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| Committee | PLANNING COMMITTEE (A) | |
| Report Title | 26 FARLEY ROAD SE6 2AB | |
| Ward | Rushey Green | |
| Contributors | Jody Solomons | |
| Class | PART 1 | Date: 19 MAY 2011 |

REQUEST FOR ENFORCEMENT ACTION

Background Papers

- (1) Case File EN/10/00142
- (2) Adopted Unitary Development Plan (July 2004)
- (3) Emerging Local Development Framework (May 2007)
- (4) The London Plan

Zoning

Adopted UDP - Existing Use

1.0 Introduction

- 1.1 This report deals with a breach of planning control at 26 Farley Road involving the unauthorised use of a single family dwellinghouse as two self-contained flats and assesses whether it is expedient for the Council to instigate formal enforcement action to secure the cessation of the property's use as flats in order that it may be brought back into use as a single family dwellinghouse.

2.0 Property/Site Description

- 2.1 The application property is a two-storey mid-terrace dwelling house, located on the southern side of Farley Road.
- 2.2 The property is not located in a Conservation Area.

3.0 Planning Enforcement History

- 3.1 There is no relevant planning history for this site, however the Council's Council Tax records show that the property has been split into two separate units since January 2008.
- 3.2 A complaint was received from the Council's Environmental Health department regarding the unauthorised conversion of the property into two self-contained flats and concerns as to the internal layouts of the resultant flats. The property has been divided into a one bedroom flat, flat A which is located on the ground floor and flat B at the first floor level.
- 3.3 The owners of the both flats were then contacted and advised to regularise the use of the property and return it to being capable of re-use as a single family dwelling house, as the property's original net floor area measures less than the conversion threshold of 130 sq metres, as specified in Policy HSG 9 of the Council's Unitary Development Plan. No such works have been carried out and as such it is considered expedient to take planning enforcement action.

4.0 Breach of Planning Control

- 4.1 The property has been converted from a single family dwelling unit into two one-bedroom self contained flats.

5.0 Policy Context

Planning Policy Statement 1: Delivering Sustainable Development

- 5.1 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.'
- 5.2 PPG 18 Enforcing Planning Control provides guidance to local authorities on the use of enforcement powers.

Local Development Framework

- 5.3 The Council's Core Strategy has been prepared and submitted to the Secretary of State. Its Examination in Public took place in early February 2011. Its Policies are now material considerations to be taken into account in the determination of planning applications with the weight to be applied increasing as successive stages are reached prior to its expected adoption later this year.

Adopted Unitary Development Plan (July 2004)

- 5.4 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:

5.4.1 HSG 4 Residential Amenity

5.4.2 HSG 9 Conversion of Residential Property

- 5.5 The Council's Residential Development Standards (2006) in terms of layout and room sizes is also of relevance.

Lewisham Core Strategy

- 5.6 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 29 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 10 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.

- 5.7 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.

6.0 Planning Considerations

- 6.1 The main planning considerations relate to the suitability of the dwellinghouse for conversion, into two one-bed self-contained flats, the standard of accommodation proposed and the safeguarding of the amenities of neighbouring residential occupiers.
- 6.2 The Council's UDP Policy HSG 9 "Residential Conversions" requires that the original building must have a net floor area not less than 130m². The policy also states that the Council normally require at least one family unit to be provided in every conversion scheme unless it is satisfied that the property is unsuitable for family occupation because of its location or character. The family unit, which would normally consist of three or more bedrooms, should ideally be provided at ground floor level with direct access to a private garden area, this has not been provided as part of this conversion. The adopted Residential Development Standards sets out how the net floor space area is to be calculated. The property measures at approximately 110m² as originally constructed, which significantly fails to meet the minimum standards as required by policy HSG 9 and thus is contrary to Council policy. The premises would be best suited as a single family dwelling unit and not flats due to its original floor area as mentioned above.
- 6.3 The conversion of the single family dwelling house into two-self-contained flats is, therefore contrary to policy requirements whilst certain of the units' rooms are to a substandard size contrary the Council's Residential Development Standards (2006), providing a poor living environment for occupiers. This document requires a flat with a dining kitchen to have a living room measuring 13m², a dining kitchen measuring 11m², with a double bedroom measuring 11m². The room sizes in both flat A & B of this property fall well below these requirements and such negatively impacts on the integrity of the property and its residential surroundings.
- 6.4 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 change of use of the property into two one bedroom flats has a detrimental impact on the character of its surroundings as its conversion is inconsistent with the predominant use of the immediate surrounding properties, which are single family dwellings.

There are no planning merits that would justify departing from policy which seeks to retain the single family dwellinghouse.

- 6.5 Core Strategy Policy 15 requires a high standard of design for all developments in Lewisham, this conversion 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 conversion, located within a predominantly residential street, with a floor space of 110m², is not considered to be a suitable change of use that optimises the potential of the host building. Its original floor area being below the Council's 130m² required floor area for flat conversion, is more suited to be used as a single family dwelling unit.

7.0 Legal Implications

- 7.1 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.

8.0 Conclusion

- 8.1 The unauthorised conversion of this single family dwellinghouse, measuring less than 130 sq metres net floor area, into two-self contained flats results in an inappropriate use, compounded by certain rooms within the resultant flat units being less than the minimum sizes prescribed by the Council's Residential Development Standards. The unauthorised use is thereby considered detrimental to the living conditions of the units' occupiers and also harmful to the character of the host building, contrary to Policy HSG 4 Residential Amenity of the adopted Unitary Development Plan (July 2004). Also HSG 9 Conversion of Residential Property of 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.

9.0 Requirements of Enforcement Notice

- 9.1 Authorise the Head of Law to take all necessary action to secure the cessation of the premises as two self-contained flats and remove all partitions, fixtures and fittings installed to facilitate this unauthorised use, thereby returning the property as fit for re-use as a single family dwelling house.

10.0 RECOMMENDATION

- 10.1 The unauthorised conversion of this single family dwellinghouse, measuring less than 130 sq metres net floor area, into two-self contained flats results in an inappropriate use, compounded by certain rooms within the resultant flat units being less than the minimum sizes prescribed by the Council's Residential Development Standards. The unauthorised use is thereby considered detrimental to the living conditions of the units' occupiers, and also harmful to the character of the host building, contrary to Policy HSG 4 Residential Amenity of the adopted Unitary Development Plan (July 2004). Also HSG 9 Conversion of Residential Property of 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.