

# PLANNING COMMITTEE

CHAIRMAN: Cllr Dennis Smith

**DATE:** Tuesday 18 December 2018

**REPORT OF:** Business Manager – Strategic Place

## **ENFORCEMENT REPORT**

**REFERENCE NO:** 16/00208/ENF

### **DESCRIPTION OF DEVELOPMENT**

**NEWTON ABBOT:** 32 Devon Square, Newton Abbot

### **OBSERVATIONS**

1. In May 2016 planning permission and Listed Building Consent (references 16/00569/FUL and 16/00521/LBC) were granted for the conversion of offices into a dwelling including demolition of rear extension and construction of replacement extension at 32 Devon Square, Newton Abbot.
2. In June 2016 the Council received a complaint that the building works at 32 Devon Square were not being carried out in accordance with the approved plans.
3. Investigations revealed that works were being carried out to convert the property, but these works involved creating a house of multiple occupation. However, at the time no further action was taken as a planning application and an application for Listed Building Consent (references 16/01402/COU and 16/01403/LBC) were being considered to change the use from offices to house of multiple occupation. These were subsequently refused. Although building works continued, there would be no planning breach regarding the use of the property until the number of occupants exceeded 6.
4. In addition, the Council also received a complaint about works being carried out in the rear garden to create a raised platform. Investigations revealed that an area of raised ground had been created. As the works involved raising the ground levels by more than 0.3 metres above the original ground level and were attached to the boundary wall that is listed, planning permission and Listed Building Consent would have been required. This resulted in a planning application and an application for Listed Building Consent (references

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16/02232/FUL and 16/02233/LBC) being submitted for the retention of raised seating area. However, these were subsequently refused.

5. As the applications for the use of the property as a house of multiple occupation and the raised seating area had been refused further action was being considered. However, an appeal was subsequently submitted for the refusals of the change of use and another planning application and application for Listed Building Consent (references 16/03175/FUL and 16/03176/LBC) were submitted for change of use of offices to house of multiple occupation (revised scheme). As such enforcement action was put on hold whilst these were being determined.
6. On 10 April 2017 the appeal against the original applications to change the use from offices to House of multiple occupation was dismissed and in June 2017 the applications for the revised scheme were refused. However, a further appeal was submitted but this was subsequently dismissed on 10 January 2018.
7. In the meantime works were substantially completed and it seems that the number of occupants was 8.
8. As part of the conversion works the basement was also refurbished and divided into two rooms. Although it subsequently appeared that the rooms were not used as bedrooms the refurbishment works required Listed Building Consent which was also refused with subsequent appeals dismissed.
9. Following the various applications for planning permission and Listed Building Consent that were refused and appeals dismissed, it was clear that an unauthorised use was occurring and unauthorised works had been carried out both internally and externally. To resolve the matter the owner was contacted to agree a time period for reducing the number of occupants and to remove the unauthorised works that had been carried out in the garden and the basement.
10. As part of the correspondence with the owner a Planning Contravention Notice (PCN) was served to determine which rooms were occupied but to date this has not been returned, though the owner claims the numbers have been reduced to 6.
11. More recently it has been brought to the Council's attention that a tenth room is being advertised to let as part of the house share. The advertisement stated that there is currently 9 people already occupying the property. As this is clearly resulting in a house of multiple occupation, planning permission would have been required for the use. As no planning permission has been granted a planning breach is occurring.
12. In this instance the use of the property as a house of multiple occupation is considered unacceptable as it impacts on the architectural integrity of the listed building. It also impacts unacceptably on the character and appearance

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of the Conservation Area. In addition the use fails to secure a good standard of amenity for the existing adjacent occupiers at 33 Devon Square. This is contrary to Policies S1A (Presumption in favour of Sustainable Development), S1 (Sustainable Development Criteria), S2 (Quality Development) and EN5 (Heritage Assets) of the Teignbridge Local Plan 2013-2033 and Section 16 (Conserving and enhancing the historic environment) of the National Planning Policy Framework. As such to ensure the use ceases it is necessary to issue an Enforcement Notice to prevent more than 6 people occupying the property.

- 13 As for the unauthorised works that have been carried out, it is necessary to issue an Enforcement Notice to seek the removal of the raised seating area in the rear garden, as it is considered to be unacceptable on the architectural integrity and visual amenity of the listed building and the adjacent listed buildings. The works also impact unacceptably on the character and appearance of the Conservation Area. These works are also contrary to Policies S1A (Presumption in favour of Sustainable Development), S1 (Sustainable Development Criteria), S2 (Quality Development) and EN5 (Heritage Assets) of the Teignbridge Local Plan 2013-2033 and Section 16 (Conserving and enhancing the historic environment) of the National Planning Policy Framework.
- 14 In addition it is necessary to issue a Listed Building Enforcement Notice to ensure the inappropriate materials that have been applied to the walls and floor, and the internal partitions that have been installed in the basement are removed. These works are contrary to Policy EN5 (Heritage Assets) of the Teignbridge Local Plan 2013-2033 and Section 16 (Conserving and enhancing the historic environment) of the National Planning Policy Framework.

### RECOMMENDATION

The Committee is recommended to resolve i) serve an Enforcement Notice for the unauthorised change of use of the property to a house of multiple occupation. ii) serve an Enforcement Notice for the unauthorised construction of the raised seating area in the rear garden and iii) serve a Listed Building Enforcement Notice for the unauthorised works carried out in the basement of the property. A period of six months should be given for compliance. In the event of the Notices not being complied with, the Solicitor be authorised to take action as necessary under Sections 178 and 179 of the Town and Country Planning Act 1990 and Section 43 of the Planning (Listed Buildings and Conservation Areas) Act 1990

WARD MEMBERS: Cllrs J Hook & Hayes

