

Meeting:	Strategic Planning Committee
Date:	Wednesday 25 July 2007
Subject:	4 Aylwards Rise, Stanmore
Responsible Officer:	Director of Planning Services
Contact Officer:	Graham Jones
Portfolio Holder:	Planning, Development and Enterprise
Key Decision:	No
Status:	Part I
Ward:	Stanmore Park
Enclosures:	<ul style="list-style-type: none">• Appendix 1: Ordnance Survey Map (Scale 1:500)• Appendix 2: Aerial Photo (autumn 2006) with overlay of Ordnance Survey - Scale 1:500• Appendix 3: Comparison of siting of house as original and as built (based on Appendix 2 aerial photo and Ordnance Survey - Scale 1:500)• Appendix 4: Aerial Photo (2001)• Photographs of House

SECTION 1 – SUMMARY AND RECOMMENDATIONS

- 1.1 This report relates to the construction of a detached dwellinghouse within the curtilage of land at 4 Aylwards Rise, Stanmore (“the Site”). A report was submitted to this Committee on 6 June 2007, comprising the Planning Officer’s report, and an external consultant’s report. Following receipt of further information from the complainant, and further investigations of the development, consideration was deferred to the next meeting of the Committee.
- 1.2 By way of background, application, ref. P/2712/05/DFU, was granted planning permission by Development Control Committee on 17 March 2006. A revised application, ref. P/979/06/DFU, was granted planning permission on 7 June 2006.
- 1.3 The replacement house is in the process of being built and work 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.

- 1.4 Following a series of investigations by officers, it has now been established that:
- 1 a series of changes to the development granted planning permission under ref. P/979/06/DFU
 - 2 a number of developments have been carried out where planning permission has been neither sought nor granted
 - 3 there has been failure to comply with three “*conditions precedent*” requiring details to be submitted and approved before the development commenced
- 1.5 The effect of Finding 1 is that the building works are not being carried out in accordance with the planning permission. The development is therefore unauthorised and amounts to a breach of planning control.
- 1.6 The effect of Finding 2 is that the works carried out involve unauthorised development, and similarly amounts to a breach of planning control.
- 1.7 The effect of Finding 3 is to invalidate the planning permission.
- 1.8 These findings are considered in detail in the report below and consideration is given to the expediency of taking enforcement action.

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 and Governance Services be authorised to:
- 1.1.1 issue notices (if considered appropriate) under Section 330 of the Town and Country Planning Act 1990 in respect of the alleged breaches of planning control at Aylwards Drive, Stanmore;
 - 1.1.2 take all necessary steps for the preparation, issue and service of Enforcement Notice(s) requiring the following:
 - (a) within six (6) calendar months to comply with the following steps:
 - (i) the demolition of the house
 - (ii) the demolition of the detached garage
 - (iii) the removal from the land of the materials arising from compliance with the requirements in 1.1.2 (i) & (ii) above, and:

1.1.3 In the event of non-compliance with the above enforcement notice(s), 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 financially viable to do so, under the provisions of Section 178 of the Town and Country Planning Act 1990.

1.1.4 In the alternative the Committee may consider it appropriate to take all necessary steps for the preparation, issue and service of Enforcement Notice(s) requiring compliance with any one of the following three options:

- (i) the implementation of planning permission P/2712/05/DFU within the time limits prescribed in the permission; or
- (ii) the implementation of planning permission P/979/06/DFU within the time limits prescribed in the permission; or
- (iii) the construction of a replacement dwellinghouse which is as similar as possible to the original dwellinghouse demolished before erecting the unauthorised development, within 9 months of the date the notice takes effect.

SECTION 2 – REPORT

Background Information

Planning Permission

- 2.1 The Site is part of a large plot of land located at the northerly end of Aylwards Rise cul-de-sac that is entirely residential and comprises nine large detached dwellinghouses each set within sizeable grounds.
- 2.2 Until mid-2006 the Site was occupied by a two-storey detached dwellinghouse. Planning permission ref. P/2712/05/DFU, for a replacement two storey detached house with detached garage was granted planning permission by the Development Control Committee on 17 March 2006.
- 2.3 Planning permission for the replacement dwellinghouse had been granted on the basis that the proposed dwelling would occupy an almost identical position within the extensive plot as the existing dwelling. Notwithstanding that the replacement dwelling was wider than the original house the submitted drawings indicated that the main 2 storey front wall of the house would be sited along the same line as the original house, and the two storey front south-west corner of the new house would align with the same point as the original.
- 2.4 Prior to the commencement of any work, an amended application, ref. P/979/06/DFU, was received. The amendments involved:

- an increase in the width of the dwelling by 1.3m at ground floor level and 0.3m at first floor level
- an overall increase in depth of the 2 storey element of the house by 2.5m
- the addition of a substantial porch / entrance feature in the centre of the rear elevation
- rooms and front facing dormers in the roof-space

2.5 Planning permission was granted under Delegated powers on 7 June 2006, but without the front dormers, which had been deleted as a result of objections. The planning officer, in assessing the revised application in his report, considered the increased bulk and took the view that the 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...*”.

2.6 Permission was granted subject to three “*conditions precedent*” - these are conditions requiring the submission of further details to, and approval by, the local planning authority before any part of the development is commenced. Following the grant of permission works commenced on site.

