



**NORTHAMPTON**  
**BOROUGH COUNCIL**

**PLANNING COMMITTEE:** 29 June 2010  
**DIRECTORATE:** Planning and Regeneration  
**HEAD OF PLANNING:** Susan Bridge

**E/2008/0230**                      **125 Harlestone Road,  
Northampton**

**WARD:**                              **Duston**

**REFERRED BY:**                      **Head of Planning**  
**REASON:**                              **Breach of Planning control**

**DEPARTURE:**                      **N/A**

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**ENFORCEMENT MATTER:**

**1. RECOMMENDATION**

- 1.1** That the Borough Solicitor be authorised to issue an Enforcement notice in respect of the unauthorised change of use of the 125 Harlestone Road from a hostel to a mixed use of residential, office, light industrial and warehouse requiring the use to cease with a compliance period of 6 months pursuant to Section 171A(1)(a) of Town and Country Planning Act 1990, (as amended).
- 1.2** That in the event of non compliance with the Notice, the Borough Solicitor take any other necessary, appropriate and proportionate enforcement action pursuant to the provisions within the Town and Country Planning Act 1990, (as amended) to bring about compliance with the Notice.

**2. THE BREACH OF PLANNING CONTROL**

- 2.1** That without planning permission a material change of use of the property from a hostel (Use class C2), to a mixed use comprising residential, offices and warehouse, (Sui Generis), has taken place.

**3. SITE DESCRIPTION**

**3.1** The property is a large three storey building with a detached two storey converted stable block to the side elevation. It is situated on the corner of Harlestone Road and Bants Lane, approximately 1.2 miles from the Town Centre, and is within an area of predominantly residential premises as identified within the Northampton Local Plan.

**3.2** The ground floor of the main building and the converted stable block are currently used for offices, light industrial and warehousing. The first and second floors of the main building are currently used as residential flats.

#### **4. PLANNING HISTORY**

**4.1** In May 2008 the Council were made aware of the change of use of 125 Harlestone Road from a hostel to offices and storage and distribution centre without the benefit of planning permission.

**4.2** A letter was sent to the owner of 125 Harlestone Road advising that a site inspection was required. Council Planning Enforcement Officers visited the property in July 2008 and met with the owner advising that planning permission is required for the material change of use.

**4.3** Despite the advice given during the site meeting with the owner and numerous subsequent letters and conversations, the unauthorised use continued and the Council did not receive a retrospective planning application as requested.

**4.4** In March 2009 Council Planning Enforcement Officers met the owner and reiterated the advice previously given. However, during the course of the site meeting it became apparent that since the previous visit the use had evolved further into a mixed use of residential, offices, light industrial and warehouse.

**4.5** In November 2009 the Council issued a Planning Contravention Notice (requisition for information) to the owner requesting further information to clarify the exact uses on the site. The owner returned the requisition for information confirming the unauthorised uses.

**4.6** Despite the Council's efforts to resolve the matter, the owner appears to be unwilling to regularise or resolve the matter.

#### **5. PLANNING POLICY**

**5.1** Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The current Development Plan comprises of the East Midlands Regional Plan, the saved policies of the Northamptonshire County Structure Plan and Northampton Local Plan 1997.

**5.2** Policies T11, B19 of the Northampton Local Plan are relevant to this case.

T11 states that planning permission for development of commercial uses in a primarily residential area will be conditional upon the provision of adequate waiting, manoeuvring and parking facilities subject to their being no adverse effect on the primarily residential area.

B19 states that within primarily residential areas, planning permission will not be granted for:

- A) The extension of existing business premises or the intensification of existing business uses where the development would have a significant adverse effect on residential amenity.
- B) Development of storage and distribution (B8) uses where the floor space exceeds 235 square metres
- C) General industrial B2 uses or any special industrial uses
- D) Uses involving notifiable quantities of hazardous materials or uses involving the collection and disposal of waste materials.

In addition to the Local Plan, National Policy PPG13 (Transport) is pertinent to this case.

## **6. CONSULTATIONS/REPRESENTATIONS**

- 6.1** The County Council as Highway Authority has been consulted and at this stage have raised no significant concerns. However, they have indicated that they would have concerns if the use intensifies. It should be noted that if the unauthorised use continues without control for a period of 10 years it would then become immune from enforcement action and the Council would relinquish control.

## **7. APPRAISAL**

- 7.1** The Council are not in receipt of any complaints from neighbours and it may be the case that the use in its current form may be acceptable. However, the owner has not been prepared to apply for retrospective planning permission despite the best efforts of officers.
- 7.2** Officers are concerned, nonetheless, because if the use is left unchecked for a period of ten years it would become lawful. In which case there would be no controls in place and the use could become more evolved/intense leading to potential harm to neighbour amenity and highway safety. Therefore it is considered expedient to take enforcement action to secure adequate control in order to prevent the

use developing into an uncontrollable and potentially problematic use. This is particularly important given the site's sensitive location in a residential area and at the junction of two heavily trafficked roads in respect of neighbour amenity and highway safety respectively

## **8. CONCLUSION**

The issue of an enforcement notice is the only avenue available to the Council to control the unauthorised use in perpetuity in accordance with the aims and objectives of the Local Plan Policies T11 and B19 and PPG13.

