

CAMBRIDGE CITY COUNCIL

REPORT OF: Head of Planning Services

TO: South Area Committee

DATE: 14/01/13

WARD: Queen Ediths

PLANNING ENFORCEMENT CONTROL ENFORCEMENT NOTICE REPORT

9 Mowbray Road, Cambridge

The sub division of a C3 Dwellinghouse to create a House in Multiple Occupation (sui generis) and self contained flats

1. INTRODUCTION

1.1 This report seeks the authority to serve an Enforcement Notice to address the following breaches of planning control at 9 Mowbray Road, Cambridge:

1. without planning permission, the sub division of a C3 dwelling house to create separate self contained residential units and
2. the unauthorised change of use of a C3 Dwellinghouse as a House in Multiple Occupation (sui generis).

Please see Appendix A for a site plan.

2. PLANNING HISTORY

| Reference | Description | Outcome |
|------------------|--|-------------------------------|
| 12/0183/FUL | Change of use to HMO | Refused |
| 10/1028/FUL | Change of use to 1no two bedroom house, 1no two bedroom flat and 1no one bedroom flat. | Refused. Appeal dismissed. |
| 10/0661/FUL | Change of use from house to three one-bedroom flats and one two-bedroom flat. | Refused. Appeal dismissed. |
| 10/0003/FUL | Two storey side and part single, part two-storey rear extension and provision of new vehicle access. | Approved with conditions. |
| 12/5418/PREAPH | Conversion into 4 no. self contained flats. | Pending determination |

3. BACKGROUND

- 3.1 In September 2011 officers investigated an allegation that the C3 dwellinghouse at 9 Mowbray Road, Cambridge had been converted in to self contained flats.
- 3.2 Officers investigated the unauthorised change of use and were advised that a planning application for change of use would be submitted in the near future.
- 3.3 On 13th February 2012 a planning application reference 12/0183/FUL was submitted for change of use of 9 Mowbray Road to a House in Multiple Occupation.

On 14th August 2012 the application was refused for the following reason:

The subdivision of the 5-bedroom family house into a seven bedroom House in Multiple Occupation constitutes an inappropriate and over-intensive use of the site which would be detrimental to the amenity of the prospective occupiers. The proposal is required to make provision for the parking of cars, bicycles and the storage of refuse and recycling. The plans demonstrate that this cannot be achieved without the provisions being made in such a way that would result in car movements in unreasonable proximity to the entrance of the communal living area and access to the cycle storage and wheelie bins requiring all prospective occupiers to store their bins in an informal fashion against the rear wall of the house and along the end wall of the proposed cycle store, in a manner that would affect the functionability and circulation of this area and detrimental to the amenity of its occupiers. The proposal is therefore contrary to the aims and objectives of Policies 3/7, 3/11, 8/6 and 8/10 of the Cambridge Local Plan 2006.

- 3.4 Two previous planning applications to subdivide the C3 Dwellinghouse into flats were refused in 2010. The details of these applications are:

Application reference 10/1028/FUL: 'Change of use to 1no two bedroom house, 1no two bedroom flat and 1no one bedroom flat'

Application reference 10/0661/FUL for 'Change of use from house to three one-bedroom flats and one two-bedroom flat'.

The refusal of each application was subject to an appeal to the Planning Inspectorate and both appeals were dismissed. Copies of the appeal decision can be found in Appendix B.

- 3.5 Environmental Health officers have confirmed that 9 Mowbray Road is a House in Multiple Occupation licensed for 10 persons in 5 households.
- 3.6 A Planning Contravention Notice was served on 24th October 2012, and returned on 14th November 2012.
- 3.7 The current planning use given on the Planning Contravention Notice is 'A mix of self contained units and shared accommodation'.

3.8 Therefore there are two breaches of planning control at 9 Mowbray Road.

1. Change of use to a House in Multiple Occupation.
2. The sub division of part of the property to create self contained flats.

4. POLICY AND OTHER MATERIAL CONSIDERATIONS:

4.1 The material change of use of 9 Mowbray Road, Cambridge from a C3 Dwellinghouse to self contained flats and a House in Multiple Occupation requires planning permission.

The unauthorised development, namely the change from the lawful planning use took place less than ten years ago and therefore is not immune from enforcement action.

4.2 National Planning Policy Framework states:

'Para 207. Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.'

4.3 Enforcement is a discretionary power. The Committee should take into account the planning history and the other relevant facts set out in this report.

In order to issue an Enforcement Notice there must be sound planning reasons to justify taking such action.

4.4 The subdivision of the 5-bedroom family house into self contained flats and a House in Multiple Occupation (sui generis) constitutes an inappropriate and over-intensive use of the site which would be detrimental to the amenity of the prospective occupiers. Previous applications to change the use of the property to a House in Multiple Occupation were refused because the proposal was contrary to the aims and objectives of Policies 3/7, 3/11, 8/6 and 8/10 of the Cambridge Local Plan 2006.

4.5 Having taken into account the Development plan and all other material considerations it is considered expedient to issue an Enforcement Notice.

5. RECOMMENDATIONS

5.1 It is recommended that the Head of Legal Services be authorised to issue an enforcement notice under the provisions of S172 of the Town and Country Planning Act 1990 (as amended), for Material Change of Use from a C3 dwellinghouse to self contained flats and a House in Multiple Occupation (sui generis). Currently, it is expected that the enforcement notice would contain the wording set out in paragraphs 5.2 to 5.4 of this report (with such amendments as may later be requested by the Head of Legal Services).

5.2 Steps to Comply:

1. Cease the unauthorised use of 9 Mowbray Road, Cambridge as self contained flats and a House in Multiple Occupation (sui generis).
2. Revert the planning use of 9 Mowbray Road, Cambridge to its lawful planning use as a single C3 dwelling house.

5.3 Period for Compliance:

6 months from the date the notice comes into effect.

5.4 Statement of Reasons:

It appears to the Council that the breach of planning control has occurred within the last ten years. The applicant has undertaken development without the benefit of planning permission.

Mindful of the NPPF, the development plan policies mentioned in paragraph 4.4 above and to all other material considerations, the Council consider it expedient to serve an enforcement notice in order to remedy the clear breach of planning control.

Consideration has been given to Human Rights including Article 1 Protocol 1 (protection of property), Article 6 (a right to a fair hearing within a reasonable time), Article 8 (right to respect for private family life) and Article 14 (prohibition of discrimination). It is considered that enforcement notices in this case would be lawful, fair, non-discriminatory, and necessary in the general public interest to achieve the objective of upholding national and local planning policies, which seek to restrict such forms or new residential development. The time for compliance will be set as to allow a reasonable period for compliance.

6. IMPLICATIONS

- (a) **Financial Implications** - None
- (b) **Staffing Implications** - None
- (c) **Equal Opportunities Implications** - None
- (d) **Environmental Implications** - None
- (e) **Community Safety** - None

BACKGROUND PAPERS:

No background papers were used in the preparation of this report:

APPENDICES

Appendix A Site plan

Appendix B Appeal decisions

To inspect these documents contact Deborah Jeakins on extension 7163

The author and contact officer for queries on the report is Deborah Jeakins on extension 7163.

Report file: N:\Development Control\Planning\Enforcement\Committee reports\9 Mowbray Road 2013.doc

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