



NORTHAMPTON
BOROUGH COUNCIL

PLANNING COMMITTEE: 19 October 2010
DIRECTORATE: Planning and Regeneration
HEAD OF PLANNING: Susan Bridge

Enforcement Matter: Unauthorised subdivision of dwellinghouse to a dwellinghouse with a self contained basement flat at 22 Hester Street - E/2010/0126

WARD: Castle

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

DEPARTURE: N/A

ENFORCEMENT MATTER: E/2010/0126

1. RECOMMENDATION

- 1.1 That the Borough Solicitor be authorised to issue an enforcement notice in respect of the unauthorised change of use of 22 Hester Street to a dwellinghouse and a self contained flat requiring the cessation of the unauthorised use of the basement as a flat with a compliance period of 2 months.

2. THE BREACH OF PLANNING CONTROL

- 2.1 Without planning permission a material change of use from use as a dwellinghouse to a dwellinghouse and a self-contacted basement flat has taken place.

3. SITE DESCRIPTION

- 3.1** The property is a mid terraced Victorian property, situated approximately 1 mile north from the Town Centre and is an area of predominantly residential premises as identified within the Northampton Local Plan.

4. PLANNING HISTORY

- 4.1** On 22 February 2010 the Council received a complaint regarding the unauthorised change of use of 22 Hester Street from a dwellinghouse to a dwellinghouse and a self-contained basement flat without the benefit of planning permission.
- 4.2** On 23 February 2010 Council Planning Enforcement Officers visited the property and met with the owner. The visit confirmed that an unauthorised change of use had taken place. The owner advised the officers that it was his intention to submit a retrospective planning application to regularise the breach of planning control.
- 4.3** However, despite numerous letters and correspondence with the owner, to date the Council has not received a planning application.
- 4.4** Despite the Council's efforts to resolve the matter, the owner appears to be unwilling to resolve the breach of planning control.

5.1 PLANNING POLICY

5.1 National Policy:

PPS1 - Delivering Sustainable Development

PPS3 – Housing

PPG 18 Enforcing Planning Control

5.2 Local Plan Policy:

H21 – Conversion to flats

H24 - Conversion to flats

6.1 CONSULTATIONS/REPRESENTATIONS

- 6.1** N/A

7. APPRAISAL

- 7.1 The unauthorised change of use of the property to a dwellinghouse and self-contained basement flat has created an over concentration of similar uses in the immediate locality and is therefore detrimental to the character and amenity of the area, contrary to Policy H21 of The Northampton Local Plan.
- 7.2.1 The basement flat is accessed via a steep set of steps and has very limited amount of natural daylight to the habitable areas. This is particularly noticeable in the rear lounge area where the only source of natural daylight is through the obscure glazing to the flat's front door, therefore fails to comply with Policy H24 of the Northampton Local Plan.
- 7.2.2 It is considered that the unauthorised change of use of the dwellinghouse to a dwellinghouse and self contained basement flat has resulted in a very cramped form of development and over intensive use of both the site and building which is unacceptable and contrary to national and local planning policy. The recommendation is consistent with the Council's adopted Planning Enforcement Policy in attempting to remedy the breach of planning control.

8. CONCLUSION

- 8.1 The unauthorised change of use is considered unacceptable due to a loss of amenity to both the people living in the basement flat and nearby residents and is contrary to Policy H21 of the Northampton Local Plan. Therefore the Council should seek to rectify the breach of planning control by way of an enforcement notice requiring the unauthorised use of the basement flat to cease.

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 users.

10. LEGAL IMPLICATIONS:

- 10.1 Usual costs will be met from within the existing budget

11. BACKGROUND PAPERS

11.1 E/2010/0126

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:	James Willoughby	27 September 2010
Development Control Manager:	Gareth Jones	27 September 2010



Name: SW
 Date: 5th October 2010
 Scale: 1:1250
 Dept: Planning
 Project: Site Location Plan

Title
22 Hester Street

Produced from the 2009 Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office. © Crown Copyright Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Licence number: 100019655