

Report to Planning applications committee
12 January 2017
Report of Head of planning services
Subject Enforcement Case 15/00167/ENF– 55 Cunningham Road,
Norwich, NR5 8HH

Item

4(h)

SUMMARY

Description: Change of use from residential (Class C3/C4) use to unauthorised house in multiple occupation (sui generis) use.

Reason for consideration at Committee: Enforcement action recommended.

Recommendation: Authorise enforcement action up to and including prosecution in order to secure the cessation of the unlawful residential (sui generis) use.

Ward: University

Contact Officer: Ali Pridmore



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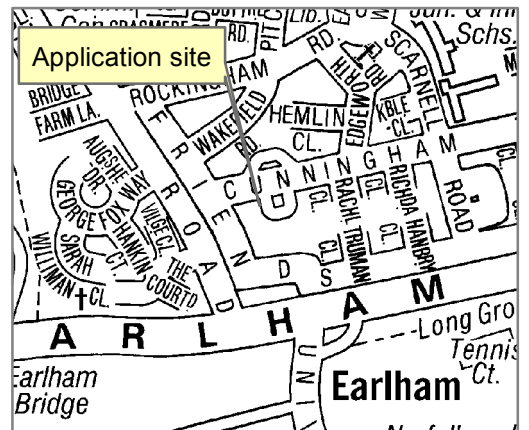
Planning Application No 15/00167/ENF

Site Address 55 Cunningham Road

Scale 1:1,250



NORWICH
City Council
PLANNING SERVICES



The Site

1. The site is located on Cunningham Road which lies to the west of the city. The area is predominantly made up of two storey semi-detached residential dwellings. The property itself is a post-war steel clad 2 storey residential dwelling. There are no constraints on the site.

Relevant planning history

2. 14/01351/F – Application for the erection of single storey side and rear extension which was granted on the 21 October 2014.

Purpose

3. The current change of use from residential (Class C3/C4) use to house in multiple occupation (sui generis) use does not have planning permission and the change of use has occurred within the last four years and is therefore not immune from enforcement action. The change of use is a breach of planning control.
4. The owner of 55 Cunningham Road has been informed the current sui generis use is a breach of planning control and was asked to cease the unauthorised use or to apply for retrospective planning permission which she was advised might not be supported. No further contact has been received from the owner of 55 Cunningham Road.
5. Authority is sought from the Planning Applications Committee for enforcement action to secure the cessation of the unauthorised sui generis use and return the property back to its authorised use as residential (Class C3/C4 use). Enforcement action to include direct action and prosecution if necessary.

Breach

6. The property has changed use from a residential dwelling with 5 or less bedrooms to a house in multiple occupation (sui generis) with 8 bedrooms. The change of use is considered to be a material change of use for which planning permission would be required under section 171A(1) of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991).
7. The unauthorised use does not fall within the same use class under the Town and Country Planning (Use Classes) Order 1987 (as amended) and the change is not permitted by the Town and Country Planning (General Permitted Development) Order 2015.
8. It appears to Norwich City Council that the above breach of planning control has occurred within the last four years and is not therefore immune from enforcement action. The current unauthorised use is not an appropriate use of the land which is currently causing significant harm to the local amenity, in terms of noise, additional parking and increase in household waste from the more intensive use of the dwelling. The

Council does not consider that planning permission should be given because planning conditions would not overcome these objections.

Policies and Planning Assessment

9. National Planning Policy Framework:
- Statement 1 Building a strong and competitive economy
 - Statement 7 Requiring good design

Joint Core Strategy for Broadland, Norwich and South Norfolk adopted March 2011 amendments adopted Jan. 2014 (JCS):

- JCS2 Promoting good design
- JCS6 Access and transportation

Norwich Development Management Policies Local Plan adopted Dec. 2014 (DM Plan):

- DM1 Achieving and delivering sustainable development
- DM2 Ensuring satisfactory living and working conditions
- DM3 Delivering high quality design
- DM12 Principles for all residential development
- DM13 Communal development and multiple occupation
- DM28 Encouraging sustainable travel
- DM30 Access and highway safety
- DM31 Car parking and servicing

Justification for Enforcement

10. Cumulatively, the close proximity of the property to the adjoining property and other neighbouring properties means that the current sui generis residential use of the property would have a significant detrimental impact on the residential amenities of the neighbouring properties, particularly by way of possible noise disturbance as a result of the increased number of visits to the site, as well from the increased density of occupation of the building. The use also has a wider detrimental impact on the character of the area, contrary to policies DM2 and DM13 of the Development Management Policies Development Plan Document, April 2013.
11. The level of car parking and refuse storage facilities provided for the increased density of bed spaces within the property is unacceptable, contrary to policy DM3 of the Development Management Policies Development Plan Document, April 2013.

Equality and Diversity Issues

12. The Human Rights Act 1998 came into effect on 2nd October 2000. In so far as its provisions are relevant:
- (a) 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 removal of the unauthorised building works in the interests of amenity is proportionate to the breach in question.

- (b) 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.

Conclusions

13. On balance it is considered that the current unauthorised residential (sui generis) use is not considered acceptable. The likelihood of noise disturbance to nearby residents is considered to be likely and waste storage and collection arrangements would be inadequate and there might also be an adverse impact on parking.
14. It is therefore necessary to ask for authorisation from the planning applications committee to ensure the cessation of the unauthorised residential (sui generis) use and therefore remedy the breach of planning control.

Recommendations

15. Authorise enforcement action to secure the cessation of the unauthorised residential (sui generis) use and return the property back to its authorised residential (Class C3/C4) use; including the taking of direct action may result in referring the matter for prosecution if necessary.