



DEVELOPMENT CONTROL COMMITTEE

TUESDAY 17 OCTOBER 2006

SUPPLEMENTAL COMMITTEE AGENDA

AGENDA - PART I

16. **Any Other Urgent Business:**

16.(a) 4 Latimer Gardens, Pinner: (Pages 1 - 10)
Report of the Head of Planning

16.(b) 19 Victoria Terrace, Harrow on the Hill: (Pages 11 - 17)
Report of the Head of Planning

AGENDA - PART II - NIL

Note: In accordance with the Local Government (Access to Information) Act 1972 (as amended), the following agenda item has been admitted late to the agenda by virtue of the special circumstances and urgency detailed below:-

<u>Agenda item</u>	<u>Special Circumstances/Grounds for Urgency</u>
16a. 4 Latimer Gardens, Pinner	The report was not finalised at the time the agenda was printed and circulated. Members are asked to consider this item, as a matter of urgency, in order to allow an enforcement notice to be served for breach of planning control (subject to Committee approval) and to ensure that the breach does not become immune from enforcement action.

16b. 19 Victoria Terrace,
Harrow on the Hill

The report was not finalised at the time the agenda was printed and circulated. Members are asked to consider this item, as a matter of urgency, in order to allow an enforcement notice to be withdrawn and avoid costs being awarded against the Council.



Meeting:	Development Control Committee
Date:	17 th October 2006
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

This report relates to the insertion of replacement uPVC double glazed windows to this mid-terraced dwellinghouse, located within the Pinnerwood Park Conservation Area and also subject to an Article 4(2) Direction enabling control to be exercised over the replacement of windows on the elevations of dwellinghouses fronting a highway, waterway or open space.

Planning permission has been refused for the retention of the replacement windows and a subsequent appeal against this decision has been dismissed by the Planning Inspectorate.

Having regard to the provisions of the Unitary Development Plan and all other material planning considerations, the Council intends to serve an Enforcement Notice requiring the removal of the uPVC windows from the front elevation of the property, and the submission to the Council of full details, in writing, of an fenestration scheme, for determination by the Council.

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 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 removal of all uPVC replacement windows to the front (northern), elevation of the dwellinghouse.
 - (ii) The submission of a fenestration scheme, for approval by the Council, relating to the front elevation of the dwellinghouse, and the subsequent implementation of that scheme.
 - (iii) The permanent 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.

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 the installation of these windows that is the breach of planning control which is the subject of this report.
- 2.4 In April 2005, the Council refused to grant retrospective planning permission (application ref. P/995/03/CFU for the retention of replacement UPVC windows inserted at the dwellinghouse that is the subject of this report.
- 2.5 This application was refused for the following reasons;

'The UPVC windows proposed to the front elevation, by reason of unsatisfactory materials and appearance, would detract from the character and appearance of the property and fail to preserve or enhance this part of the Pinnerwood Park Estate Conservation Area.'

2.6 The owner of the dwellinghouse subsequently exercised his right of appeal against this decision, but in April 2005 the Planning Inspectorate, on behalf of the Secretary of State, dismissed this appeal, concluding that the replacement windows did not comply with the Council's adopted Unitary Development Plan and Supplementary Planning Guidance and did not contribute to preserving or enhancing the character or appearance of the Pinnerwood Park Estate Conservation Area.

2.7 The expediency of enforcement action is assessed with reference to guidance contained in PPG18 and Circular 10/97, both entitled 'Enforcing Planning Control', guidance contained in PPG15, entitled 'Planning and the Historic Environment', and also Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, which establishes a general duty upon Councils to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area in the exercise of planning functions.