Complaints Against the Development and Subsequent Investigations

2.7 In August 2006 and February 2007 the Council received complaints 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 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 planning permission. 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 These allegations were investigated, including a number of site visits, during which miscellaneous measurements were taken on the ground using various measuring equipment including laser tools and tape measures. These investigations also included the appointment of an external consultant. A copy of the consultant's report was attached to the report to the previous Development Management Committee on 6 June. The information collected was then compared to calculations based on both the plans submitted with planning application, ref. P/979/06/DFU, plans submitted with the planning application for the original dwellinghouse in 1957, and other records, including the 2001 aerial photograph, see **Appendix 4**.

2.9 To ascertain details on the siting of the original house, and comparison with the new house, reliance was initially placed by Officers on the 2001 aerial survey, and the possible inaccuracy of the Ordnance Survey plan. This was documented in the previous report. Our conclusion at the time was that the likely position of the original house was something in the order of 10m, compared with a distance of 11.5m estimated separately from both the “not to scale” approved layout plan, and the Ordnance Survey plan. Both of these estimates included the eaves projection, as they were calculated from the edge of the roof, not the wall of the house. Roof eaves can

project in the order of 200-300mm beyond the walls so this distance needs to be added to the estimate. The respective distances would therefore be in the order of up to 10.3m on our estimate at that time, and up to 11.8m based on the applicants' proposals on their layout plan.

- 2.10 Our second conclusion was that, on the balance of probability, the position of the south-west principal corner of new house was not materially different from the original house, again as documented in the previous report.
- 2.11 The complainants subsequently commissioned an aerial survey of the house at No. 4 Aylwards Rise as built, and appointed their own consultant in early June 2007 to examine the findings and look at the Planning Officer's evidence. A meeting with Officers was held recently when their consultant explained their findings in respect of the house. The consultant stressed that, in his view, the Ordnance Survey was accurate, and correctly indicated the relative positions of the original house on the site and those on adjacent sites. He then explained why the 2001 aerial photograph was not a valid source of evidence. Upon closer examination of that photograph it is apparent that there is distortion of perspective, as the aeroplane at the time of survey was not positioned directly over the site. The effect of this is to shorten the apparent distance between the original house and the boundary with No. 5. This was estimated in the previous report at somewhere between 9.5 to 10.5m distance. A further complication was that the measurements made no allowance for eaves overhang as the only feature visible on the photo is the roof.
- 2.12 The combined effect of these errors was likely to result in an underestimation of the distance between the house and the boundary.
- 2.13 The consultant then examined an aerial photo taken in autumn 2006 by Google Maps, indicating a cleared site (following demolition of the house) but still displaying the lines of the original external walls of the house. The lack of any walls allows a reasonable measurement of the distance between the relevant corner and the boundary with No.5. The complainant's consultant estimates that distance as at least 12m.
- 2.14 The consultant also produced the series of aerial photos commissioned by the complainants and concluded that the new house was built in excess of 2m closer to No.5 than the original. The consultant suggested that the Council undertake its own investigation to verify the distances referred to.

Comparison Between Approved Plans and Development as Built

- 2.15 The Council has reviewed thoroughly the available evidence and investigated other sources of information. These are summarised below in the comparative table relating to the siting of the house, but also in the schedule of differences between the approved plans and the development as constructed.

Table 1: Comparative Examination of Evidence

	Estimates of Distance - SW Corner of Original House to Boundary of No. 5 Aylwards Rise	Estimates of Distance - SW Corner of New House to Boundary of No. 5 Aylwards Rise	Comments
Application Drawings P/979/06/DFU	<ul style="list-style-type: none"> • 11.5m (using scale bar) • 12m (using reduction to 1:500) 	<ul style="list-style-type: none"> • 11.5m (using scale bar) • 12m (using reduction to 1:500) 	<ul style="list-style-type: none"> • measurement from roof eaves - estimated 200-300mm • estimated distances therefore: 11.8 - 12.3m • based on complainant's argument about accuracy of OS site plan 11.5m - 11.8m estimate more accurate
Planning Officer's Findings	<ul style="list-style-type: none"> • 2001 aerial survey: <ul style="list-style-type: none"> - 10.5m - no eaves allowance - perspective distortion • mid 2006 aerial survey (similar to Google survey): <ul style="list-style-type: none"> - 11.25m - based on line of original wall (no eaves allowance necessary & no perspective distortion) - 11.5m based on OS overlay (would include the eaves of the roof) 	<ul style="list-style-type: none"> • 10.25m (by site measurement) 	<ul style="list-style-type: none"> • conclusions, based on the assumption that the OS survey is accurate: <ol style="list-style-type: none"> 1 the house is sited between 0.75m and 1m closer to boundary of No.5 Aylwards Rise 2 the house is sited between 1m and 1.25m further westwards than the approved position – in other words the principal sw corner of the new house is not on the agreed same sw corner line as the original house
Complainant's Findings	<ul style="list-style-type: none"> • 12m <ul style="list-style-type: none"> - by scaling from submitted site plan reduced to 1:500 scale - based on Google aerial photo interpretation 	<ul style="list-style-type: none"> • 8.5m to 9m <ul style="list-style-type: none"> - at least 2 - 2.3m closer to No.5's boundary than original - based on recent helicopter aerial survey 	<ul style="list-style-type: none"> • 2001 aerial photo is distorted by perspective and cannot be use • OS site plan is accurate • Google aerial survey can be used as there is no building on the site - only lines of original external walls

