planning applications and the validation of such applications. Given the various issues raised by these recommendations, they are to be considered further by Senior Officers and the conclusions reached will be reported to the next available committee meeting.

#### **Statutory Officer Clearance**

Chief Finance Officer	<input type="checkbox"/>	Name: Carol Maduka Date: 30 <sup>th</sup> May 2007
Monitoring Officer	<input type="checkbox"/>	Name: Hugh Peart Date: 30 <sup>th</sup> May 2007

#### **Section 4 - Contact Details And Background Papers**

##### Contact

Adam Beamish ([adam.beamish@harrow.gov.uk](mailto:adam.beamish@harrow.gov.uk)) tel. 0208 7366160

##### Background Papers

- Unitary Development Plan adopted 30<sup>th</sup> July 2004
- Planning applications re. P/2712/05/DFU and P/979/06/DFU
- Officer's Development Control Delegated Report (Ref. P/979/06/DFU)
- Report of external consultancy dated 16<sup>th</sup> May 2007

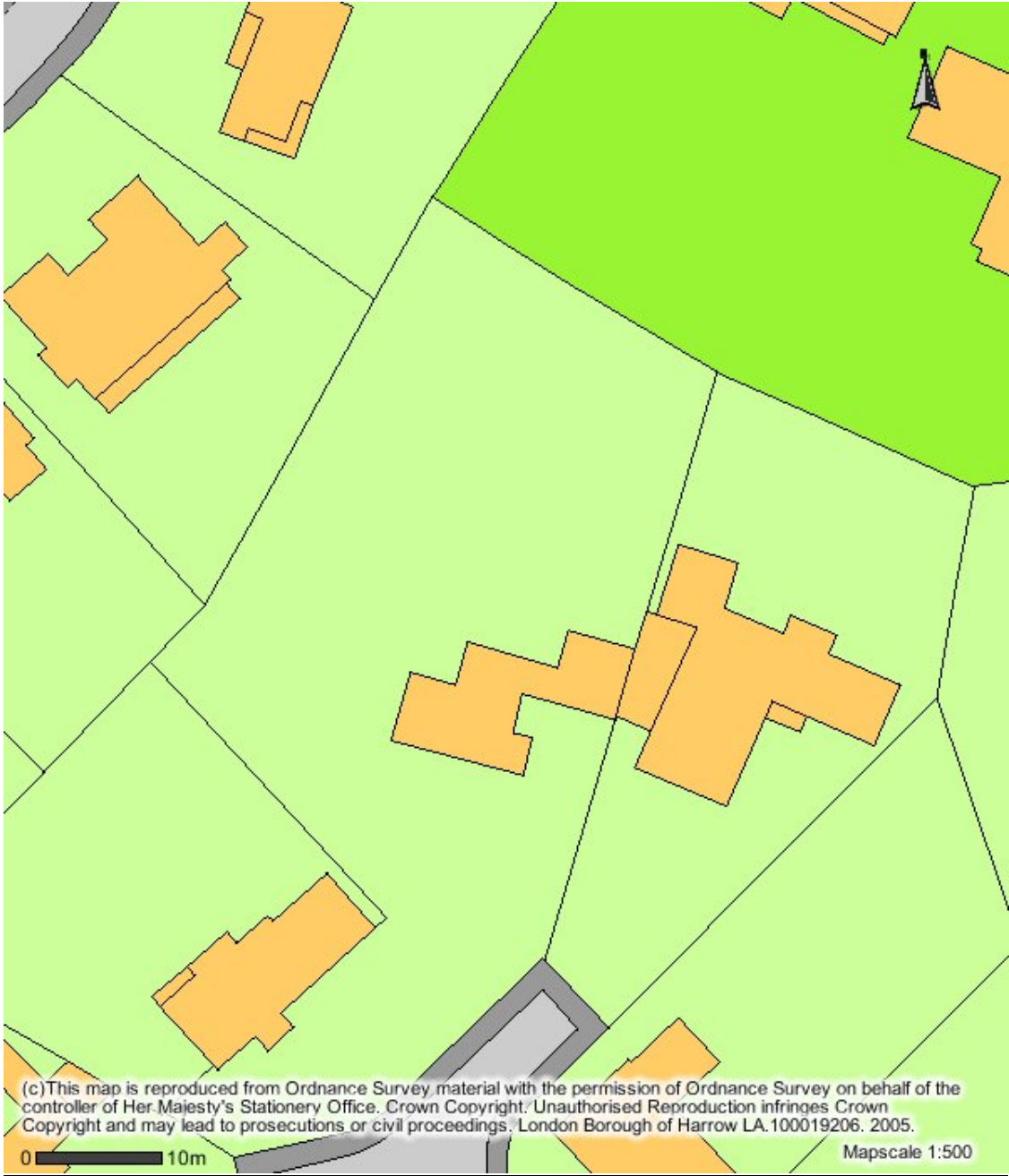
#### **IF APPROPRIATE, does the report include the following considerations?**

