

**Report to** Planning applications committee  
12 January 2017  
**Report of** Head of planning services  
**Subject** Enforcement Case 16/00020/ENF – 66 Whistlefish Court,  
Norwich, NR5 8QR

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**Item**

**4(i)**

### **SUMMARY**

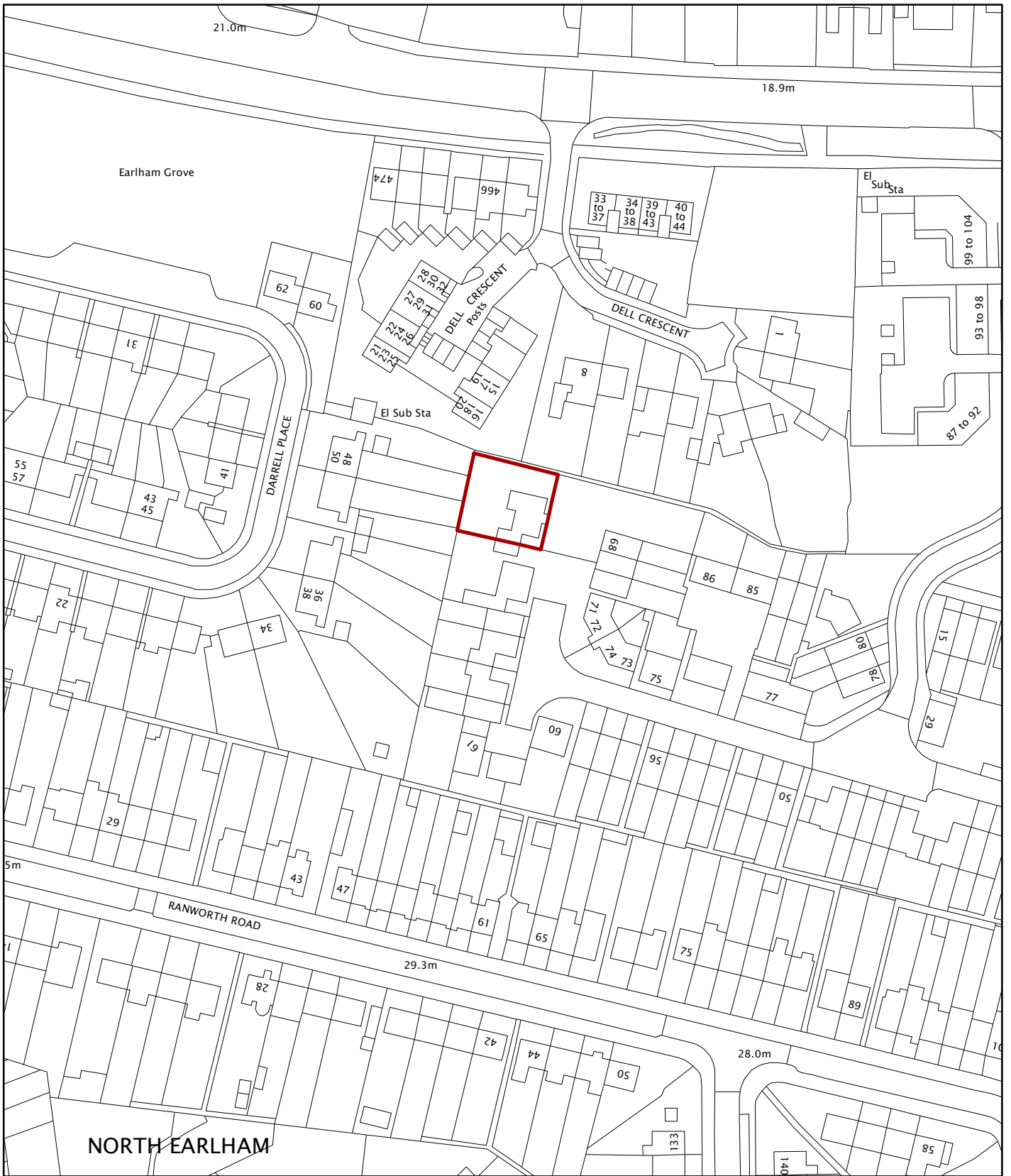
**Description:** Without planning permission the conversion of an attached garage to form a separate unit of residential accommodation class C3 residential use. Also without permission the change of use from C3 residential / C4 HMO use to sui generis HMO use.

