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Planning Enforcement Sub-Committee 3rd October 2013

Osterley & Spring Grove

Former Telephone Repeater Station, Rear of Spencer Road, Isleworth TW7 4PX

Ref: OUTR/2012/00562

Summary

This report seeks Members' authority to issue an enforcement notice in respect of the use of the Former Telephone Repeater Station, Rear of Spencer Road, Isleworth as a self-contained residential unit.

1.0 RECOMMENDATION

- 1.1 That the Committee considers it expedient, having regard to the provisions of the Unitary Development Plan, and all material considerations, to grant authority for all necessary steps to be taken for the preparation, issue and service of an enforcement notice(s) in relation to the Former Telephone Repeater Station, Rear of Spencer Road, Isleworth, requiring within three calendar months:
- i. Cessation of the use of the building as a self-contained residential unit
 - ii. Removal of all kitchen and bathroom facilities related to the unauthorised self-contained residential use of the building (i.e. including all bathroom and shower facilities, all kitchen facilities including the kitchen cupboards, kitchen sink, kitchen worktop surfaces and gas piping and connections installed)
 - iii. Removal of all resultant debris from the premises

For the following reasons:

- a) The alleged breach of planning control has taken place in the last 4 years.
- b) The use of this building for residential purposes is out of keeping with the character and appearance of the area and in an unsustainable location due to its position away from road access. As such the use is considered to be contrary to policies ENV-B.1.1 (New Development), H.4.1 (Housing Standards and Guidelines) and T.1.4 (Car and Cycle Parking and Servicing Facilities for Developments) of the Unitary Development Plan
- c) There are no adequate means of separate vehicular and pedestrian access to the detached building. As such the use of the building as a self-contained residential unit fails to ensure proper access and servicing contrary to policies ENV-B.1.1 (New Development) and T.1.4 (Car and Cycle Parking and Servicing Facilities for Developments) of the Unitary Development Plan;

- d) The unauthorised use of the building as a self-contained residential unit does not include provision within the layout of the new development, for sorting, recycling and processing waste materials likely to arise from the future use of the outbuilding for both reuse and recovery. As such the development is contrary to policies ENV-B.1.1 (New Development), H.4.1 (Housing Standards and Guidelines) and ENV-P.2.4 (Recycling Facilities in New Developments) of the Unitary Development Plan;
 - e) The Council considers that it is expedient to serve the notice and that there are no steps short of those required by the Council, which can be taken to remedy the breaches of planning control.
- 1.2 The institution of any necessary legal proceedings in the event of non-compliance with the above enforcement notice(s), pursuant to Section 179 of the Town and Country Planning Act 1990; and
 - 1.3 The carrying out of works in default under Section 178 of the Town and Country Planning Act 1990 in the event of non-compliance with the enforcement notice, including the recovery of the Council's costs in carrying out such work; and
 - 1.4 So as to ensure that the allegations and requirements in the enforcement notice(s) or replacement enforcement notice(s) accurately reflect (and / or take account of any material changes in) the use or development of the land occurring before service of the said notice(s), authority to amend, supplement and / or delete the allegations and the requirements set out in the Recommendations herein. [A replacement enforcement notice is an enforcement notice issued following action taken pursuant to s.173A of the Town and Country Planning Act 1990, namely the withdrawal of the enforcement notice or the waiving or relaxation of any of its requirements.]

2.0 SITE DESCRIPTION

- 2.1 The site comprises of a single storey detached building which is located off the public footpath leading to Osterley Tube Station, between Spencer Road to the south and Great West Road to the north.
- 2.2 The Piccadilly tube line is immediately to the west of the site, immediately to the east is an electricity sub-station and there is open land to the north and south, which is within the ownership of BT. The nearest residential properties to the south in Spencer Road are approximately 45m away (wall to wall) and the flats at Osterley Court to the east are approximately 40m away (wall to wall).
- 2.3 The building was formerly a telephone repeater station owned by British Telecom but was sold in 2006 to the current owners.
- 2.4 The building as it stands now is approximately 12m deep and 5m wide, with windows to the north, south and west elevations. The site area is approximately 250 square metres. The building was extended in 2007, though no planning permission was granted for this extension and there is a 2m high close boarded fence around the curtilage.

3.0 PLANNING HISTORY AND OTHER RECORDS

3.1 Planning Records

Reference Number	Development Description	Decision	Decision Date
1044/B/P1	Demolition of existing telephone repeater station and erection of a three storey building comprising 9 x 1 bedroom flats	Refused	07/09/2006
1044/B/P2	Demolition of existing telephone repeater station and erection of a two storey building comprising 4 x 1 bed flats	Refused	26/04/2007
1044/B/P3	Change of use from telephone repeater station to a self storage facility incorporating a front and side extension	Refused	06/11/2007

3.2 Building Control Records

Reference Number	Development Description	Decision	Decision Date
FP/2008/0160	Erection of extension	Not valid	04/07/2008
CO/2010/0090	Conversion of building to habitable use	Pending	---

3.3 Council Tax Records

This property has been valued as a single Band D property since 1st March 2007.

