

Report to date: Planning applications committee

Report of: Head of planning services

Subject: Enforcement case
14/00219/BPC/ENF– 474C Earlham
Road, Norwich, NR4 7HP

4(K)

SUMMARY

Description: Without planning permission the conversion of a detached garage to form a separate unit of residential accommodation class C3 residential 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.

Ward: University

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Introduction

The site

1. 474B Earlham Road is a two storey semi-detached house located on the south side of this major route into/out of the city. The site is located towards the west end of the road close to the five-ways roundabout. The area contains a mix of houses and bungalows lining along the tree lined roadway. The surrounding area is predominantly residential in character.

Relevant planning history

2. 07/01393/F – Application for permission to demolish existing house and erection of 2 no. semi-detached dwellings which was refused by the local planning authority on the 14 March 2008.
3. 08/00590/F – Application for permission to demolish existing house and erection of 2 no. semi-detached dwellings which was granted by the local planning authority on the 21 September 2008 which was a revised proposal.

The breach

4. The conversion of a former detached garage to form a separate unit of residential (Class C3 use) accommodation without planning permission.
5. The development 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).
6. The owner of 474B Earlham Road has been informed the conversion of the former detached garage is a breach of planning control and was asked to cease the unauthorised residential use and return it back to incidental / ancillary use
7. 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

8. 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

9. 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

10. 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

11. On balance it is considered that the current unauthorised residential (C3) use would have a significant detrimental impact on the residential amenities of occupiers and neighbouring properties. Particularly by way of loss of privacy and have a wider detrimental impact on the character of the area including loss of privacy.
12. Authority is sought from the planning applications committee for enforcement action to secure the cessation of the unauthorised residential C3 use and return the building back to an incidental / ancillary use. Enforcement action is to include direct action and prosecution if necessary.

Recommendations

13. Authorise enforcement action to secure the cessation of the unauthorised residential (C3) use and return the property 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.