

## MUNICIPAL YEAR 2017/2018 REPORT NO.13

### MEETING TITLE AND DATE:

Planning Committee

27 June 2017

### REPORT OF:

Assistant Director  
(Regeneration and Planning)

Contact Officer: Andy Higham – 020 8379 3848 / andy.higham@enfield.gov.uk

AGENDA – PART:	ITEM 11:
SUBJECT:  Review of Enforcement Action at 1 Simpson Close	

### 1. Summary

- 1.1 The report provides an overview of the circumstances which led to the Council serving an enforcement notice against a single storey rear extension and a two storey side extension at 1 Simpson Close due to the harm being caused by these extensions to the amenities of the neighbouring properties.
- 1.2 The report reviews this initial decision in light of the change in the personal circumstances of the property owner and the support for the retention of the extensions as built from within the community including the immediate neighbours.

### 2. Recommendation

1. That Members note the contents of the report regarding the single storey rear extension and two storey side extension at 1 Simpson Close, and having regard the need to take action and the public interest in doing so, confirm that the enforcement notice is withdrawn

### 3. Site and Surroundings

- 3.1 The site comprises of a 2-storey semi-detached house on eastern side of Simpson Close. The property was built as part of the redevelopment of the Highlands Hospital site approved under TP/94/0197. Simpson Close is a cul-de-sac at the northern edge of the old hospital site, leading northwards from MacLeod Road.

- 3.2 The adjoining property, No.3 Simpson Close, is to the north and sits forward of the subject property by approximately 1.1m. There is a drop in ground level at the boundary of approximately 0.5m. The properties to the south of the subject site front MacLeod Road and as such, face the opposite direction to the subject property. No 2 Macleod Road is sited adjacent to the common boundary.
- 3.3 The surrounding area is residential, comprising of a mix of semi-detached and terraced housing, and purpose built flat developments.
- 3.4 The site is not in a conservation area nor is it a listed building.

#### **4. Relevant Policy**

##### Core Strategy (Adopted 10/10/10):

CP30 - Maintaining and improving the quality of the built and open environment

##### Development Management Document (Adopted by the Council 19/11/14):

DMD11 - Rear extensions

DMD14 – Side extension

DMD37 - Achieving high quality and design led development

##### Other relevant policies:

Policy 7.4 of the London Plan (including REMA) (Adopted 11/10/13)

#### **5. Planning Background**

- 5.1 On the 3 March 1994, planning application TP/94/0197 was submitted to the Local Planning Authority for the redevelopment of the site by the erection of five 3-storey blocks of 75 flats (15 No. 1-bed and 60 No. 2-bed), 18 No. 2-bed houses, 55 No. 3-bed houses and 8 No. 4-bed houses together with provision of associated garages and car parking spaces and layout of access roads. The application was granted planning permission on 15 July 1994. Condition 2 of the planning permission restricted future permitted development rights on all properties within the permission.
- 5.2 On 18 October 2013, a prior approval notification, P13-02934PRH, was submitted for a single storey rear extension with a depth of 6m and a height of 2.58m (2.78m high to eaves). The notification was discharged on 14 November 2013, with a letter advising that no objections had been received. The letter also informed that it was responsibility of the owners to check that the premises benefitted from permitted development rights. No application for a Certificate of Lawful Development was received and

building works commenced without obtaining the necessary planning permission.