4.0 ENFORCEMENT HISTORY, INVESTIGATION AND EVIDENCE

- 4.1 The Council first investigated the use of this building in 2007 when it was reported that building works were taking place to extend it. The extension to the building was part of the planning application 1044/B/P3 which was refused as the conversion to a self-storage facility was found to be unacceptable.
- 4.2 Previous investigations with regards to the use of this building as a self-contained residential unit were closed in 2009 and early 2012 as no evidence had been found of habitation.
- 4.3 On 2nd October 2012 the case was re-opened as it had been brought to our attention that the building was being used for residential purposes.
- 4.4 On 20th February 2013 the premises were visited, but no access was gained as the gate was locked. However from taking photographs over the boundary fence, it was evident that someone was living in the building as it could be seen that ornaments, furniture and kitchen paraphernalia were inside the building.
- 4.5 On 21st February 2013 a letter was hand delivered to the address, which included a Section 330 notice, requesting information as to the ownership of the building and the current use.
- 4.6 On 16th April 2013 a site visit was carried out, but again no access was obtained. A

'right of entry' letter was delivered to the address and sent to the owner requesting access to the site on 23rd April 2013. Photographs were taken over the boundary fence.

- 4.7 On 23rd April 2013, the case officer visited the property at the appointed time stipulated in the 'right of entry' letter but no access was gained. Photographs taken over the fence showed that it appeared that someone was living in the building.
- 4.8 On 25th April 2013, pending list letters were hand delivered to the property and sent to the owners.
- 4.9 The owner of the property contacted the case officer on 2nd May 2013 to say that he would be speaking to his planning agent and would contact the Council to advise how he intended to resolve the breach of planning. No response has been received.
- 4.10 On 22nd August 2013 a further unannounced site visit took place but again no access was obtained. Photographs taken showed that ornaments, furniture and other paraphernalia were still inside the building, which suggests that the building was still in residential use.

5.0 PENDING LIST

- 5.1 The case has been drawn to members' attention on Week 17 of the pending decisions list dated 26th April 2013 – 3rd May 2013. Letters were sent to the complainants and owners on 25th April 2013 advising them of this. There has been no member request to defer this report seeking authorisation for enforcement action at Committee.

6.0 ANALYSIS

Expediency in general

- 6.1 Under Section 172 of the Town and Country Planning Act 1990 (as amended), the Council has the power to take enforcement action where it assesses that a breach of planning control has resulted in material harm in planning terms.
- 6.2 Guidance as to how to apply this power and when a Council should find enforcement action expedient is contained in the statutory Development Plan. This document sets criteria against which to judge whether a breach of planning control is unacceptable.
- 6.3 Reports are not brought forward to committee unless it has been concluded that there is no other course of action available.

Policy

6.4 The Development Plan

The Development Plan for the Borough comprises the Council's Unitary Development Plan (UDP), Employment Development Plan Document, Brentford Area Action Plan and the London Plan.

6.5 The Planning Enforcement Plan

On 5th July 2012, the Council adopted a 'Planning Enforcement Policy'. It is

recognised that the decisive issue for the Council to consider in deciding whether to pursue enforcement action is whether it is expedient to take enforcement action. When considering expediency, the Council will consider the facts, for example: whether the breach of planning control unacceptably affects public amenity or the existing use of land or buildings meriting protection in the public interest; whether planning permission would be granted if an application were to be submitted and if so, whether conditions would be imposed; and whether the breach has become lawful through passage of time and therefore immune from enforcement action. In making this assessment, the Council will have regard to the relevant Unitary Development Plan / Local Plan policies, associated Supplementary Planning Documents and all other material planning considerations.

6.6 The emerging Core Strategy

On 12 July 2011, the Council's Cabinet approved that the Core Strategy "Preferred Strategy" should go out to consultation. As emerging policy, the Local Planning Authority (LPA) considers that the emerging Core Strategy is capable of being a material consideration. Given that the emerging Core Strategy is still in the consultation stages, the LPA considers that very limited weight can be given to it at this stage.

6.7 The National Planning Policy Framework

The National Planning Policy Framework (NPPF) came into force on 27 March 2012 and has replaced national policies and guidance formerly contained in Planning Policy Statements and Planning Policy Guidance notes and some other documents. The Local Planning Authority (LPA) considers that, where pertinent, the NPPF is a material consideration and as such, it will be taken into account in decision-making as appropriate.

6.8 Supplementary Planning Guidance

6.8.1 1997 Supplementary Planning Guidance - The guidance contained within the Supplementary Guidance was subject to formal public consultation and unlike normal SPG were subject to an inquiry process and consideration by a government inspector. The Inspector's report recommended the appendices be removed from the plan, as they added to its bulk, cost and complexity and may well have consumed further resources at the first review of the UDP. He also considered that they could stand alone away from the main plan as SPG. This was the course of action to be taken by the Council. During the consultation process, objections were received from individual house builders and the HBF. The guidance was amended as part of the process. The Council did not therefore consider it necessary to re-consult on this proposed guidance, but simply to use the guidance in light of the suggested amendments and the Inspector's comments.