Table 2: Comparison of Approved Plans and Development as Built

Feature	As Approved	As Built	Comment
House width:	<ul style="list-style-type: none"> • 14.5m on layout plan (inc. eaves) • 16.65m on ground floor plan • 16.55m on elevations • 17.55m inc. eaves 	<ul style="list-style-type: none"> • 16.75m exc. eaves 	<ul style="list-style-type: none"> • 100mm wider
House depth (east elevation)	<ul style="list-style-type: none"> • 11.75m on layout plan • 12.5m on elevation • 12.6m on ground floor plan 	<ul style="list-style-type: none"> • 12.64m 	<ul style="list-style-type: none"> • between 40 and 140mm deeper

Feature	As Approved	As Built	Comment
House height: - to eaves (underside of gutter) - front elevation - to eaves (underside of gutter) - rear elevation	<ul style="list-style-type: none"> • 5.8m • 5.75m 	<ul style="list-style-type: none"> • 6.13m -6.35m (either end of front elevation) • 6.069m 	<ul style="list-style-type: none"> • between 300mm and 530mm higher to eaves • likely to be commensurate increase in overall height
House - height single storey side "extensions"	<ul style="list-style-type: none"> • 3.35m 	<ul style="list-style-type: none"> • 3.8m 	<ul style="list-style-type: none"> • 450mm higher
House - front porch	<ul style="list-style-type: none"> • width - 2.4m • height - 3.45m 	<ul style="list-style-type: none"> • width - 3.165m • height - 3.45m 	<ul style="list-style-type: none"> • 665mm wider
House - rear porch	<ul style="list-style-type: none"> • width - 3.25m • height - 3.2m 	<ul style="list-style-type: none"> • width - 3.4m • height - n/a 	<ul style="list-style-type: none"> • 150mm wider
House - rear first floor window	<ul style="list-style-type: none"> • 3m x 1.2m 	<ul style="list-style-type: none"> • 3m x 2m • changed from window to French doors (see photo) 	<ul style="list-style-type: none"> • 800mm deeper
House - windows		<ul style="list-style-type: none"> • generally wider • heights generally consistent with submitted elevations 	
House - roof lights on rear elevation	<ul style="list-style-type: none"> • two small rooflights 	<ul style="list-style-type: none"> • two extended height rooflights 	<ul style="list-style-type: none"> • no measurement available
House - distance from east boundary with No. 3 Aylwards Rise	<ul style="list-style-type: none"> • 4m (inc. eaves) 	<ul style="list-style-type: none"> • 2.92m 	<ul style="list-style-type: none"> • distance 3.22m if 300mm eaves depth excluded • 780mm closer to east boundary but this reflects the inaccuracies in the layout plan, that indicates a building 3.55m narrower than approved

Feature	As Approved	As Built	Comment
Garage	<ul style="list-style-type: none"> width 5.5m inc. eaves depth - 7.5m inc. eaves width – 5.1m exc. eaves depth - 7m exc. eaves eaves projection 200mm height to eaves - 2.5mm pyramid roof - 4m max. height 1m to west boundary inc. eaves overhang 1.2m to west boundary exc. eaves overhang 2.1m from north west boundary inc. eaves overhang 	<ul style="list-style-type: none"> width 7m inc. eaves depth – 8.6m inc. eaves width - 6.3m exc. eaves depth - 7.2m exc. Eaves forward eaves projection 900mm side & rear eaves projection 360mm height to eaves - 2.29mm crown roof – 4.05m high 910mm to west boundary inc. eaves overhang 1.27m to west boundary, exc. eaves overhang 1.72m from north west boundary inc. eaves overhang 	<ul style="list-style-type: none"> no elevations submitted but architect confirmed (letter of 29.7.06) that the garage was to be as approved in P/2712/05/DFU garage as built is 1.2m wider and 200mm deeper excluding eaves than approved, with a substantial crown roof garage is 1.5m wider and 1.1m deeper including eaves, and closer to west boundary when measured from eaves
Additional Building Work Not Shown on Approved Plans			
Feature	As Approved	As Built	Comment
Steps to north side of garage			<ul style="list-style-type: none"> unauthorised development
Rear retaining wall and steps to upper rear garden			<ul style="list-style-type: none"> unauthorised development
Close boarded timber fence and block / rendered boundary wall - approx. 2m high			<ul style="list-style-type: none"> unauthorised development
4 air conditioning units sited on above boundary wall			<ul style="list-style-type: none"> unauthorised development
2 brick piers either side of entrance from Aylwards Rise- 1 now clad in limestone facings			<ul style="list-style-type: none"> unauthorised development height at present 1.9 and 2m respectively

Conclusions in Respect of Siting of House and Breaches of Planning Permission

Inaccuracies in Approved Drawings

2.16 The three principal approved drawings relating to the proposed new house are the layout plan (showing the original and the proposed houses), the ground and first floor

plan and the elevations. The latter plans have been drawn to a metric scale of 1:100. The layout plan is not to scale, but has a scale bar. Table 2 summarises the differences between these drawings and the house as built. Whilst it is now understood that the layout plan indicates a house footprint that is quite inaccurate (showing a house that is only 14.5m wide, including the eaves projections) the critical factor in granting permission was that the original south-west corner of the house was to line up with the principal south-west corner of the new house. The objective was to ensure that the two storey bulk of the new house would be no nearer the boundary with No. 5 Aylwards Rise than the original – a minimum distance of 11.5m. This is illustrated in **Appendices 1, 2 and 3** attached to this report.

