



**NORTHAMPTON**  
**BOROUGH COUNCIL**

**PLANNING COMMITTEE:** 8 March 2011  
**DIRECTORATE:** Planning and Regeneration  
**HEAD OF PLANNING:** Susan Bridge

**APP:** E/2011/0034

**SITE:** 42-46 Kingsthorpe Grove  
Northampton

**WARD:** Trinity

**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 a Breach of Condition Enforcement Notice requiring compliance with the conditions not complied with pursuant to planning approval N/2008/811 with a compliance period of 2 months.
- 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 Non-compliance with Conditions 3, 5, 6, 7, 10 and 11 of planning approval N/2008/811.

**3. SITE DESCRIPTION**

- 3.1 The property is situated in a primarily residential area as defined in the Northampton Local Plan.

- 3.2 The development was previously 3 terraced houses which were vacant and boarded up.

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

- 4.1 The development approved provided for a conversion of the three properties with extensions to form 8no. apartments with new access and car parking to the rear. However, the principal of development was established by two previous applications which were superseded.

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

- 5.1 Not applicable.

#### **6. CONSULTATIONS / REPRESENTATIONS**

- 6.1 Both NCC Highways and NBC Environmental Health were consulted during the application process, which resulted primarily in the formulation of the imposed conditions.

#### **7. APPRAISAL**

- 7.1 Planning approval N/2008/811 was granted subject to 13 conditions. The following 6 conditions have not been complied with despite bringing the matter to the attention of the owner/developer.

- (3) Full details of facilities for the secure parking of bicycles shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development hereby permitted, provided prior to the development being first brought into use and retained thereafter.
- (5) When the new access hereby permitted is brought into use, the existing access shall be permanently closed (and the highway reinstated) in a manner to be approved in writing by the Local Planning Authority, and no further points of access shall be created thereafter.
- (6) Unless otherwise agreed by the Local Planning Authority, the junction of the new access and the existing highway shall be laid out together with the provision of visibility splays in accordance with details to be first submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby permitted. Development shall be carried out in accordance with the approved details.
- (7) A minimum of 1 parking space shall be laid out and reserved for use by people with disabilities. Details of these shall be submitted to and approved in writing by the Local Planning

Authority and implemented prior to the development hereby approved being first brought into use and retained thereafter.

(10) Details of the provision for the storage of refuse and materials for recycling shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development, implemented prior to the occupation or bringing into use of the building and thereafter maintained.

(11) Unless otherwise agreed in writing by the Local Planning Authority, prior to the first occupation of any of the dwellings hereby permitted, details of crime prevention measures to be implemented shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with these approved details prior to the first occupation and shall thereafter remain.

7.2 The failure to properly close the previous access has left the footpath/crossover in a state of serious disrepair which may be prejudicial to pedestrian safety and the failure to install a proper dropped curb new access to the approved car park is resulting in vehicles mounting the curb and eroding the footpath again to the detriment of pedestrian safety.

7.3 Details were submitted to and approved by the Council as Local Planning Authority in November 2008 in respect of conditions 3, 7 and 10. The details show the provisions for bin and recycling storage at the rear of the property within a defined compound and a designated disabled parking space. Those details have not been implemented which has resulted in the storage of both waste and recycling bins in the front garden area of the property which should have soft landscaping. This is visually unacceptable. Moreover although the disabled parking space has been surfaced it has not been marked as a reserved / designated parking space.

7.4 In respect of the conditions relating to bicycle storage and crime prevention measures, all were considered to be required in order to make the application acceptable and therefore require full compliance.

## **8. CONCLUSION**

8.1 The issue of a Breach of Condition Enforcement Notice is the best avenue available to the Council to enforce compliance with the Conditions. Whilst there are provisions for a Breach of Condition Notice it is considered that the penalty imposed pursuant to that part of the Town and Country Planning Act is not appropriate as it imposes a fine only and cannot bring about the carrying out of the physical works required to comply.

