

Committee	PLANNING COMMITTEE (A)	
Report Title	5 DUNCOMBE HILL SE23 1QY	
Ward	Crofton Park	
Contributors	Jody Solomons	
Class	PART 1	Date: 19 MAY 2011

## **REQUEST FOR ENFORCEMENT ACTION**

### **Background Papers**

- (1) Case File LE/31/C/TP
- (2) Adopted Unitary Development Plan (July 2004)
- (3) PPS 1: Delivering Sustainable Development
- (4) PPG18: Enforcing Planning Control

### **1.0 Introduction**

- 1.1 This report deals with a breach of planning control at 5 Duncombe Hill involving the unauthorised construction of a rear extension and assesses whether it is expedient for the Council to instigate formal enforcement action in an attempt to secure its removal.

### **2.0 Property/Site Description**

- 2.1 The application property is a two-storey semi-detached residential property located behind the commercial premises known as Prestige Autos, located at no. 1 – 5 Codrington Hill SE23. The rear extension that is the subject of this report was constructed to be used as part of Prestige Autos. The property is also located on the Corner of Duncombe Hill and Brockley Rise.
- 2.2 The area surrounding the subject property is mainly residential in nature and it is not located within a Conservation Area.

### **3.0 Planning History**

- 3.1 In December 2009 a complaint was received regarding the erection of a rear extension constructed in addition to the extension approved 2008, a site visit carried out confirmed this. The owner of the property was then advised to submit a planning application in an attempt to secure retrospective planning permission for the rear extension.
- 3.2 In April 2008 an application was submitted to the Council for The construction of a single storey extension in the rear garden of 5 Duncombe Hill SE23, to provide an office to the existing Prestige Autos 2000,1-5 Codrington Hill SE23, this application was granted with planning permission.
- 3.3 Numerous discussions were held with the owner regarding the unauthorised erection of the additional rear extension, however no attempts were made to remove the extension.

## 4.0 Policy Context

### Planning Policy Statement 1: Delivering Sustainable Development

- 4.1 Paragraph 18 under the heading of the Protection and Enhancement of the Environment states that ‘the condition of our surroundings has a direct impact on the quality of life.... Planning should seek to maintain and improve the local environment and help to mitigate the effects of declining environmental quality...’ The policy goes further to say that ‘...decisions should be based on: – up-to-date information on the environmental characteristics of the area; the potential impacts, positive as well as negative, on the environment of development proposals (whether direct, indirect, cumulative, long-term or short-term) and recognition of the limits of the environment to accept further development without irreversible damage.’
- 4.2 PPG 18 Enforcing Planning Control provides guidance to local authorities on the use of enforcement powers.

### Adopted Unitary Development Plan (July 2004)

- 4.3 Policy IRM 5 states that in circumstances where it is considered necessary in the public interest, the Council will take enforcement action against those who undertake development or carry out works without planning permission. UDP policies that are relevant to the case are:

HSG 4 – Residential Extensions  
URB 3 - Urban Design

### Lewisham Core Strategy

- 4.4 Lewisham is in the process of replacing the UDP with the documents that comprise the Local Development Framework (LDF). The most important document in the LDF is the Core Strategy. The Lewisham Core Strategy was submitted to the Secretary of State on 29th October 2010 and its Examination in Public was held on 1st and 2nd February 2011. The Inspector’s draft report was received by the Council on 10th March and a final report will be issued by the Inspector towards the end of March. The Inspector has found the Core Strategy to be sound provided certain minor changes identified in his report are made. In accordance with the regulations Officers will make the necessary changes with the intention of adopting the core strategy subject to its approval at the full Council meeting in June 2011.
- 4.5 For development control purposes the Core Strategy will become part of the development plan when adopted by resolution of the full council. Government advice on the weight to be attached to emerging DPD policies is that this is determined on the stage of preparation or review, increasing as successive stages are reached. As the Core Strategy has, in principle, been found sound all that remains for legal adoption is a resolution of full council. As such, considerable weight can now be attached to the Core Strategy in the decision making process.