2.17 A correlation of the applicant's proposals in respect of the siting of the new house can also be seen on the approved ground floor plan: ARP/TP/4/B. There is very little information on this plan about the siting of the house but there are two key features indicated on the drawing:

- a dimensioned distance of 3.1m between the side of the house and the boundary with No. 3 Aylwards Rise
- a line indicating the boundary with No. 5 Aylwards Rise to the south-west - this allows a check of the distance from the principal south-west corner of the proposed house from the boundary, namely 12.7m

The implications of the changes to the approved scheme, as referred to above, and set out in Tables 1 and 2, are considered later in this report.

Complainant's Comments and Officers' Findings

2.18 The points raised by the complainant's consultant about the distortion on the 2001 aerial photo (**Appendix 4**) are accepted, and it is clear that this photo cannot be relied upon. Similarly the general point about the accuracy of the Ordnance Survey plan is also accepted. The architects who submitted the relevant planning applications have confirmed that their plans were based upon this Ordnance Survey map.

2.19 However, the suggestion by the complainant's consultant that the house is sited at least 2.3m closer to the boundary with No. 5 is not accepted. The distance of the house from the boundary with No. 3 Aylwards Rise is confused by the submitted drawings as referred to in paras 2.15 and 2.16 above. The layout plan, showing the undersize house of 14.5m width inc. eaves is shown as 4m from that boundary. The ground floor plan indicates a distance of 3.1m. As built the house is between 2.9m and 3m – the house is not sited parallel to the boundary.

2.20 Having reviewed all the evidence available the Officers' conclusion is that the house as built is sited between 1 and 1.25m closer to No. 5 Aylwards Rise than approved, but this is because the position of the house has moved sideways rather than forward. However, as the flank boundary with No. 5 is splayed, the effect of this on the siting of the house is twofold:

- the building is sited further to the rear of No. 5 than approved
- the house is nearer to the boundary with No. 5 than approved

2.21 The principal south-west corner of the house as approved should have lined up with the similar point on the original house. However, the critical finding is that the house, as

built, has, in effect, been sited further westwards than approved, by between 1m and 1.25m, along the general original building line. On the approved site layout the correlation of the south west principal corner of the original and new house meant that the westernmost flank wall of the house should have aligned with the northern rear corner of the “cat-slide” roof at No. 5 Aylwards Rise. However, it is quite apparent on site that the south west flank wall of the house aligns with the first floor eaves line of the “catslide” roof – demonstrating that the house has been sited between 1m and 1.25m westwards of the agreed position (see **Appendix 3**). The effect of this incorrect siting is therefore to move the house closer to No. 5 Aylwards Rise and closer to the rear garden because of the orientation of the flank boundary between the two properties, with the consequent visual and amenity impact on the residents (see the section below on the expediency of enforcement action). Whether the house has also been sited forward of the original building line is less clear, but nevertheless it is quite clear that the house is closer to No. 5.

- 2.22 In addition it is also apparent that the building is between 300mm and 530mm higher than approved to eaves level, and it is reasonable to assume that there has been a commensurate increase in the overall height of the building.
- 2.23 The two single storey “extensions” on either side of the house are 450mm higher than approved by virtue of a parapet above the stone soldier course. There are also numerous other elements of the building that vary to a greater or lesser degree from the approved drawings - see **Table 2**.
- 2.24 In addition, there are a number of features that have been or are being constructed that do not have the benefit of planning permission - again see **Table 2**.
- 2.25 The effect of these variations is that the house and garage as built are materially different from, and do not accord with, the planning permission and therefore amount to unauthorised development that is a breach of planning control.
- 2.26 Similarly, the works that have been constructed outside of the planning permission amount to unauthorised development that is a breach of planning control. In summary, all of the works on site have been carried out without the benefit of planning permission.

Breach of Conditions Precedent

- 2.27 If there was any doubt that the breaches of planning control amount did not invalidate the planning permission the position is confirmed by a breach of conditions precedent. Planning permission P/979/06/DFU was subject to a number of conditions, including three conditions precedent, requiring details of the following to be submitted and approved before any development commenced:
- | | |
|--------------|------------------------|
| Condition 2: | details of materials |
| Condition 5 | details of landscaping |
| Condition 7 | details of levels |
- 2.28 No details were submitted prior to the commencement of works in summer last year. The position is that an applicant will be in breach of planning permission if development is started without complying with a condition requiring something to be done before that

start. Carrying out works in breach of such a condition will not satisfy the requirement to commence the development within the time permitted. The principal effect is that beginning development in breach of a planning condition will invalidate the planning permission.

- 2.29 Thus, planning permission P/979/06/DFU has been invalidated on two counts:
- i) failure to comply with conditions precedent; and
 - ii) failure to implement the development in accordance with the planning permission.

The applicant is therefore left with no planning permission for the development currently being built.

- 2.30 In normal circumstances there is a procedure available whereby an applicant may seek to retrieve his planning permission within the life of the permission (in this case three years). This is by submitting applications to vary the relevant conditions precedent to change the period for compliance (for example, before the building is occupied rather than before the development is commenced).

- 2.31 However, this avenue is not open to the applicant as the development as built is materially different from that which was granted planning permission. Additionally, there are the various other elements (**Table 2**) that were never included in the original permission P/979/06/ DFU.

