

Committee	PLANNING COMMITTEE (C)	
Report Title	84 RAVENSBOURNE PARK SE6 4YA	
Ward	Rushey Green	
Contributors	Richard Lockett	
Class	PART 1	Date: 20 TH OCTOBER 2011

REQUEST FOR ENFORCEMENT ACTION

Background Papers

- (1) Case File
- (2) Adopted Unitary Development Plan (July 2004)
- (3) Adopted Core Strategy (June 2011)
- (4) The London Plan
- (5) PPG 18 Enforcing Planning Control

Zoning

Adopted UDP - Existing Use

1.0 Introduction

- 1.1 This report deals with a breach of planning control at 84 Ravensbourne Park and whether it is expedient for the Council to instigate formal enforcement action in order to rectify the breach. A caravan has been placed in the front garden of the property and is used as self contained residential accommodation, independent of the main house on the site. It is considered by officers that the caravan represents unsatisfactory living accommodation and, due to its prominent location, has a detrimental impact on the street scene.

2.0 Property/Site Description

- 2.1 The application property is a two storey detached house, located on the eastern side of Ravensbourne Park, on the corner of Iona Close. The property is a former caretakers house and the immediate locality is predominantly residential. To the side and rear of the property is Ladywell Fields, an area of public open space.
- 2.2 The site contains the main dwelling house with an associated brick built store and timber porch area to the side. The property is currently in use as a House in Multiple occupancy, with six residents and to the front there is a large caravan which houses two further residents.
- 2.3 The property does not form part of a Conservation Area and is not a listed building.

3.0 Planning History

- 3.1 2002: Application **Refused** for the construction of a three storey plus roofspace building, comprising 8 one and two bed flats, together with the provision of 9 car parking spaces and bin enclosure.
- 3.2 2003: Application **Refused** for the construction of a three storey building including roofspace and semi basement, comprising 8 one and two bed flats, together with the provision of 9 car parking spaces and bin enclosure.

- 3.3 2005: Application **Refused** for the demolition of the existing building on the site of 84 Ravensbourne Park SE6 and the construction of a part four/part five storey building, including basement level and balconies, to provide 12 two bedroom self-contained flats, together with associated landscaping and provision of refuse stores, 12 off-street car parking spaces, 3 motor cycle and 8 bicycle parking spaces. An appeal was also dismissed.
- 3.4 2007: Application **Withdrawn** for the demolition of the existing building on the site of 84 Ravensbourne Park SE13, and the construction of a 1 - 3 storey building comprising balconies/terraces/green roofs to provide 2, one bedroom, 3, two bedroom and 2, three bedroom self-contained flats together with associated landscaping and provision of bin and bicycle stores, 4 car parking spaces and the formation of a vehicular crossover with access onto Ravensbourne Park.

4.0 Planning Enforcement History

- 4.1 According to the owner of the land, a caravan was placed on the front garden of the site in 2007. The caravan has subsequently been subdivided and become residential accommodation for two people. The static caravan sits alongside the northern boundary of the site, visible from the highway as well as Ladywell Fields. The question of whether the caravan had planning consent was raised by the Councils tree officer in 2010.

5.0 Breach of Planning Control

- 5.1 Without the benefit of planning consent, the use of a static caravan on the front garden of the site at 84 Ravensbourne Park as two residential units. A response was received to the Councils Planning Contravention Notice stating that the caravan has been in situ since September 2007, however, no supporting evidence has been forthcoming.

6.0 Policy Context

6.1 National Policy

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

Planning Policy Statement 1: Delivering Sustainable Development

- 6.2 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.'

Lewisham Core Strategy

- 6.3 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the London Plan and the saved policies of the Unitary Development Plan, is the borough's statutory development plan. The following

strategic objectives, spatial policies and cross cutting policies of the Strategy are relevant to this case.

Objective 10: Protect and enhance Lewisham's character

Policy 15: High quality design for Lewisham

Unitary Development Plan (July 2004)

6.4 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. Other retained UDP policies that are relevant to the case are:

Policy URB 3: Urban Design

Policy URB 6: Alterations and Extensions

Policy HSG 4: Residential Amenity

7.0 Consideration of Enforcement Action

7.1 The main planning consideration is whether the retention of the caravan is causing demonstrable harm to the existing streetscene and whether the retention of the caravan accords with Council Policies.

7.2 The original use of this site was as residential accommodation for a caretaker. Planning consent to develop the site into a larger block of residential accommodation has not been successful therefore the established use of the site remains as a single dwellinghouse.

7.3 The caravan to the front of this property is not used incidental to the enjoyment of this dwellinghouse. The caravan has its own electricity supply, washing facilities, cooking facilities and living area and is therefore considered to be a change of use of the site from a single dwellinghouse.