**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 C3 use and return the use of the former garage to incidental / ancillary use and to cease the unauthorised sui generis HMO use and return the property back to C3 residential (Class C3) use or HMO (Class C4) use.

**Ward:** Wensum

**Contact Officer:** Ali Pridmore



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Planning Application No 16/00020/ENF

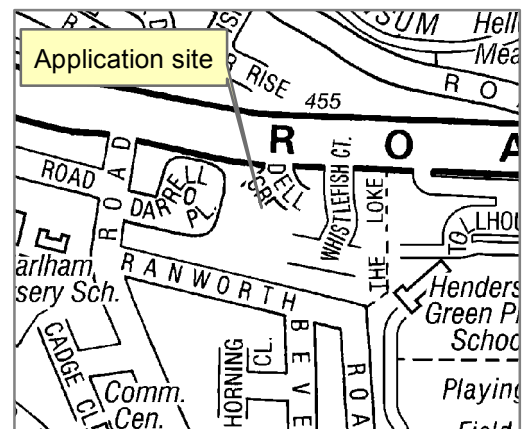
Site Address 66 Whistlefish Court

Scale 1:1,250



**NORWICH**  
City Council

PLANNING SERVICES



## **The Site**

1. 66 Whistlefish Court is a three storey semi-detached house located on a modern housing estate off Dereham Road. The area contains a mix of houses and flats and the surrounding area is predominantly residential in character.

## **Relevant planning history**

2. 04/00763/F – Application for the erection of 97 dwellings which was granted permission on the 29 April 2005.

## **The Breach**

3. The conversion of a former detached garage to form a separate unit of residential (Class C3) use accommodation without planning permission. The change of use from (Class C3) / HMO (Class C4) use to sui generis HMO use without the benefit of planning permission.
4. The development and change of use requires planning permission which is required under section 171A(1) of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991).
5. The owner of 66 Whistlefish Court has been informed the conversion of the former detached garage and the unauthorised sui generis HMO use is a breach of planning control and was asked to cease the unauthorised use and return the former garage back to incidental / ancillary use.
6. 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.

## **Policies and Planning Assessment**

7. National Planning Policy Framework:
  - Statement 1 Building a strong and competitive economy
  - Statement 6 A wide choice of good quality homes
  - 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
- JCS4 Housing
- 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**

8. The dwelling provides a poor standard of amenity for its occupiers. In addition it would have a significant detrimental impact on the residential amenities of the neighbouring properties, particularly as a result of the unduly intensive use of premises, resulting in a loss of privacy and a wider detrimental impact on the character of the area. This would be contrary to policies DM2 and DM13 of the Development Management Policies Development Plan Document adopted 2014.

### **Equality and Diversity Issues**

9. The Human Rights Act 1998 came into effect on 2 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**

10. The current unauthorised residential use would have a significant detrimental impact on the residential amenities of occupiers and neighbouring properties.
11. Authority is sought from the planning applications committee for enforcement action to secure the cessation of the unauthorised use of the former garage for residential (Class C3) use and return the building back to an incidental / ancillary use. Authorisation is also sought to secure the cessation of the unauthorised sui generis HMO use and return the property back to residential (Class C3) use or HMO (Class C4) use. Enforcement action is to include direct action and prosecution if necessary.

### **Recommendations**

12. Authorise enforcement action to secure the cessation of the unauthorised change of use of the dwelling from a HMO (Class C4) use to a HMO sui

generis use, and authorise enforcement action to secure the cessation of the unauthorised change of use of the former garage for residential (C3) use and return it back to its authorised use as incidental / ancillary use; including the taking of direct action may result in referring the matter for prosecution if necessary.