- 2.32 The expediency of taking enforcement action is considered below.

Assessment of the expediency of taking formal enforcement action

- 2.33 The expediency of enforcement action is assessed with reference to guidance contained in PPG18 and Circular 10/97, both entitled 'Enforcing Planning Control'.

- 2.34 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 SD1	Quality of Design
Policy D4	The Standard of Design and Layout
Policy D5	New Residential Development – Amenity Space and Privacy

- 2.35 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 consultant 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.

- 2.36 In the Officer's report on application P/979/06/DFU the planning officer considers in the appraisal that "*the proposed dwelling would occupy an almost identical position within the extensive plot as the existing dwelling*" the main differences being in terms of width

and depth. The submitted plans, whilst not exact as to measurements, clearly show that the replacement dwellinghouse was to be sited on the same front building line as the original dwellinghouse in relation to No. 5 Aylwards Rise.

- 2.37 The replacement dwellinghouse does have a significantly larger footprint than the original dwellinghouse, due to its increased width and depth. Consequently it is considerably more imposing than the original dwellinghouse. In appraising the planning merits of the applications relating to the replacement dwellinghouse, the planning officer considered that whilst the new dwelling would be “more imposing”:

“...the plot width can reasonably accommodate a dwelling of increased proportions and the proposed siting of the dwellinghouse is sufficiently spaced from the flank boundaries, retaining adequate space about the building.

It is considered that the proposed increase in bulk 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 adjacent property. A newly developed replacement dwellinghouse at No. 3 is recessed significantly beyond the proposed rear of No. 4, and No. 5 is spaced significantly away and set in front of the siting of the proposed dwelling to negate the potential for any detrimental impact..”

- 2.38 The Council accepts that in terms of actual distance the siting of the replacement dwellinghouse does not accord with the plans approved by the grant of planning application ref. P/979/06/DFU. The available evidence suggests that the new house is between 1m and 1.25m closer to the boundary of No. 5 Aylwards Rise than approved, by reason of it being sited that distance further west than the siting agreed in application P/979/06/DFU, and is therefore closer to No. 5 Aylwards Rise by a similar distance. The effect of this is to place the house closer to the rear garden of No. 5 thereby making it more obtrusive and bulky. Additionally, the house is higher than indicated on the approved plans, by between 300mm and 530mm. Coupled with the closer siting of the house to the boundary with No. 5 this would simply emphasise the amenity impact of the new house on the amenity of the residents of that property. The latest planning permission was a significant increase in overall bulk of the approved house, and it is considered that the approved scheme should be regarded as the maximum scale of development.

- 2.39 The other breaches in respect of the house all add to the visual impact of the house, including:

- the significantly more bulky garage, largely resulting from the use of a crown roof, rather than the approved narrow profiled pyramid roof
- the additional size of the front and rear porches
- the larger windows
- the higher side extensions
- the siting closer to No. 3 Aylwards Rise

and result in a scale of development that has a significant visual impact in this cul-de-sac, and would be out of keeping with the other houses within the close. Although the houses in the close vary in size and footprint, there is nothing of the resulting scale and impact of this house.

- 2.40 The other breaches that have been identified vary in their potential impact. However, the two entrance piers in particular are considered to be visually obtrusive and out of character in Aylwards Rise. These are as yet unfinished and will be likely to include some form of capping that would emphasise their impact, and possibly entrance gates. These breaches are likely to be the subject of a future report to the development Management Committee.
- 2.41 Given the previous assessment of the planning merits of the replacement dwellinghouse and the consequent approval of the relevant planning applications, it is considered that a house that is higher and closer than approved in the second permission would have a material impact:
- on the residential amenity of neighbouring residents, in particular, No. 5 Aylwards Rise; and
 - on the character of the locality, resulting from a house that would be significantly larger than any other in the cul-de-sac
- 2.42 Approval of the two planning applications was based upon the principle that the principal south-west corner of the replacement dwellinghouse would be on the same front corner line as the original dwellinghouse, and the Council was satisfied that such a dwellinghouse complied with adopted UDP policies. The house as built, with its associated development, is considered to vary materially from the latest planning permission, being higher and therefore more bulky than approved, and being sited between 1m and 1.25m rearwards of, and closer to the flank boundary of, No. 5 Aylwards Rise. The additional amenity impact of the larger dwellinghouse is considered to result in significant impact, sufficient to warrant enforcement action.
- 2.43 The visual impact of the whole development is emphasised by the additional bulk and massing of the detached garage, which is wider, deeper and finished with a bulky crown roof, clearly visible from No. 5 Aylwards Rise, the neighbouring property that is set at a lower level than No. 4.
- 2.44 Although the Council has clearly accepted the principle of a replacement dwellinghouse on this site, permission was granted on the strict understanding that the siting was related closely to the original dwellinghouse. This position was emphasised when the amended application was granted, and this was regarded as the maximum acceptable level of development on this site. At this point it is clear that the development was acceptable based on our understanding of the nature of the scheme. It is unfortunate that the errors in the layout plan were not recognised at an earlier stage. Notwithstanding that, it is now apparent that the house and garage are in any event larger than that granted permission, with the house being sited materially closer than approved to No. 5 Aylwards Rise.
- 2.45 Whether the house is also sited forward of the original building line is not clear, but the effect of the 1m to 1.25m discrepancy on the siting of the house is clearly to bring the house materially closer to No. 5 than agreed. In fact, the effect is greater than if the house had been sited directly forward of the original building line as the house is now much more prominent seen from the rear garden of no. 5. Coupled with the additional bulk and height of the dwellinghouse building referred to in Table 2 above, and with the associated additional bulk and scale of the garage, the development as a whole is

therefore significantly larger and more obtrusive. Having regard to the provisions of the UDP Policies and other material considerations it is considered that, in the circumstances, the only practical course of action is to require the demolition of the replacement dwellinghouse and garage.