## **5.0 Planning Considerations**

- 5.1 The main planning considerations relate to the impact of the rear extension on the amenities enjoyed by the surrounding neighbours within the context of the Councils policies.
- 5.2 UDP policy HSG 4 (Residential Amenity) states that the Council will seek to improve and safeguard the character and amenities of residential areas through ensuring that new buildings are sited appropriately and resisting the siting of incompatible development in residential areas. The poorly designed extension, extends into the rear garden of no. 5 Duncombe Hill, measuring about 20 sqm has a detrimental impact on the character of the property and the amenities enjoyed by the surrounding neighbours, as its location also causes a loss of privacy and amenity space to the residents occupying no. 5 Duncombe Hill as it reduces the size of the rear garden, which is contrary to policy HSG 4 of the UDP.
- 5.3 Further, the construction of this addition to the approved rear extension increases the size of the previously approved side extension by approximately 20 sqm. As such the extension to this commercial property is not compatible with the character of the existing development and its setting, which is predominantly residential, making it contrary to policy URB 3 Urban Design of the Unitary Development Plan
- 5.4 Core Strategy Policy 15 requires a high standard of design for all developments in Lewisham, this extension does not meet the requirements of this policy. The policy states that the Council will, apply the national and regional policy and guidance to ensure the highest quality and design and the protection or enhancement of the historic and natural environment, which is sustainable, accessible to all, optimises the potential of sites and is sensitive to the local context and responds to local character. This rear addition does not meet any of the above-mentioned requirements as it reduces the optimal potential of the residential premises known as 5 Duncombe Hill and was not constructed in a manner, that is sensitive to the character and amenities of this residential unit and its occupants.
- 5.5 As a result the rear extension constructed at the above-mentioned property is considered to be an unacceptable form of development, which has a detrimental impact on the character and appearance of the host building and the amenities enjoyed by its surrounding residents and as such it is considered expedient to take enforcement action in this instance.

## **6.0 Legal Implications**

- 6.1 Government Policy advice to Local Planning Authorities on the use of their enforcement powers is set out in Planning Policy Guidance Note No 18. PPG 18 sets out the issues which local planning authorities should bear in mind when taking enforcement action as follows:-
- (1) They have been given primary responsibility for taking whatever enforcement action may be necessary in the public interest.
  - (2) The Local Government Ombudsman can make a finding of "maladministration" if a Council fails to take enforcement action when it is plainly necessary to do so.

- (3) The decisive issue in every case is whether the breach of planning control would unacceptably affect public amenity or the existing use of land or buildings meriting protection in the public interest.
- (4) Enforcement action should always be commensurate with the breach of planning control involved.
- (5) Where attempts to persuade the site owner or occupier to voluntarily remedy the breach are unsuccessful, negotiation on that issue should not be allowed to hamper the taking of whatever formal enforcement action, which may be required.

## **7.0 Conclusion**

7.1 The rear extension, by reason of its poor design, size and form, represents an incongruous, obtrusive feature to the rear of the existing building, which negatively impacts on the amenity of neighbours, causing a loss of privacy to the residential occupants of 5 Duncombe Hill. The unauthorised development is therefore contrary to Policies URB 3 Urban Design and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004) and Core Strategy Policy 15, which relates to a High Quality of design for all development in Lewisham.

## **8.0 RECOMMENDATION**

Authorise the Head of Law to take all necessary action to secure the removal of the unauthorised extension located at the rear of 5 Duncombe Hill SE23 for the following reason:-

The rear extension, by reason of its poor design, size and form, represents an incongruous, obtrusive feature to the rear of the existing building, which negatively impacts on the amenity of neighbours, causing a loss of privacy to the residential occupants of 5 Duncombe Hill. The unauthorised development is therefore contrary to Policies URB 3 Urban Design and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004) and Core Strategy Policy 15, which relates to a High Quality of design for all development in Lewisham.

Period of Compliance:

6 Months