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

**Appendix 1 – 1:500 scale aerial photograph of the Site from 2001**



**Appendix 2 – 1:500 scale Ordnance Survey plan of the Site**



## **Appendix 3 – Report of DPDS Consulting Group dated 16<sup>th</sup> May 2007**

### **1. Introduction**

- 1.1 DPDS Consulting Group has been instructed to advise the London Borough of Harrow with regard to allegations of breaches of planning control at 4 Aylwards Rise, Stanmore. We have been provided with details of the alleged breach and access to the Council's files.
- 1.2 We would first advise that the Council should satisfy itself that its actions to date have been consistent with the advice in *Enforcing Planning Control: Good Practice Guide for LPA's*. In particular, if the Council has produced a clear statement of enforcement policy, it should be able to demonstrate that, in this case, it has been adhered to at all times.

### **2. Background Information and Relevant Planning/Enforcement History**

- 2.1 A comprehensive review of background information is available from the Council's files. Appendix 2 sets out a summary of the planning position as recorded by LBH planning officers). I carried out a site inspection on Wednesday 2 May 2007 at 10:30am accompanied by the Council's Director of Planning. I undertook a review of construction activity on the site, including a number of dimensional measurement checks with both steel tape and laser measurement equipment. Although the site was heavily constrained for access by equipment, scaffolding and building materials I am satisfied that I was able to achieve accurate measurements for the purposes of establishing the relevant facts. I can see no reason to disagree with any of the factual material established by the Council officers. I fully concur with the statistical comparisons of the two proposals for the site. In particular, it appears that unusually the Ordnance Survey mapping in respect of the site did not accurately show the siting of the original dwelling house constructed in 1957.
- 2.2 I understand that the block plan/site layout plan was not based on a topographical survey, but instead on an enlargement of the (inaccurate) Ordnance Survey plan. This error in the submitted plan had not been picked up in the processing of the application. Unsurprisingly, therefore, what has been built on site appears to be different from the submitted (inaccurate) plan. I have carried out my own check on the dimension of the original house from the site boundary as shown on the Ordnance Survey plan. The Council officers have scaled this dimension as 11.5m. Whilst I concur with that measurement I have also used access to electronic mapping by using the Promap OS Mapping System. This allows very accurate computerised scaling of measurements from digital mapping data.



The measurement obtained from this source shows the original dwelling front elevation at its north west corner, measured at right angles to the main wall, as 11.47m. I have checked the submitted plans along with the 1:500 scale aerial photograph supplied by the Council and have concluded, as did Council officers when notified of the alleged breach, that it would appear that the original dwelling house was never actually sited as depicted on the Ordnance Survey plan at a distance (as measured above) of 11.5m but, as confirmed by the aerial photograph (allowing for circa. 200mm eaves projection from the main wall) at about 9.4-10m. A further check measurement was taken along the eastern boundary of No. 4 Aylwards Rise picking up the projected line of the new property to the back of footpath in the highway. This measured 13.20m on site. This distance scales approximately 13.0m from the aerial photograph of 2001 showing the original dwelling which, allowing for the projecting eaves overhang of circa. 200mm, would suggest that this building line is in line with the original. It is impossible to be absolutely precise with such an exercise but both on-site checks provide reasonably accurate evidence. The approved plan indicates a distance at this point of 13.9m and the Ordnance Survey plan 13.75m.