- 2.46 Any recipient of an enforcement notice has the right of appeal to the Planning Inspectorate against that notice on a number of grounds, including that a breach of planning control has not occurred or that planning permission should be granted for the development that is the subject of the notice. Ordinarily each party bears their costs in connection with any appeal. However, the Inspectorate has the right to award costs against any party for unreasonable conduct of the appeal.
- 2.47 In assessing the expediency of enforcement action, regard was had to the whether enforcement action in respect of this unauthorised dwellinghouse may occasion an interference with the recipients' human rights. It is recognised that the unauthorised dwellinghouse is probably designed to be the owners' main residence. However, given the apparent harm caused to the residential amenities of neighbours and the character of the area, on balance enforcement action is deemed proportionate to the legitimate aim of development control.

The Alleged Breaches of Planning Control

- 2.48 Without planning permission, the demolition of a detached two storey dwelling;
- 2.49 Without planning permission, the construction of a detached two storey house;
- 2.50 Without planning permission, the construction of a detached garage.
- 2.51 In breach of conditions precedent the demolition of a detached dwellinghouse.

Reasons for Taking Enforcement Action

- 2.52 It appears to the Council that the above breaches of planning control occurred within the last 4 years.

Reasons for Issuing the Notices

Detached House

- 2.53 The development of the two storey detached house, by reason of excessive height, scale, and massing, and prominent siting in relation to neighbouring residential property, is unduly obtrusive, detrimental to the amenities of the neighboring residents, and detracts from the established pattern of development in the street scene, to the detriment of the character of the locality, contrary to Polic(ies) D4 and D5 of the Harrow Unitary Development Plan.
- 2.54 The proximity of the house as built to the boundary with No. 5 Aylwards Rise would allow overlooking of the rear garden of that property and result in an unreasonable loss of privacy to the detriment of the amenities of the occupiers of that property, contrary to Policy D5 of the Harrow Unitary Development Plan.

2.55 The Council does not consider that planning permission should be granted because planning conditions cannot overcome these problems.

Detached Garage

2.56 The development of the detached garage, by reason of excessive height and bulk, and prominent siting in relation to neighbouring residential property, is unduly obtrusive, detrimental to the amenities of the neighboring residents, and detracts from the established pattern of development in the street scene, to the detriment of the character of the locality, contrary to Polic(ies) D4 and D5 of the Harrow Unitary Development Plan.

2.57 The Council does not consider that planning permission should be granted because planning conditions cannot overcome these problems.

SECTION 3 - STATUTORY OFFICER CLEARANCE

Chief Finance Officer	<input type="checkbox"/>	Name: Sheela Thakrar
		Date: 19 July 2007
Monitoring Officer	<input type="checkbox"/>	Name: Suzan Yildiz
		Date: 19 July 2007

SECTION 4 - CONTACT DETAILS & BACKGROUND PAPERS

Contact

Frank Stocks (frank.stocks@harrow.gov.uk)

Background Papers

- Unitary Development Plan adopted 30th July 2004
- Planning applications re. P/2712/05/DFU and P/979/06/DFU