2.8 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)
- Policy D16 (Conservation Area Priority)
- Policy D17 (Article 4 Directions)

- 2.9 Also of relevance is the Council's Supplementary Planning Guidance, in this case the Policy Statement on the Pinnerwood Park Estate Conservation Area, in particular Policy 8, which states 'The Council will encourage the retention of original design features, such as windows and doors, and where necessary will require the use of replica features in traditional materials in replacement and new works. Aluminium and uPVC will not normally be considered acceptable.
- 2.10 The Council considers that the replacement windows are out of keeping with the predominant character and appearance of the Conservation Area, which has a distinctive architectural style and cohesive appearance. Whilst the Council accepts that numerous properties within both Latimer Gardens and the Conservation Area as a whole have had replacement windows installed, the windows that are the subject of this report have little similarity to the original windows in Latimer Gardens, unlike the majority of the other replacement windows present.
- 2.11 The materials and design of the replacement window frames and casements also fail to replicate the traditional timber framed windows that prevail within the Conservation Area. This is evident in the width and profile of the frames and the overlap of the opening lights.
- 2.12 Additionally, plastic strips inserted within the glazed units in order to reproduce the effect of small pane sub-divisions within the individual windows give a different effect to the original windows. The first floor windows have 3 horizontal strips, giving an impression of 16 small panes in each window, whereas in the windows of the adjoining property (and the original windows to the report property itself) there are only 12 panes in each window, resulting in a more traditional vertical emphasis.
- 2.13 The Inspector who determined the relevant planning appeal, in discussing the merits of the replacement windows, stated in his decision notice;

'The intrinsic design, material and construction of the frames and the glazing results in distinct differences in appearance compared with the traditional wood frames and casements of the original windows in Latimer Gardens so that, in my view, they do not adequately reflect their appearance.'

2.14 Consequently the replacement windows fail to comply with the Policy 8 of the Pinnerwood Park Estate Conservation Area Policy Statement, which seeks to retain the original timber windows and resists the installation of inappropriate uPVC or aluminium replacements.

2.15 Furthermore, the replacement windows fail to preserve or enhance the character or appearance of the Pinnerwood Park Estate Conservation Area, and therefore also conflict with adopted UDP Policies SD1 and SD2.

2.16 Accordingly enforcement action is recommended to secure the removal of these unauthorised windows and the submission of a fenestration scheme to the Council for determination and approval (if acceptable), and such action would be entirely consistent with the previous application decision and the subsequent appeal decision.

SECTION 3 - STATUTORY OFFICER CLEARANCE

Chief Finance Officer	<input checked="" type="checkbox"/>	Name: Anil Nagpal
		Date: 13/10/2006
Monitoring Officer	<input checked="" type="checkbox"/>	Name: <u>David Galpin</u>
		Date: 16/10/2006