- 2.3 Having reviewed all the evidence available from the submitted drawings, Ordnance Survey site plans, aerial photographs and the information on file, and following a site visit, we have concluded that on the balance of probability the original 1957 dwelling and the more recent replacement dwelling are built on approximately the same building line.
- 2.4 The allegation made by the complainant has relied on anecdotal evidence that the original dwelling house was always at a distance of approximately 11.5 metres from the south western boundary of the site with 5 Aylwards Rise. The fact remains that there is no surveyed evidence to support this view and the available evidence points to this not being the case.
- 2.5 It has also been established that the detached garage of the new property is situated 0.13 metres closer to the boundary with 5 Aylwards Rise than shown on the approved plans and the roof design is different to that approved.
- 2.6 From my site inspection and on-site discussion with the architect it appears that the roof pitch of the proposed approved hipped roof has also been exceeded and, to avoid either replacing the structure with one matching the approved drawings or continuing to complete the garage with an excessive height, the design has been altered to provide a hipped structure with a flat roof.
- 2.7 It has also been established that the single storey side projection to the south west of the replacement dwelling is 0.6 metres higher than

as approved due to the erection of the rooflight and parapet wall at a higher level than shown on the approved plans.

- 2.8 There are, therefore, three actual breaches of planning control:-
- a. The new dwelling is actually closer to 5 Aylwards Rise than shown on the approved site plan, notwithstanding the fact that this was made in error and based on an incorrect Ordnance Survey plan to start with.
  - b. The detached garage is 0.13 metres closer to the boundary with 5 Aylwards Rise than approved and with a different roof design, and
  - c. The single storey side projection to the south west of the new dwelling house is 0.6 metres higher than approved as a result of the roof-light structure and parapet wall being approximately 0.6 metres higher than approved.

### **3. Impact of the Breaches of Planning Control**

#### The Siting of the New Dwelling

- 3.1 As established from the available facts although the new dwelling has been constructed closer to 5 Aylwards Rise than shown on the approved site layout plan (Drawing No. ARP/TP/2B) it would appear that it was always intended by the architect and applicant that the new dwelling would be built with its south west front main wall on the same building line as the dwelling that it replaced. On the information available, therefore, it would appear that the new dwelling is actually no closer to the boundary of 5 Aylwards Rise than the previous dwelling. In terms of the impact on the amenities enjoyed by 5 Aylwards Rise, this arises from changes in the scale and design of the new dwelling rather than proximity per se.
- 3.2 The new dwelling is, however, significantly wider than the one which it replaced on this elevation (16.45 metres and 11 metres respectively excluding garage). I note from scaling the external measurement from the approved plans (Drawing No. ARP/TP/6/C) the front elevation of the new building scales 16.5m. Measured on site, (above the 75mm protruding plinth), this measures 16.28m. In terms of massing, however, the majority of this increase is to the east of the new property. Whilst we have no accurate information relating to the height of the original dwelling it is clear from the photographic information to hand that the two dwellings are both of two storey construction, albeit with the new dwelling utilising some of the roof space for accommodation. In particular, the number of first floor windows overlooking 5 Aylwards Rise (on the south elevation) are the same (five) and there are no roof lights or dormer

windows in the roof space on that elevation. Although the replacement dwelling house does have a significantly larger foot print over that of the original dwelling, this is primarily due to the increased width and depth. Because the new dwelling is designed to accommodate air conditioning the overall height (floor to ceiling and ceiling void) appear greater than would have been expected in a 1950's design and overall wall height (ground level to eaves) is estimated to be slightly higher than the house it replaced (the new house scales 5.5m dpc to eaves whilst the former house is estimated by brick course count from photographic records at 4.57m). These were comparative matters, of course, that officers had no doubt assessed and taken into account in considering the planning application and neither were, at that time, considered unacceptable, albeit on the basis of an incorrect site plan.

