

CAMBRIDGE CITY COUNCIL

REPORT OF: Head of Planning Services

TO: South Area Committee

DATE: 05/03/12

WARD: Cherry Hinton

PLANNING ENFORCEMENT CONTROL ENFORCEMENT NOTICE REPORT

4 Bosworth Road, Cambridge

**Unauthorised change of use from C3 Dwelling house to House in
Multiple Occupation (sui generis)**

1. INTRODUCTION

This report seeks the authority to serve an Enforcement Notice to address a breach of planning control, namely the unauthorised use of a C3 Dwellinghouse as part House in Multiple Occupation and part Guest House.

Site: 4 Bosworth Road, Cambridge.

See Appendix A for site plan

Breach: Unauthorised change of use of a C3 Dwellinghouse

2. PLANNING HISTORY

Reference	Description
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C/94/0213	Two and three storey residential development comprising 90 dwellings (60 houses and 30 flats) with vehicular access from Cherry Hinton Road and associated car parking. Application approved subject to conditions
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06/1221/FUL Change of use to existing dwelling to four rooms bed and breakfast, remainder as owners accommodation.

Application Refused

11/1076/CLUED Application for a certificate of lawfulness under a Section 191 for a site to be used as a house in multiple occupation with more than six residents.

Certificate Not Granted

11/1454/CLUED Application for a certificate of lawfulness under a Section 191 for a site to be used as a house in multiple occupation with more than six residents.

Pending Consideration

3. BACKGROUND

3.1 Planning permission reference 06/1221/FUL for 'Change of use to existing dwelling to four rooms bed and breakfast, remainder as owners accommodation' was refused for the following reasons:

1. The proposed change of use to a mixed residential use of guest house and private residential use, would constitute an intensification of a residential use, which by reason of the additional activity that it would generate, would result in an unreasonable level of noise and disturbance to the occupants of neighbouring properties and therefore have a harmful impact upon their residential amenity. This demonstrates a failure of the development to recognise and respond to the site context and surroundings, and would be contrary to Policy 3/4 and 3/7 of the Cambridge Local Plan 2006 and guidance contained in PPS 1 Delivering Sustainable Development.
2. The parking arrangements and layout for the proposed development would involve use of the shared turning head for car parking, which when occupied would compromise the capability of vehicles to manoeuvre and leave the driveway in forward gear. This would be detrimental to highway safety and therefore contrary to policy 8/2 of the Cambridge Local Plan 2006.
3. The proposed mixed residential use fails to make satisfactory provision for off-street car parking facilities, which is likely to result in additional on-street parking, congestion, competition for parking

spaces and general inconvenience to, and conflict between local residents and visitors, which would undermine the level of residential amenity currently enjoyed by them. This demonstrates a failure of the development to recognise and respond to the site context and surroundings. The proposal is therefore contrary to policy 1/3 of the Cambridgeshire and Peterborough Structure Plan 2003. Policies 3/4, 3/7 and 8/10 of the Cambridge Local Plan 2006 and guidance contained in PPS1 Delivering Sustainable Development.

- 3.2 On 19th May 2011 the Planning Enforcement Service received a complaint that 4 Bosworth Road, Cambridge was operating a bed and breakfast use contrary to its authorised planning use as a Class C3 dwelling house.
- 3.3 On 26th May 2011 the Planning Enforcement Officer and Senior Planning Enforcement Officer inspected the property and established that of the eight bedrooms, 3 rooms were used to house shorthold tenants, 2 rooms were kept for the owner and manager and were occasionally let out for short periods and the remaining 3 rooms were used as Bed and Breakfast accommodation.

Officers advised that the authorised planning use of 4 Bosworth Road was as a C3 Dwellinghouse use and therefore the current use as part House in Multiple Occupation (5 rooms) and part Bed and Breakfast (3 rooms) constituted a breach of planning control.

- 3.4 On 3rd June 2011 a letter confirming the Council view that there was currently a breach of planning control was sent to 4 Bosworth Road. The letter requested confirmation of the owner's intentions within 14 days, and if an application for planning permission for a change of use was to be prepared, it should be submitted to the Council within 28 days.

On 12th July 2011 a message was left for the Planning Enforcement Officer advising that a planning application would be submitted by the end of July 2011.

Repeated attempts to secure the submission of a planning application or remedial action to address the breach failed and so on 24th August 2011 a Planning Contravention Notice was served as a pre requisite to formal Enforcement Action.

The completed Planning Contravention Notice was returned to Cambridge City Council dated 12th September 2011.

- 3.5 On 13th September 2011 an 'Application for a certificate of lawfulness under a Section 191 for a site to be used as a house in multiple occupation with more than six residents', reference 11/1076/CLUED was submitted.

On 7th November 2011 the application for refused, the reason given for the refusal was:

It has been concluded that a Certificate of Lawfulness can not be granted under Section 191 of the Town and Country Planning Act 1990 (as amended) for the use as a house in multiple occupation with more than six residents at 4 Bosworth Road, Cambridge. It appears to the Local Planning Authority that insufficient evidence has been provided to prove the sole continued use of the premises as a house in multiple occupation with more than six residents for a period of greater than 10 years before the date of application.

- 3.6 On 30th November 2011 a further application, reference 11/1454/CLUED was submitted for 'Application for a certificate of lawfulness under a Section 191 for a site to be used as a house in multiple occupation with more than six residents'. The target date for the application was withdrawn.

- 3.7 Despite repeated requests, the developer has failed remedy the breach of planning control or submit a planning application for the change of use for consideration within a reasonable time period.

4. POLICY AND OTHER MATERIAL CONSIDERATIONS:

Planning Policy Guidance 18: Enforcing Planning Control states that a local planning authority may issue an Enforcement Notice where it appears to them that there has been a breach of planning control and it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.

The unauthorised change of use is continuing and it is therefore considered expedient to issue the notice.

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

Although policy 1/3 of the Cambridgeshire and Peterborough Structure Plan 2003 has been superceded, policies 3/4, 3/7, 8/2 and 8/10 of the Cambridge Local Plan which were given as reasons for the refusal of planning application 06/1221/FUL are still relevant.

The unauthorised development, namely the change of use to House of Multiple Occupation fails to recognise and respond to the site context and surroundings of the area and undermines the level of residential amenity currently enjoyed by local residents and is therefore contrary to policies 3/4, 3/7, 8/2 and 8/10 of the Cambridge Local Plan 2006.

5. RECOMMENDATIONS

5.1 It is recommended that the Head of Legal Services be authorised to issue enforcement notices 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 a House in Multiple Occupation (sui generis).

5.2 Steps to Comply:

1. Cease the unauthorised use of 4 Bosworth Road, Cambridge as a House in Multiple Occupation (sui generis) and / or use as a Guest House.

2. Revert the planning use of 4 Bosworth Road, Cambridge to its lawful planning use as a C3 dwelling house.

5.3 Period for Compliance:

3 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 advice contained in DoE Circular 10/97 and Planning Policy Guidance Note 18 and to the development plan policies mentioned above and to all other material considerations, the Council consider it expedient to serve enforcement notices 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

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\4 Bosworth Road 2012.doc

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