SECTION 4 - CONTACT DETAILS AND BACKGROUND PAPERS

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

Background Papers

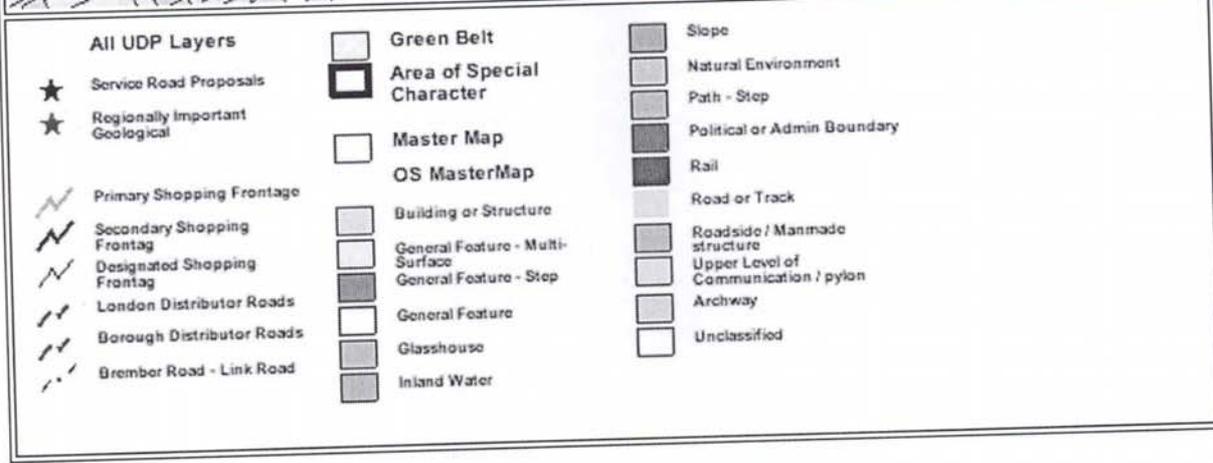
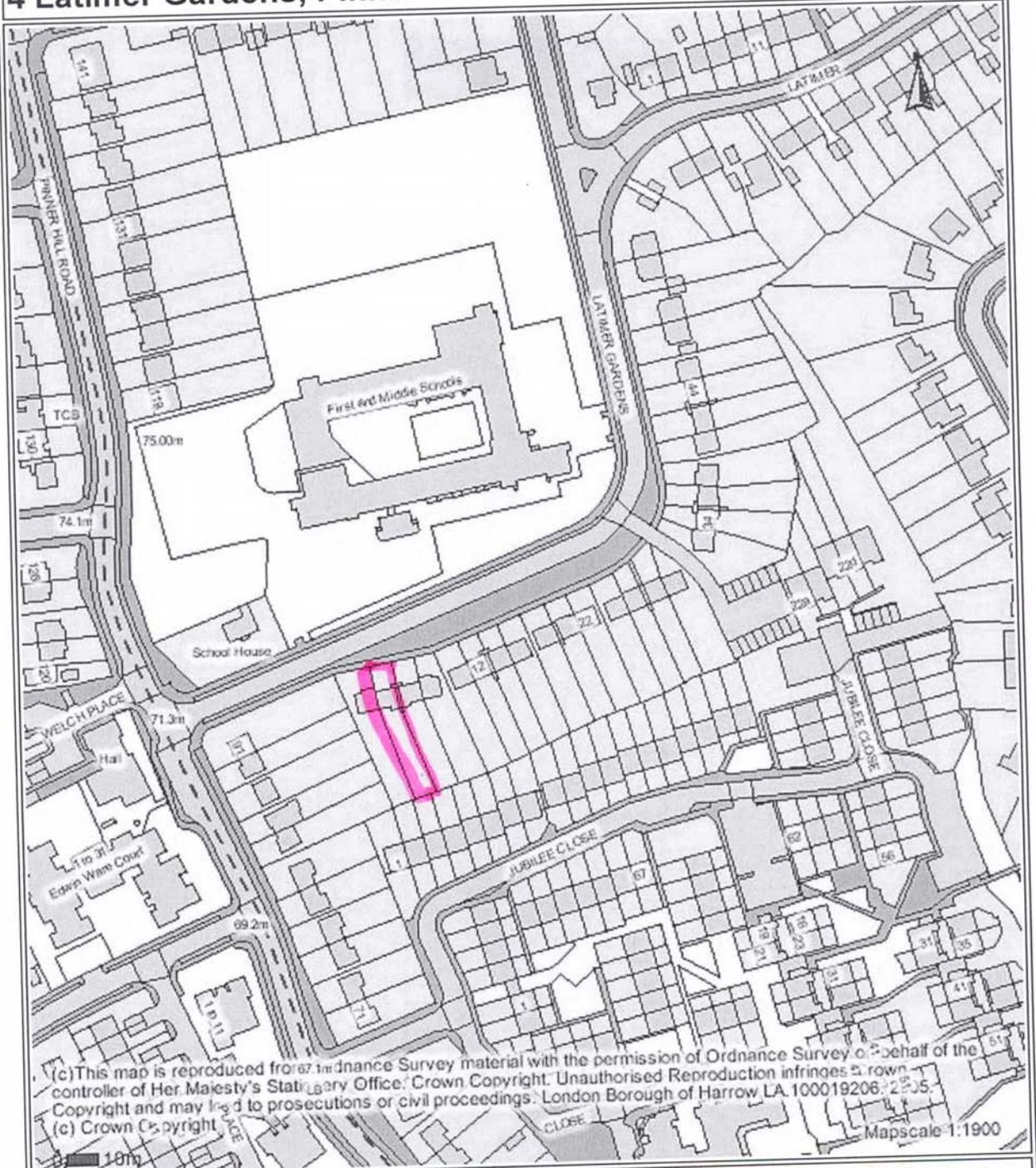
- Unitary Development Plan
- Pinnerwood Park Estate Conservation Area Policy Statement