## **9. HUMAN RIGHTS IMPLICATIONS**

**9.1** The Human Rights Act 1998 introduces a number of rights contained in the European Convention on Human Rights. Public bodies such as the Council have to ensure that the rights contained in the Convention are complied with. However, many of the rights are not absolute and can be interfered with if sanctioned by law and the action taken must be proportionate to the intended objective. In this particular case Officers' views are that seeking to take action in respect of a perceived loss of amenity to nearby residents and occupiers is compliant with the Human Rights Act 1998 because the harm to the wider community clearly outweighs the harm (in human rights terms) to the owner or occupiers.

## **10. LEGAL IMPLICATIONS:**

**10.1** Usual costs of issue, service and any resultant appeal will be met from within the existing budget. In the event of the Notice not being complied with, a costs application can be made to the Courts in respect of any prosecution proceedings.

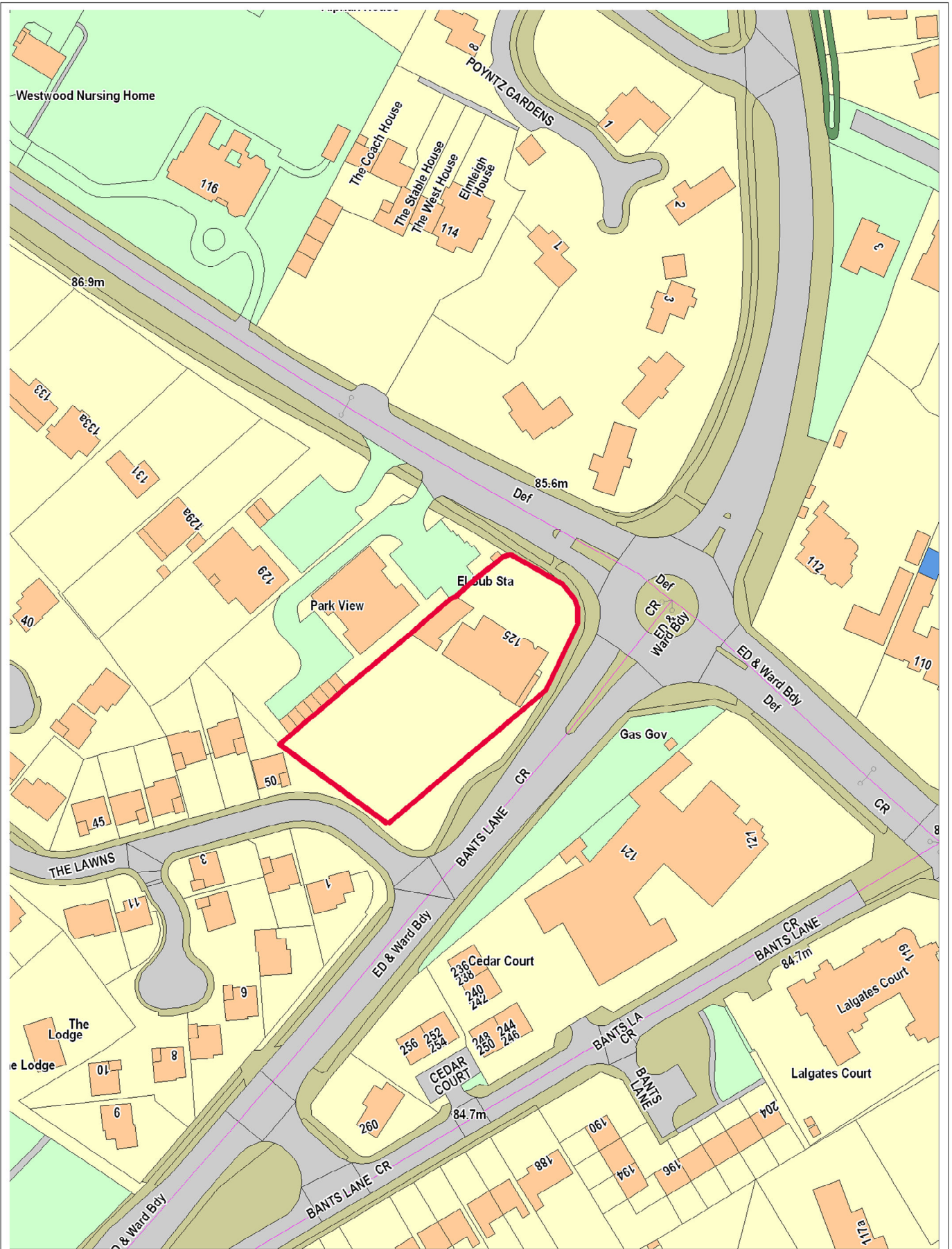
## **11. BACKGROUND PAPERS**

**11.1** E/2008/230

## **12. SUMMARY AND LINKS TO CORPORATE PLAN**

**12.1** In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.

<b>Position:</b>	<b>Name/Signature:</b>	<b>Date:</b>
<b>Author:</b>	James Willoughby	14/06/2010
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Name: Planning  
 Date: 17th June 2010  
 Scale: 1:1250  
 Dept: Planning  
 Project: Location Plan

Title  
**125 Harlestone Road**

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