



NORTHAMPTON
BOROUGH COUNCIL

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

E/2009/0724 **40 Aynho Crescent**
Kingsthorpe
Northampton

WARD: Boughton Green

REFERRED BY: Head of Planning
REASON: Breach of Planning Control

DEPARTURE: N/A

ENFORCEMENT MATTER:

1. RECOMMENDATION

- 1.1 That the Borough Solicitor be authorised to issue an Enforcement Notice requiring cessation of the use of the property as a house in multiple occupation 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, the use of the property has materially changed from a dwellinghouse as defined by Class C3 of the Town and Country Planning Use Classes Order (UCO), to a house in multiple occupation as defined by Class C4 of the UCO.
- 2.2 In April 2010 the Government amended the Town and Country Planning (Use Classes) Order 1987 (the UCO) to include a new class, C4 which covers small shared dwelling houses occupied by unrelated individuals who share basic amenities. In effect this results in shared student accommodation no longer falling within Class C3 (Dwellinghouses) in most cases. Class C3 (a) now confines use within this Class as those living together as a single household as defined by the Housing Act, basically a family.

3. SITE DESCRIPTION

- 3.1 The property is a semi detached 1960's dwellinghouse situated on a residential estate. The property has had a recent two storey side and rear extension which benefits from planning permission.

4. PLANNING HISTORY

- 4.1 The Council's attention was originally drawn to the development by way of complaints about this and other properties in the area.
- 4.2 Officers from the Planning Enforcement Team have been in close liaison with the owner but to date have been unable to secure compliance.
- 4.3 Following contact with the Planning Enforcement Team the owner submitted a retrospective planning application for a "Change of use from a single residential dwelling to a house in multiple occupation with 7 bedrooms" which was refused on 17 February 2010. (Ref: N/2009/0994) for the following reasons:
 - 1) The use of the property as a house in Multiple Occupation has a detrimental effect upon the amenity of the occupiers of nearby properties due to the increase in demand for on street parking and the resulting highway safety problems contrary to Policy H30 of the Northampton Local Plan.
 - 2) By reason of an increase in noise and general disturbance resulting from the over intensive use of the property, the house in Multiple Occupation use has a detrimental effect upon the character and amenities of

this established primarily single family residential area contrary to Policy H30 of the Northampton Local Plan.

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 The unauthorised use is considered to be unacceptable for the reasons stated above in the Council's reasons for refusal to grant planning permission.
- 5.3 Policy H30 of the Northampton Local Plan seeks to allow multi occupation only where there is no detriment to the locality or its residents and where it would not create a substantial demand for on street parking. It is not considered that this unauthorised use fulfils the aims and objectives of the Policy
- 5.4 In addition to Local Plan Policy, National Policy PPG13 (Transport) is pertinent to this case.

6. CONSULTATIONS / REPRESENTATIONS

- 6.1 None

7. APPRAISAL

- 7.1 The property comprises seven bedrooms with a communal area. However, as reflected in the owners submission of planning application N/2009/0994 to regularise the unauthorised use, the house has become considerably more intensive than that of a family home. The intensity of the use of the property has resulted in a use which is out of character with the existing single family households within the estate.
- 7.2 The resulting noise, activity and general disturbance associated with the use of the property is considered to be detrimental to the amenities of neighbouring residents contrary to Policy H30 of the Northampton Local Plan.
- 7.3 The excessive intensity of the use has resulted in parking problems around the locality as this property has limited on site parking provision. Furthermore, there is a significant increase in the number of people coming to and from the property, which has a detrimental

impact on the amenity of nearby residents contrary to Policy H30 of the Northampton Local Plan.

8. CONCLUSION

- 8.1 The unauthorised development is considered to be unacceptable for the reasons stated above and the formal action recommended is considered necessary and appropriate.

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 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 and the occupiers.