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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4 Latimer Gardens, Pinner



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Meeting:	Development Control Committee
Date:	17 th October 2006
Subject:	19 Victoria Terrace, Harrow on the Hill
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

This report relates to the installation of two rectangular shaped uPVC double glazed windows to the northern (rear) elevation to this detached dwellinghouse at ground floor level. The dwellinghouse is sited within the Harrow on the Hill Village Conservation Area, and is also subject to an Article 4(2) Direction enabling control to be exercised over the insertion or replacement of windows on the elevations of dwellinghouses, with the exception of the rear elevation.

In June 2006 the Council issued an enforcement notice in respect of these two windows, requiring them to be removed and the wall re-instated to match the existing walls. An appeal has subsequently been lodged against this enforcement notice and this appeal is to be heard by way of a Public Inquiry.

However, the Council now wishes to withdraw its enforcement notice, as it considers that one of the requirements of the enforcement notice is vague and consequently the notice is legally defective, and also it is considered that a breach of planning control has not occurred as the installation of windows on the rear elevation is not covered by the Article 4(2) Direction and consequently the insertion of the windows constitutes permitted development under Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

RECOMMENDATIONS:

That the Committee endorse the Council's exercise of 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 14th June 2006 in relation to the installation of two windows in the ground floor northern elevation of the property at 19 Victoria Terrace, Harrow on the Hill.

SECTION 2 - REPORT

- 2.1 The site that is the subject of this report, 19 Victoria Terrace, Harrow on the Hill, consists of a two-storey detached dwellinghouse located on the northern side of this predominantly residential cul-de-sac, which, with the exception of No. 19, comprises terraced properties.
- 2.2 The dwellinghouse that is the subject of this report and the surrounding area fall within Harrow on the Hill Village Conservation Area, which was designated in 1968 and the area is also covered by an Article 4(2) Direction from 1983 removing certain permitted development rights, including the installation of doors and windows on all elevations of dwellinghouses, other than the rear elevation, without planning permission.
- 2.3 In November 2004, the Council established that two rectangular shaped uPVC double glazed windows had been installed in the northern elevation of the original dwellinghouse. These windows replaced two oval shaped windows that were part of the original dwellinghouse.

2.4 In October 2005, the Council refused to grant retrospective planning permission (application ref. P/2177/05/DCO) for the retention of the two windows in the northern elevation of the property.

2.5 This application was refused for the following reasons;

'The retention of the windows in the north elevation, by reason of siting and location in relation to residential properties, would permit unreasonable actual and perceived overlooking of No. 1 and No. 2 Wellington Terrace, to the detriment of the privacy amenity of the neighbouring occupiers.'

2.6 An appeal against this decision to refuse planning permission is currently being determined by the Planning Inspectorate on behalf of the Secretary of State.

2.7 On 14th June 2006, the Council issued an enforcement notice in relation to the installation of the two windows on the northern elevation of the property at ground floor level. This enforcement notice required the removal of the two windows, and the re-instatement of the walls to match the existing walls, within three calendar months of the notice taking effect.

2.8 Before this notice had taken effect, an appeal against it was lodged with the Planning Inspectorate, on behalf of the Secretary of State, and this appeal is to be heard by way of a Public Inquiry.