## **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.

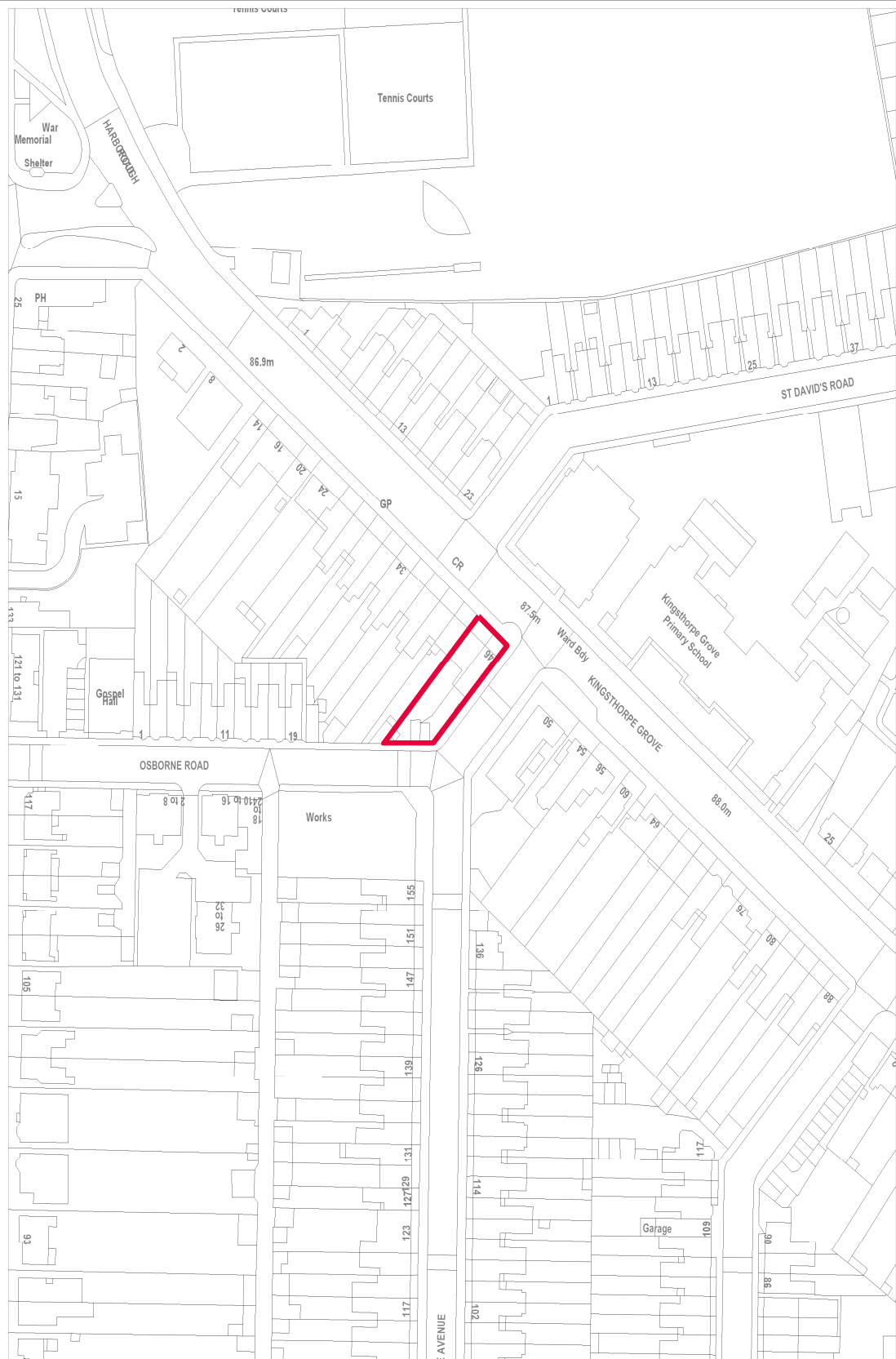
**11. BACKGROUND PAPERS**

11.1 N/2008/811 & E/2011/0034.

**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>	Carol Tuckley	16/02/2011
<b>Development Control Manager:</b>	Gareth Jones	16/02/2011



Name: SW  
 Date: 17th February 2011  
 Scale: 1:1250  
 Dept: Planning  
 Project: Site Location Plan

Title  
**42-46 Kingsthorpe Grove**

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