- 3.3 What is obvious from a site inspection and inspection of historic photographic records is that the mature vegetation on the southern boundary of 4 Aylwards Rise has been substantially removed, thereby opening up a view from the north west corner bedroom of No.5 to the new house at No.4 that would have been obscured or at least filtered by vegetation previously. The same applies to views from the private rear garden of No.5. In my view it is this opening up of the views from No.5 coupled with the general increase in width and height of front elevation that accentuates the breach of control, notwithstanding the fact that on the balance of probability and factual information to hand the old and new dwellings shared the same building line. There is, however, an impact on No.5's amenities as a result, albeit a matter of judgement on scale and degree.
- 3.4 It occurs to me that the critical issue here, having regard to the increased width and depth of the new dwelling, is whether or not the construction of the new house closer to 5 Aylwards Rise boundary than shown on the (incorrect) layout plan is of such significance that remedial action is justified and, if so, what form that might take?
- 3.5 Assessment of this situation is, at best, subjective and it is my view that the most appropriate way of addressing the situation retrospectively is to re-assess the proposal as if what has now been built had been presented correctly at the planning application stage as a definitive proposal, having full regard to adopted UDP policies, relevant supplementary planning guidance and advice offered through PPG/PPS/Circulars. In this regard UDP policies D4, D5 and SD1 are considered to be relevant to this proposal PPS1 and PPS3, although relevant, contain little additional specific guidance on a point of detail such as that under consideration.
- 3.6 Having reassessed the proposal in this way I do not believe, notwithstanding the increased footprint and frontage width towards the boundary of 5 Aylwards Rise, that a refusal of planning

permission would have been justified. In arriving at this conclusion, I place considerable weight upon that fact that the view towards 5 Aylwards Rise is towards the north east side elevation, with a degree of overlooking of the private amenity space of 5 Aylwards Rise at first floor level from bedrooms 1 and 5 and inter-visibility (at a distance of approximately 19.0m) between the front of the house at No.4 and the secondary side bedroom window on the north eastern elevation of the rear extension to No.5. I note that on the photographic evidence available this view would have been screened or at least filtered by vegetation that has now been removed.

- 3.7 The only practical and feasible remedy that an enforcement notice could seek in this matter would be demolition of the entire replacement dwelling house and its reconstruction to a dimension from the site boundaries with 5 Aylwards Rise as gauged from the approved plans. However, since it is clear that the original intention all along was to replace the 1957 dwelling with a new one on the same frontage building line, and there is no other significantly adverse impact on adjacent properties, this would seem a wholly excessive and unreasonable course of action to take at this stage.
- 3.8 On the basis of the established facts and my site inspection it occurs to me that the situation could be mitigated by some specific measures on the part of the developer/owner of 4 Aylwards Rise:-
- a. The perception of being overlooked would be reduced if the first floor bathroom windows of the new house contained diffused as opposed to plain glass on the south and west elevations, and
  - b. An appropriate amendment could be made to the site layout to move the garage driveway further away from the site boundary of 5 Aylwards Rise over part of its length to facilitate a scheme of landscaping designed to resolve the lost screen between the two properties. I would advise that our landscape architect suggests a margin to the depth of 3.0 to 4.0m would be appropriate. This would require a re-design of the driveway and turning area but this is considered to be achievable.
- 3.9 In conclusion, therefore, I believe that although the new dwelling has a larger footprint, width and height on the elevation facing 5 Aylwards Rise than the dwelling it replaced it is, on the balance of probability, built on or about the same building line as the original dwelling. Because the impact of the larger design, whilst acknowledged, is not so significant as to be likely to cause an unacceptable, serious adverse impact to the amenity of 5 Aylwards Rise enforcement action is not considered justified or appropriate.