2.9 Following a review of the circumstances surrounding this case, the Council now considers that the installation of the two windows in the northern elevation of the dwellinghouse at ground floor level constitutes permitted development under Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), and accordingly planning permission is not required for their installation and no breach of planning control has occurred.

- 2.10 Under Class A, the insertion, enlargement, improvement or other alteration of a window in an existing wall of a dwellinghouse does not require planning permission. However, an Article 4(2) Direction from August 1983 removes permitted development rights for the insertion of windows into the wall of an original dwellinghouse.
- 2.11 Notwithstanding this, the Article 4(2) Direction goes on to state that in relation to rear walls, planning permission is not required for alterations to, and replacement of, doors and windows. The windows that are the subject of this report are in the rear elevation of the dwellinghouse at 19 Victoria Terrace, and therefore benefit from permitted developments rights under Class A. Consequently no breach of planning control has occurred and the Council should not have issued an enforcement notice.
- 2.12 Additionally, it is also considered that one of the requirements of the enforcement notice is imprecise and vague, and consequently the Council considers that the Inspector appointed to determine the enforcement notice would rule the notice defective and quash it.
- 2.13 The second requirement of the enforcement notice states, “re-instate the walls to match the existing wall”. Neither within the enforcement notice nor on the attached plan is it clarified which walls need to be re-instated, nor which of the existing walls the re-instated wall should match.
- 2.14 Government guidance emphasises the need for clear and correct specification of the steps that must be taken to secure with an enforcement notice is fundamental, so that any recipient of an enforcement notice must be able to establish from the notice exactly what he or she is required to do or abstain from doing.

- 2.15 It is considered that the second requirement of the enforcement notice does not clearly set out what steps any recipient needs to take to remedy this breach, nor does it consider that such a fundamental error would be able to be altered by an Inspector determining an appeal without causing injustice.
- 2.16 Therefore, due to the circumstances outlined, the Council wishes to withdraw its enforcement notice issued on 14th June 2006. Failure to withdraw this enforcement notice is likely to result in substantial costs being awarded against the Council at any Public Inquiry resulting from the serving of the notice, with an Inspector likely to conclude that the Council has acted unreasonably and caused the appellant un-necessary financial expense.
- 2.17 The Council will likely have to pay costs to the recipient of the notice upon withdrawal of the enforcement notice in any event. These costs will be minimised by withdrawing the enforcement notice sooner rather than later. The cost will be paid by the Planning Services Team.

SECTION 3 - STATUTORY OFFICER CLEARANCE

Chief Finance Officer	<input checked="" type="checkbox"/>	Name: Anil Nagpal Date: 16/10/2006
Monitoring Officer	<input checked="" type="checkbox"/>	Name: <u>David Galpin</u> Date: 16/10/2006.

SECTION 4 - CONTACT DETAILS AND BACKGROUND PAPERS

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

Background Papers

- Unitary Development Plan
- Harrow on the Hill Village Conservation Area Policy Statement