- 5.3 On 8 April 2014, the Local Planning Authority received an anonymous complaint in relation to the erection of a single storey rear extension at the Premises. A site visit on 24 April 2014 confirmed that the shell of the single storey rear extension, subject to the enforcement notice, had been erected across the width of the rear elevation with a depth of 6 meters and a height of 2.7 meters. Despite being advised on several occasions to reduce the depth of the rear extension on the boundary with No 3 Simpson Close, no remedial action was undertaken leading to an enforcement notice being prepared.
- 5.4 On 9 April 2014, a planning application P14-01423PLA for a first-floor side and rear extension was submitted to the Local Planning Authority. The applicant was advised that the first-floor rear extension proposed as part of this application was reliant on the ground floor rear extension that had been constructed without the necessary planning permission. In addition, it was advised that the application could be amended to include the single storey rear extension albeit the officer's view was that planning permission was unlikely to be granted, due to its depth on the boundary with No.3 Simpson Close. The applicant confirmed that he did not intend to amend this application, as, in his view, the ground floor extension had been approved. The application was not amended and subsequently refused planning permission on 10 September 2014 for the following reasons:
- (i) *The construction of the proposed first floor rear extension would only be possible by the existence of the ground floor rear extension which does not have the benefit of planning permission. The ground floor rear extension by reason of its size, siting, and excessive rearward projection on the boundary with No.3 Simpson Close, gives rise to conditions through a loss of light and outlook, along with an overbearing presence and sense of enclosure to the rear of the dwellinghouse and rear amenity space, that would adversely affect the residential amenities enjoyed by the occupiers of that property. In addition the extension results in a form of development not appearing subordinate to the existing dwelling and thus resulting in the introduction of a bulky, incongruous and discordant form of development disproportionate to the dwelling overall, detrimental to the character and appearance of the property and surrounding area. The proposed first floor rear extension cannot be constructed as proposed, being reliant on an unacceptable ground floor rear extension, and is therefore contrary to Policies (II) GD3 and (II) H12 of the Unitary Development Plan, Core Policy 30 of the Core Strategy, Policies DMD 11 and DMD 37*

*of the Development Management Document (Submission Version), and Policy 7.4 of the London Plan.*

- (ii) *The excessive depth and height of the proposed first floor extension would result in a loss of light and outlook to the first floor windows at No.2 MacLeod Road as well as creating an undue sense of enclosure and contributing to an overbearing presence when viewed from the rear of the dwellinghouse and the rear amenity space, to the detriment of the amenities enjoyed by the occupiers of No.2, contrary to Policies (II) GD3 and (II) H12 of the Unitary Development Plan, Core Policy 30 of the Core Strategy, and Policy DMD 14 of the Development Management Document (Submission Version).*

5.5 Following the refusal of planning application P14-01423PLA, an enforcement notice was served on 11 September 2014, in respect of the unauthorised single storey rear extension. The Enforcement Notice was appealed and subsequently withdrawn on the advice of the Inspector dealing with the appeal. This was because the Inspector had identified further breaches of planning control at the appeal site visit which had occurred after the service of the initial Enforcement Notice.

5.6 On 9 September 2015, an amended Enforcement Notice was served in respect of the unauthorised extensions for the following reasons:

- (i) It appears to the Council that the above breach of Planning Control has occurred within the last four years (Section 171B(1)).
- (ii) The part single storey part two storey rear pitched roof extension by reason of its size, siting, and excessive rearward projection on the boundary with No.3 Simpson Close and No.2 MacLeod Road, gives rise to conditions through a loss of light and outlook, along with an overbearing presence and sense of enclosure to the rear of the dwellinghouse and rear amenity space, which adversely affects the residential amenities enjoyed by the occupiers of that property. In addition, the extension results in a form of development not appearing subordinate to the existing dwelling and thus resulting in the introduction of a bulky, incongruous and discordant form of development disproportionate to the dwelling overall, detrimental to the character and appearance of the property and surrounding area. This is contrary to Policies CP30 of the Core Strategy; Policies DMD11 and DMD37 of the Development Management Document, and Policy 7.4 of the London Plan.

- (iii) The excessive height, depth and overall mass of the two-storey side extension erected on the boundary of 2 MacLeod Road, results in a loss of light and outlook to the ground and first floor rear windows at No.2 MacLeod Road as well as creating an undue sense of enclosure, contributing to an overbearing presence when viewed from the rear of the dwellinghouse and the rear amenity space, to the detriment of the amenities enjoyed by the occupiers and future occupiers of No.2 MacLeod Road. This is contrary to Core Policy 30 of the Core Strategy, and Policy DMD 14 of the Development Management Document.
- (ii) The Council does not consider that planning permission should be given because planning conditions could overcome these objections to the development.