- 3.10 Whilst enforcement action to seek the rebuilding of the new property at 4 Aylwards Rise at a distance scaled from the approved plans might be excessive I would advise that the mitigation measures referred to at paragraph 3.8 above would, in the medium to longer term, help reduce the impact caused by the construction of the new dwelling.

#### The Detached Garage

- 3.12 It is noted that in investigating this matter it has been established that the new detached garage is situated 0.13 metres (5 inches) closer to the boundary with 5 Aylwards Rise than has been approved. It is noted that the new garage, at its closest point, is some 12.5 metres from the rear north west corner of 5 Aylwards Rise and there is no over looking issue involved between habitable rooms. I do not believe, therefore, that this discrepancy, however it occurred, is significant. It is however considered appropriate to invite a planning application for the retention of this structure in the position as built in order to regularise the breach of control.
- 3.13 The question of different roof design is a matter of subjective judgement. I would suggest that the design as built could also be the subject of a retrospective planning application to regularise the breach of control or, if the Council consider the design as built unacceptable, then this could be the subject of enforcement action to secure implementation of the hipped roof design for which planning permission was granted.

#### Single Storey Side Projection to the South West

- 3.14 Whilst this extension is 0.6m higher than approved, following the construction of a rooflight and parapet wall higher than shown on the approved plans and noting that it is on the south western side of the new dwelling, it has little if any impact on the complainant's property owing to its limited size. Either the applicant could be requested to comply with the approved plans or an application could be invited to regularise what in my opinion is a minor breach of planning control. It would not in my opinion be expedient to pursue enforcement action, as, had the design been submitted as part of the governing planning permission, it would most probably have been approved at this height.

### **4. Recommendations**

- 4.1 For the reasons set out above no enforcement action be taken in respect of the siting of the replacement dwelling at 4 Aylwards Rise with a view to requiring the property to be demolished and rebuilt at a dimension scaled from the approved plans from the site boundary.

- 4.2 The owner of 4 Aylwards Rise be invited to submit a planning application for the retention of the new house as built along with the amended siting of the new detached garage as built complete with the modified roof design and the retention of the parapet wall and raised height rooflight on the single storey south west element of the new house. The owner of 4 Aylwards Rise be advised that this application should be based on a full as built topographical survey of the site showing accurately all elements of construction and vegetation in it, site boundaries and the accurate position of neighbouring properties, notably numbers 3 and 5 Aylwards Rise. For the avoidance of doubt the survey should include external ground levels across the site and include reference levels to nos. 3 and 5 Aylwards Rise. Slab levels should also be established.
- 4.3 In submitting such application the applicant takes into account the advice contained in paragraph 3.8 above
- 4.4 That Harrow Council invites such application with the intention of approving it to regularise such elements of construction as may be unauthorised at the present time or open to interpretation as a result of the previous application being based on inaccurate base survey material.
- 4.5 It is further recommended that Harrow Council give consideration to introducing a number of changes in administrative procedure relating to planning applications submitted to them with a view to avoiding similar circumstances arising in the future. In this respect we would respectfully suggest that the following might be introduced:
- a. From a specified date all planning applications submitted will be required to contain either a topographical survey carried out to a recognisable scale showing all relevant site boundaries, buildings, trees and other appropriate vegetation or, if this is gauged excessive, a statement to the effect that all critical boundaries and siting of existing buildings has been measured on site in accordance with a suitable protocol.
  - b. That the Council Planning Department refuses to accept and register planning applications that do not contain plans and drawings and, in particular, a site layout/block plan to recognisable scale.
  - c. On full applications for planning permission critical dimensions relating to height, depth and width of buildings should be dimensionally specified along with key/critical dimensions to site boundaries on submitted plans.