7.4 Despite the fact that the front of the site is lined by mature trees, the caravan is visible from the street, but also from the confines of Ladywell Fields.

7.5 Policy URB 3 States that the Council will expect a high standard of design in new development and in alterations to existing buildings, whilst ensuring that schemes are compatible with, or compliment the scale and character of existing development, and its setting (including any open space). Factors such as the relationship of development to the existing townscape, alignment of the existing street, including building frontages and building materials are all considerations in this regard.

7.6 The existing caravan is not compatible with and does not compliment the scale and character of the existing development or its setting. The site contains a two storey, brick built dwellinghouse set back from the main road, with a large front yard. The caravan has been sited forward of the building frontage and by its very nature resembles a temporary container, rather than a residential building, which dominate the surroundings. The outer walls of the caravan are metal, and green and beige in colour, which is clearly at odds with the brick walls of the existing building.

7.7 The caravan also fails to provide adequate permanent accommodation for its residents. The size of the caravan is insufficient to provide a high level of living

space for two separate units of accommodation and on this basis, as well as its detrimental impact upon the streetscene and existing development, would not be granted planning consent retrospectively.

8.0 Proportionality

- 8.1 The Council has tried informally to resolve the breach of planning control through informal negotiations however this course of action has failed, therefore based on the information in this report it has been concluded that no action short of the proposed enforcement action described above can uphold Council policies and remove the harm caused by this breach of planning control. In these circumstances the service of an enforcement notice is considered both necessary and expedient and is considered to be a proportionate response to the breach of planning control in this case.
- 8.2 The works that have been undertaken do not constitute a criminal offence and therefore the owner cannot be prosecuted. The service of an enforcement notice is considered to be a more appropriate and swifter enforcement tool than applying for an injunction under Section 187B of the 1990 Act. It is also more cost effective for both the local planning authority and the recipient of the notice to appeal and otherwise deal with.
- 8.3 All other forms of action to secure compliance with planning control, uphold council policies and protect the amenities of local residents have been considered and cannot effectively be achieved by any lesser means than the action recommended. The Council consistently takes enforcement action against similar breaches of planning control and successfully defends the Council's decision in subsequent appeals.

9.0 Legal Implications

- 9.1 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.

10.0 Equal Opportunities and Human Rights Implications

10.1 Implications in relation to the Human Rights Act 1998 (HRA) have been identified in regard to the unauthorised siting of a caravan on site for residential purposes. Action will therefore be relevant to the occupiers' Article 8 rights and potentially their Article 1 rights under the first protocol of the HRA, as set out below:

Schedule 1, Part I – The Convention:

Article 8 Right to Respect for Private and Family Life

- (1) Everyone has the right to respect for his private and family life, his home and his correspondence.
- (2) There shall be no interference by a public authority with the exercise of his right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Schedule 1, Part II – The First Protocol

Article 1 Protection of Property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Although enforcement action may impact upon these rights, action taken will be “in accordance with the law” and in pursuit of the aims set out in the HRA itself, namely:

For Article 8, in the interest of the economic well-being of the country, for the prevention of disorder or crime and for the protection of the rights and freedoms of others and;

For Article 1, to control the use of property in accordance with the general interest.

The HRA does not impair the right of the state to enforce such laws as it deems necessary in the public interest and it is therefore considered that the proposed action and its objectives of securing compliance with planning control, upholding its adopted and emerging policies and protecting the amenities of local residents, cannot be achieved by any lesser measures. The action to be taken is proportionate to the harm arising and outweighs the impact on Article 8 and Article 1.

11.0 Conclusion

- 11.1 The unauthorised installation of, and use of the caravan as two self contained units fails to provide suitable living accommodation and is considered to be detrimental to the residential amenities for occupants and causes demonstrable harm to the character of the existing building and character of the surrounding streetscene contrary to Policies URB 3 Urban Design, URB 6 Alterations and Extensions and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004) and the Residential Development Standards SPD (August 2006).

12.0 Requirements of Enforcement Notice

- 12.1 To secure the removal of the static caravan from the front garden of 84 Ravensbourne Park.

13.0 RECOMMENDATION

- 13.1 Authorise the Head of Law to take all necessary action to secure the removal of the static caravan from the front garden of 84 Ravensbourne Park for the following reason:-
- 13.2 The unauthorised installation of, and use of the caravan as two self contained units fails to provide suitable living accommodation and is considered to be detrimental to the residential amenities for occupants and causes demonstrable harm to the character of the existing building and character of the surrounding streetscene contrary to Policies URB 3 Urban Design, URB 6 Alterations and Extensions and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004) and the Residential Development Standards SPD (August 2006).
- 13.3 Period of Compliance:
Three months.