5.7 The Notice required the following steps to be taken to rectify the breach:

- (i) Remove the two-storey side extension (outlined in blue on the attached plan for identification purposes) from the Premises
- (ii) Remove the first-floor rear extension (outlined in purple on the attached plan for identification purposes) from the Premises
- (iii) Remove the single storey rear extension (outlined in green on the attached plan for identification purposes) from the Premises
- (iv) Make good the side and rear elevations with materials to match the original property.

- (v) Remove all resulting materials from the Premises

OR

- (vi) Reduce the height, form and forward projection of the side extension (outlined in blue on the attached plan for identification purposes) to that of the original single storey pitched roof garage.
- (vii) Remove the first-floor rear extension (outlined in purple on the attached plan for identification purposes) from the Premises

- (viii) Remove the pitched roof above the single storey rear extension (outlined in green on the attached plan for identification purposes).
- (ix) Reduce the depth of the single storey rear extension (outlined in green on the attached plan for identification purposes) on the boundary with No.3 to no more than 3m, stepping in at least 1.5m before the extension could step out a further 1.5m to 4.5m overall. If the extension stepped in again a further 1.5m then it could then extend to the total depth of 6m.
- (x) Make good the side and rear elevations with materials to match the original property
- (xi) Remove all resulting materials from the Premises

5.8 The Notice was due to take effect on 13 October 2015. The compliance period was four calendar months.

5.9 Mr Stavrinou sadly passed away during the appeal process and it is this notice which is current held in abeyance with the Planning Inspectorate.

## **6. Current Position and Assessment**

6.1 The power for the local planning authority to issue formal notice is discretionary and should only be used where it is satisfied that there has been a breach of planning control and it is expedient to issue a notice. Where enforcement action is considered, national guidance is that the local planning authority should act proportionately in responding to breaches of planning control having regard to the provisions of the development plan and to any other material considerations.

6.2 In considering whether it is expedient to serve the notice, the fact that there is a breach of planning control is not in itself reason to serve an enforcement notice. There must be harm to an interest of acknowledged importance caused by the breach i.e. loss of light, outlook or residential amenity; and if a notice is served, what benefit or improvement would that result in for the site or surrounding area. After service of the Enforcement Notice, it is also incumbent on the Council at each stage of the enforcement process, to review the current impact and consider whether it is in and / or remains in the public interest to continue.

6.3 In the light of this, the impact of the current unauthorised development has been further assessed to establish whether it is expedient and in the

public interest to continue. This approach has been supported by the Planning Inspectorate in their agreement to hold in pending the current appeal against the enforcement notice.

- 6.4 It is recognised that the current development does not benefit from any planning permission and it is clear, there remains an impact on residential amenity when assessed in light of adopted planning policy. The decision of the Council to take action to address the harm originally identified therefore remains correct.
- 6.5 However, significant weight can be given to the fact that the immediate neighbours of No 3 Simpson Close and No. 2 Macleod Road, have written in expressing their support for the extensions as built notwithstanding the impact on their property, in the light of Mrs Stavrinou's personal circumstances.
- 6.6 Although minimal weight would normally be given to an individual's personal circumstances when assessing the merits of a proposal on the amenities of a neighbouring property, the tests for proceeding with enforcement action are slightly different, with the expediency of taking such action a material consideration. There is therefore flexibility in the application of policy to take into account individual circumstances on whether there are grounds to serve notice. Mindful of this, and noting the appeal consultation resulted in 9 letters of support and a petition requesting the withdrawal of the Enforcement Notice signed by 74 residents residing in close proximity to 1 Simpson Close, it is considered further action in light of Ms Stavrinou's circumstances, is no longer expedient and the Enforcement case should be closed.
- 6.7 Although it is considered the original decision to take enforcement action was correct in terms of the harm to the amenities of the neighbouring properties, officers have continued to work closely with the owner and the Planning Inspectorate to review current enforcement action.
- 6.8 This recommendation has been carefully considered given the harm that arises and has not been arrived at lightly. However, the owner's special circumstances, the letters of support and the Inspectors input in this matter are all factors that have been weighed when making this assessment. As a result, it is considered that the circumstances are appropriate to justify withdrawing the enforcement notice to bring a close to this investigation without causing a precedent for future enforcement action in the Borough.