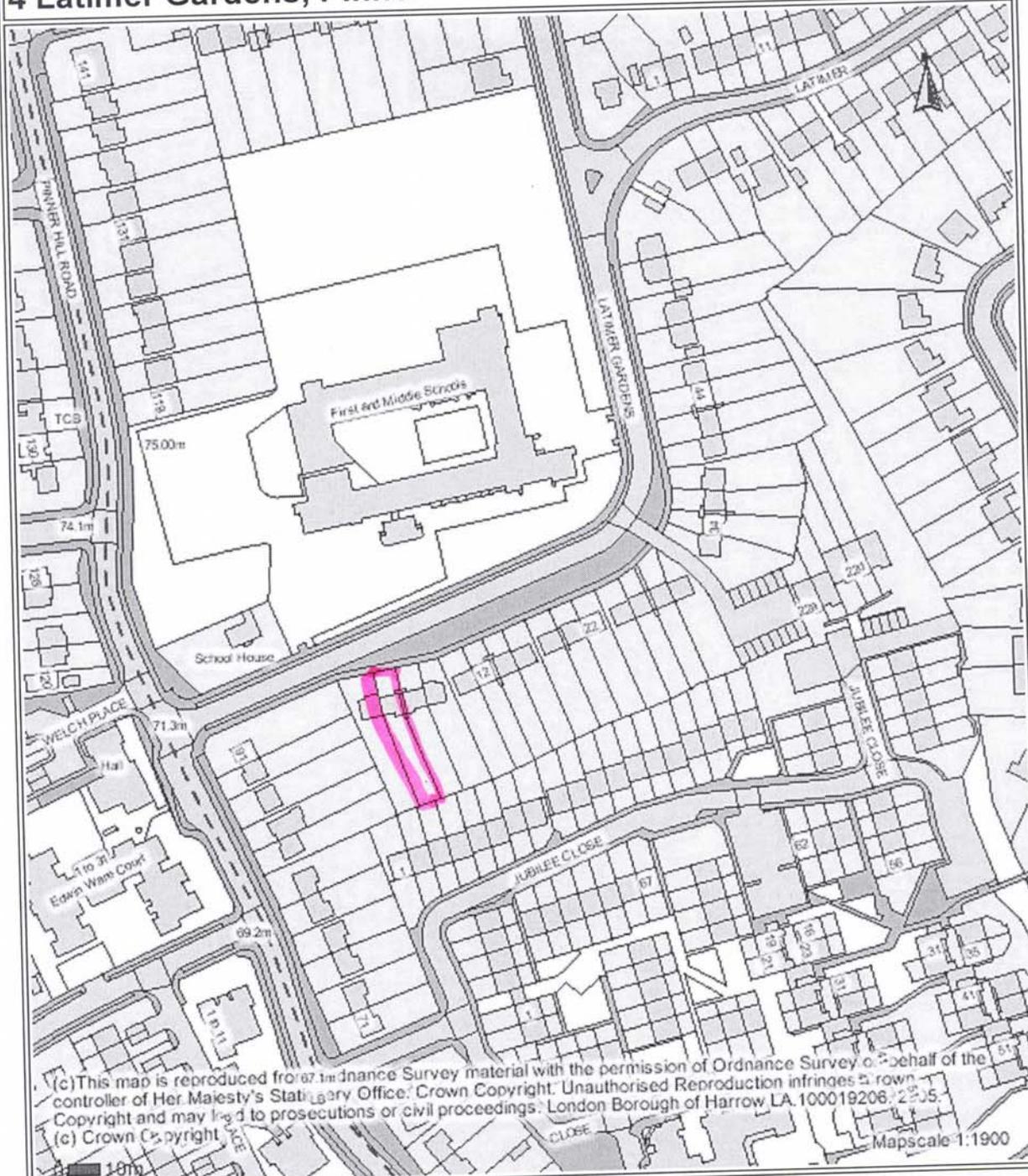
IF APPROPRIATE, does the report include the following considerations?

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

19 Victoria Terrace, Harrow-on-the-Hill



4 Latimer Gardens, Pinner



All UDP Layers		
★ Service Road Proposals	□ Green Belt	▒ Slope
★ Regionally Important Geological	◻ Area of Special Character	▒ Natural Environment
⚡ Primary Shopping Frontage	□ Master Map	▒ Path - Step
⚡ Secondary Shopping Frontage	□ OS MasterMap	▒ Political or Admin Boundary
⚡ Designated Shopping Frontage	▒ Building or Structure	▒ Rail
⚡ London Distributor Roads	▒ General Feature - Multi-Surface	▒ Road or Track
⚡ Borough Distributor Roads	▒ General Feature - Step	▒ Roadside / Manmade structure
⚡ Brember Road - Link Road	▒ General Feature	▒ Upper Level of Communication / pylon
	▒ Glasshouse	▒ Archway
	▒ Inland Water	□ Unclassified