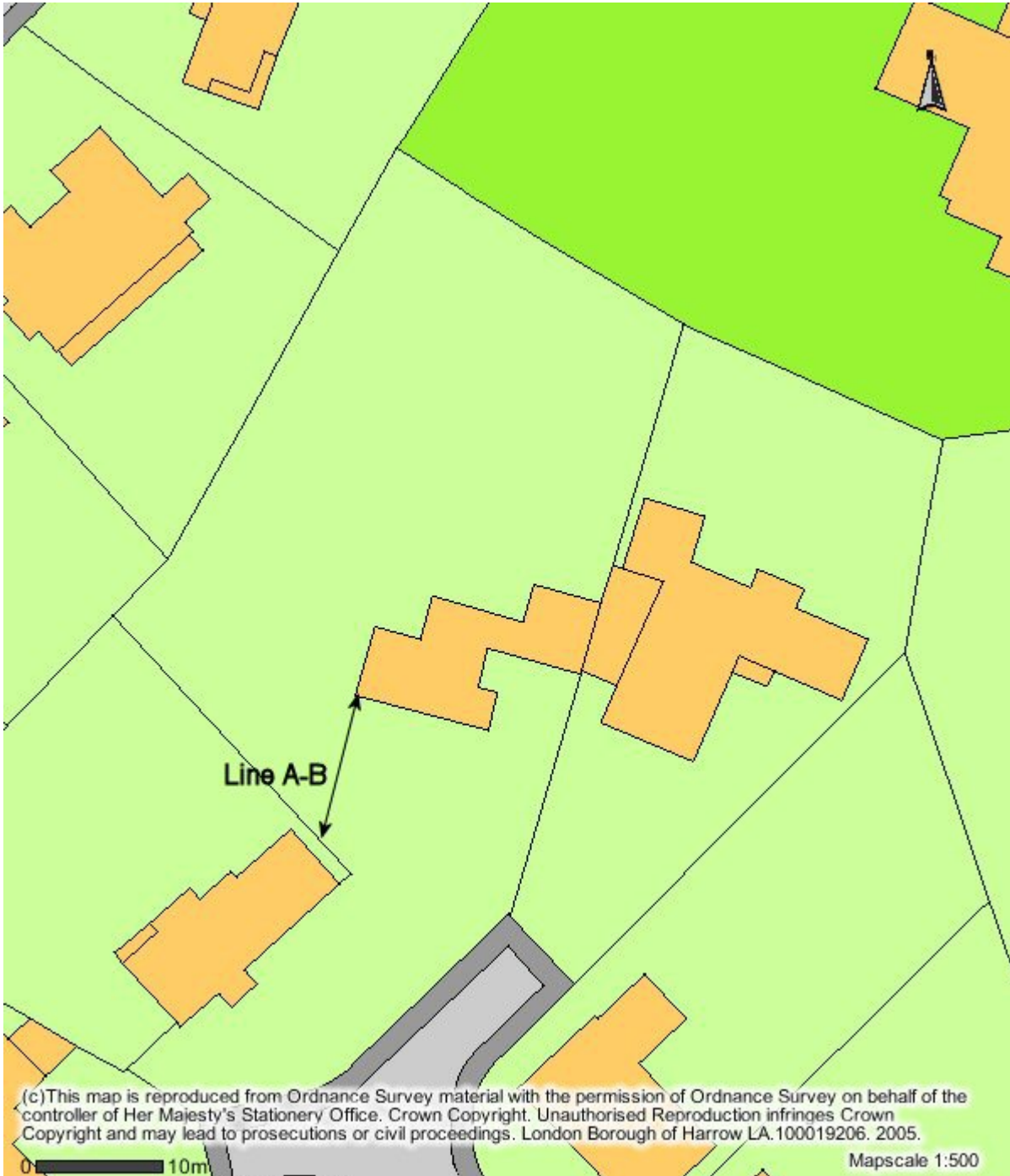
IF APPROPRIATE, does the report include the following considerations?

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

APPENDIX 1

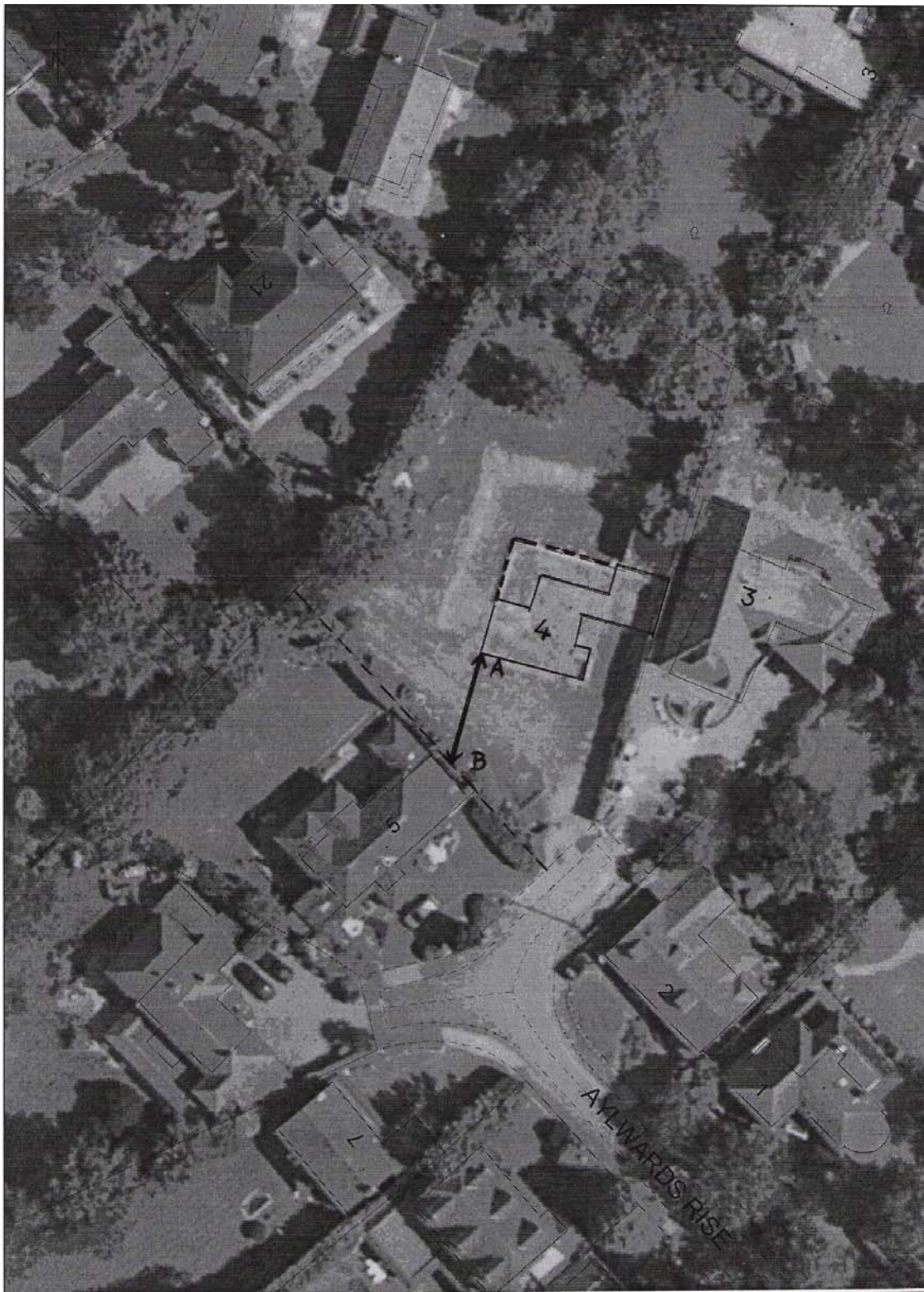
Ordnance Survey Map (Scale 1:500) of 4 Aylwards Rise
on which the plans submitted with the planning application were based