6.8.2 Residential Extensions Guidelines - the information contained in the Residential Extension Guidelines underwent 2 months of public consultation prior to adoption as Supplementary Planning Guidance in August 2003 to Policy H.6.4 of the Council's 2003 Unitary Development Plan.

Relevant Planning Policy

6.9 The Development Plan policies relevant to this case are:

ENV-B.1.1

New Development

H.4.1 Housing Standards and Guidelines

ENV-P.2.4 Recycling facilities in new developments

T.1.4 Car and cycle parking and servicing facilities for developments

6.10 The key planning issues that need to be considered in assessing the expediency of taking enforcement action are as follows:

- The impact of the development on the living conditions of neighbouring residents
- The impact on the character and appearance of the site and surrounding area.

Assessment of Harm

6.11 The impact of the development on the living conditions of neighbouring residents
As the building is at least 40m away from the nearest residential property and there is a 2m high fence around the site, there is no direct overlooking of the residential properties within the area. However as there are no refuse and recycling facilities for the occupiers of the building, it has been brought to our attention that the occupiers of the building leave their rubbish by the bin at the southern end of the alley.

6.12 **The impact on the character and appearance of the site and surrounding area**

Policy ENV B.1.1 states that the Council will consider all development proposals with regard to ensuring that proposals make a positive contribution to overall environmental quality. In particular development should relate well to its site and the scale, nature, height, massing, character and use of the adjacent townscape.

The use of the building for residential accommodation would intensify the use of this site and increase the number of people living on the site and consequently the comings and goings.

Council planning policy ENV-P.2.4 requires provision within the layout of the new development, for composting facilities and readily accessible recycling facilities for storage and the collection of materials such as glass, cans, paper, plastics and textiles. These facilities should be sited in convenient locations and should be screened in order that they protect the amenities of nearby residents whilst making a positive contribution to the local environment. No independent and screened waste facilities have been provided for the self-contained outbuilding.

Council planning policy T.1.4 states that all developments must provide parking and servicing facilities in accordance with the Council's standards. For a 1 and 2 bedroom unit such as for the outbuilding at 25 Hinton Avenue this would require the provision of x1 off street parking space. Said parking space has not been provided for this development.

As such the unauthorised use of the detached outbuilding as a self-contained

residential unit is contrary to policies ENV-B.1.1, ENV-P.1.5 and T.1.4 of the Council's 2003 Unitary Development Plan and is therefore not acceptable

7.0 EQUALITIES DUTIES IMPLICATIONS

- 7.1 The Council has to give due regard to its Equalities Duties and in particular with respect to its duties arising pursuant to the Equality Act 2010, section 149. Following a relevance test, which is available at: http://www.hounslow.gov.uk/index/council_and_democracy/equality/eias/environment_eias.htm it is considered that there will be no specific implications with regard to the council's duty in respect of equalities duties and that if approving or refusing this proposal the Council will be acting in compliance with its duties.

Relevant Section(s) of Relevance Test:

- *Householder development;*
- *Enforcement.*

Proposed action

- 7.2 Cessation of the use of the building as a self-contained residential unit, removal of the kitchen and bathroom facilities and removal of any resultant debris from the premises.

8.0 COMMUNITY INFRASTRUCTURE LEVY

- 8.1 Some new developments granted planning permission on or after 1st April 2012 will be liable to pay Community Infrastructure Levy (CIL) to the Mayor of London with respect to the funding of Crossrail. This is at the rate of £35 per m² of new floor space.
- 8.2 This development subject of this report is not liable to pay a Community Infrastructure Levy charge if planning permission were to be granted.

9.0 SUMMARY AND CONCLUSION

- 9.1 Saved policy ENV-B.1.1 (paragraph B.3) of the London Borough of Hounslow Unitary Development Plan 2003 (UDP) states that new development should be promoted on previously developed land to ensure that proposals respect the local environment. However the location of this building and its use for residential purposes is out of keeping with the character and appearance of the area.
- 9.2 There are no adequate means of separate vehicular and pedestrian access to the detached outbuilding. As such the use of the outbuilding as a non-incidental and self-contained residential unit fails to ensure proper access and servicing contrary to policies ENV-B.1.1 (New Development) and T.1.4 (Car and Cycle Parking and Servicing Facilities for Developments) of the Unitary Development Plan.

- 9.3 The unauthorised use of the outbuilding as a non-incidental and self-contained residential unit does not include provision within the layout of the new development, for sorting, recycling and processing waste materials likely to arise from the future use of the outbuilding for both reuse and recovery. As such the development is contrary to policies ENV-B.1.1 (New Development), H.4.1 (Housing Standards and Guidelines) and ENV-P.2.4 (Recycling Facilities in New Developments) of the Unitary Development Plan;
- 9.4 Based on the information in this report it has been concluded that no action short of the proposed enforcement action described in this report can remove the harm caused by these breaches of planning control. In these circumstances, it is considered expedient to take enforcement action as recommended at the start of this report.

Background Papers:

The contents of planning file referenced on the front page of this report, save for exempt or confidential information as defined in the Local Government Act 1972, Sch. 12A Parts 1 and 2