10. LEGAL IMPLICATIONS:

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

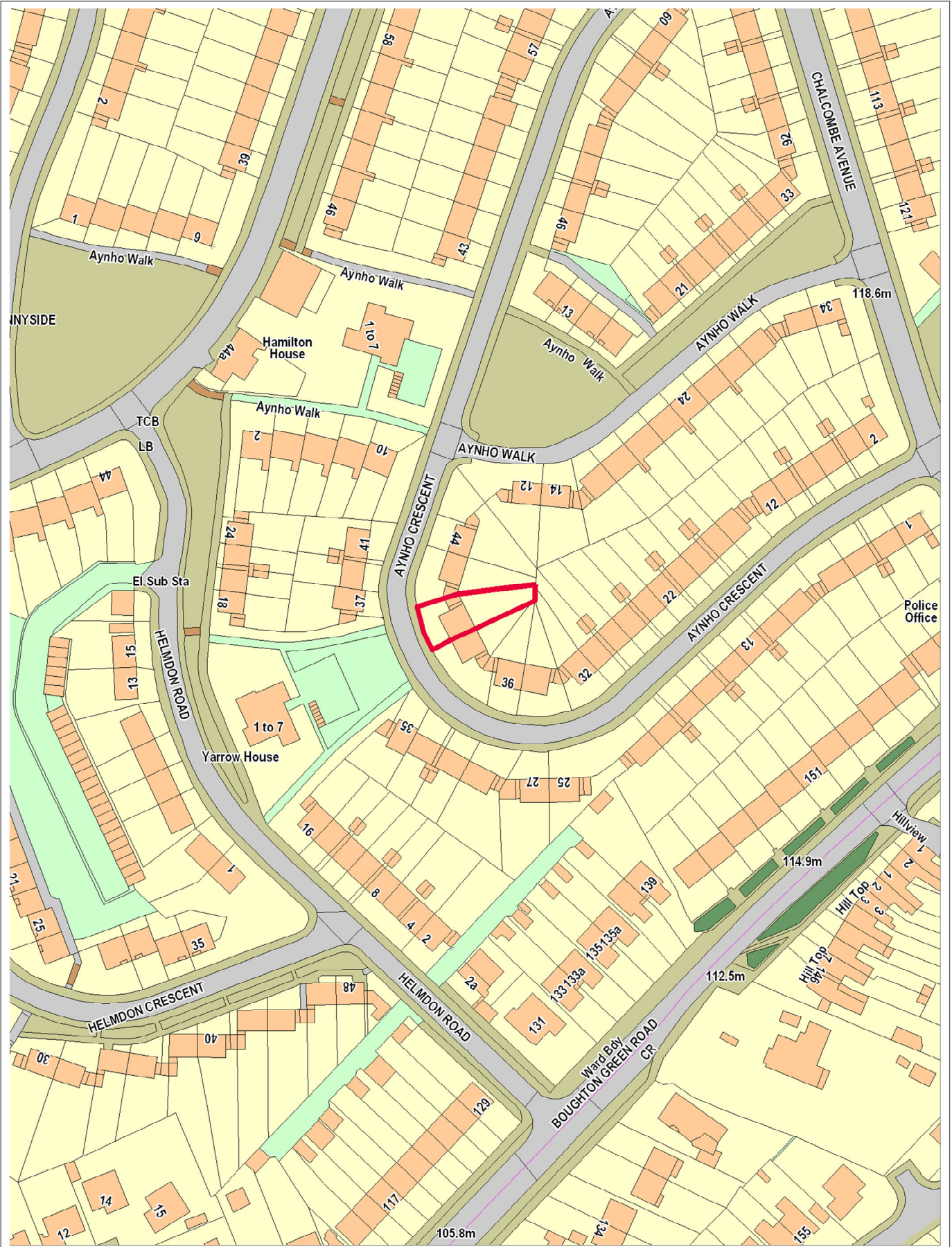
11. BACKGROUND PAPERS

- 11.1 N/2009/0994 & E/2009/0724

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.

Position:	Name/Signature:	Date:
Author:	Carol Tuckley	14.06.2010
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Name: Planning
 Date: 17th June 2010
 Scale: 1:1250
 Dept: Planning
 Project: Location Plan

Title
40 Aynho Crescent

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