A>B distance: 11.5m
(distance from corner of original house to boundary of No. 5 Aylwards Rise)



APPENDIX 2

Aerial Photo (autumn 2006) with overlay of Ordnance Survey - Scale 1:500 [A>B: 11.5m]



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London Borough of Harrow 100019206

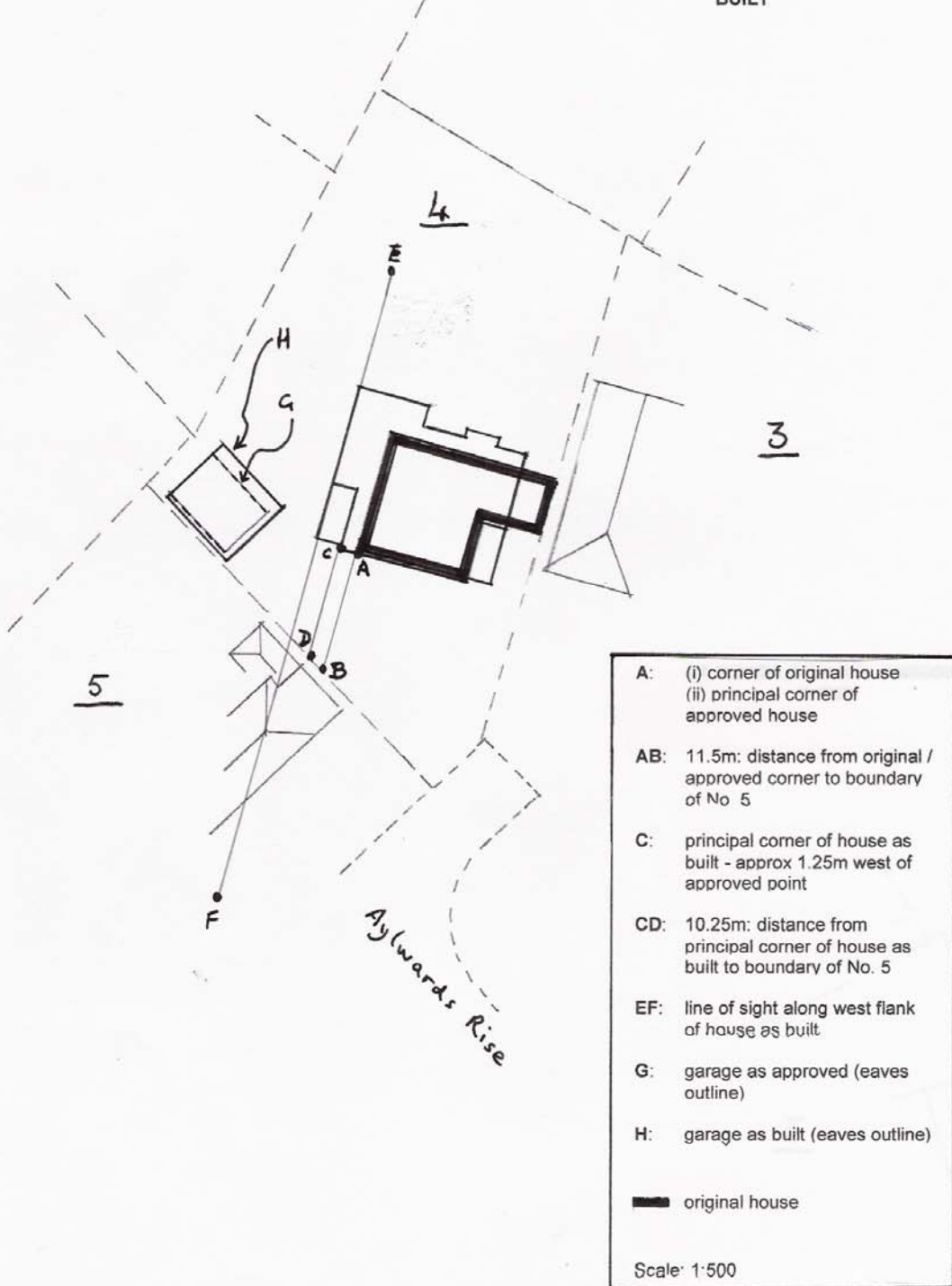
Date: 03/07/2007

Scale: 1:500

APPENDIX 3

4 AYLWARDS RISE,
STANMORE

COMPARATIVE POSITIONS OF
ORIGINAL HOUSE & HOUSE AS
BUILT



APPENDIX 4

Aerial Photo 2001
(inaccurate representation of distance caused by distortion of perspective)

