

Report for Resolution

Report to Planning Applications Committee
30 July 2009

Report of Head of Planning and Regeneration

Subject 28 Magdalen Road, Norwich

Purpose

This report relates to the unauthorised use of the property as a Physiotherapy Clinic and seeks authority to pursue enforcement action in this matter.

Recommendations

It is recommended that members authorise enforcement action including prosecution if necessary under The Town and Country Planning Act 1990 (as amended) to secure;

- (1) The Cessation of the use as a Physiotherapy Clinic
- (2) The restoration of the property to it's authorised use as a dwelling house.

Financial Consequences

There are no financial consequences of this report.

Strategic Priority and Outcome/Service Priorities

The report helps to achieve the corporate objective to protect and enhance the special qualities of the built environment and the service plan priority to ensure compliance with permissions and to take enforcement action against unauthorised development as necessary whilst having regard to the Council's Enforcement Concordat.

Contact Officers

Steve Kenny

Enforcement Officer
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Background Documents

Relevant correspondence –
Planning Application 08/00705/U and Associated appeal decision.
Enforcement file ref: 08/00132/UCU/ENF

The Site

1. 28 Magdalen Road is a 2 storey mid terrace property located on the west side of the road. To the North is 2 Guernsey Road that neighbours the subject property.

Planning History

2. 08/00705/U - Retrospective Change of Use from residential to physiotherapy clinic and health related services. Refused and appeal dismissed.

Unauthorised Development

3. The unauthorised change of use from a dwelling house to a physiotherapy clinic.

Human Rights Implications

4. The Human Rights Act 1998 came into effect on 2nd October 2000. In so far as its provisions are relevant: -

* Article 1 of the First Protocol (the peaceful enjoyment of ones possessions), is relevant in this case. Parliament has delegated to the Council the responsibility to take enforcement action when it is seen to be expedient and in the public interest. The requirement to secure the reinstatement of the dwelling house and to cease the unauthorised use is in the interests of amenity proportionate to the breach in question.

* Article 6: the right to a fair hearing is relevant to the extent that the recipient of the enforcement notice and any other interested party ought to be allowed to address the Committee as necessary. This could be in person, through a representative or in writing.

Planning Considerations

5. The conversion of the property has resulted in loss of housing accommodation in this residential area, with no overriding reason for the business use not being suitably accommodated in commercial premises elsewhere.

6. The use of this property for physiotherapy and health related services purposes is considered to have an adverse effect on the adjoining neighbours and the residential character and amenity of the area, particularly by reason of the terraced nature of the dwellings and that the property has no off street parking for the increased amount of staff and clients.

7. The unauthorised use is considered to be contrary to Policies HOU16, EP22 and EMP1 of the City of Norwich Replacement Local Plan Adopted Version, November 2004.



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Planning Application No- 08/00132/UCU/ENF
 Site Address - 28 Magdalen Road
 Scale - 1:1250



NORWICH
City Council

DIRECTORATE OF REGENERATION
 AND DEVELOPMENT

