

**For general release**

Meeting : **Overview and Scrutiny Organisation Committee**

Date : **15<sup>th</sup> November 2004**

Report of : **Director of Cultural Services  
Director of Environment**

Subject : **Request for Scrutiny re 7 Ridgeside Avenue,  
Patcham**

Wards affected : **Patcham**

**1 PURPOSE OF THE REPORT**

1.1 This report sets out the scrutiny request with initial officer comments on the matters raised and the criteria for determining scrutiny requests.

**2 RECOMMENDATIONS**

2.1 That the Committee consider the information in the report and the request for scrutiny and determine whether the issue identified should be the subject of a scrutiny review and/or a further officer report.

2.2 That if a scrutiny review is appropriate, the Committee decide whether to establish a Scrutiny Panel, or whether OSOC will itself conduct the scrutiny.

2.3 That if a scrutiny review is not appropriate, the Committee consider whether there are nevertheless any recommendations which they wish to make on the matters set out in the report and request for scrutiny.

**3 THE REQUEST FOR SCRUTINY**

3.1 The letter requesting scrutiny of the failure to implement enforcement action in respect of 7 Ridgeside Avenue, Patcham is included on the agenda as item 34(a).

**4. INITIAL COMMENTS OF THE DIRECTOR OF ENVIRONMENT**

4.1 The substance of the neighbours' complaints in this case is that the building had never been granted permission for subdivision to 3 units, and that any subdivision caused problems for the rest of the street, being a narrow cul-de-sac. An attempt by the owner to prove that the building

had an historical established use as three flats was refused in June 2003, and the planning application was subsequently refused in September 2003. Following that the applicants were able to prove that the basement garden rooms had been occupied as a separate dwelling long enough to have an established use, so effectively they had proved that the building was legally in use as two flats.

4.2 The Planning Investigation Team Leader has been working to the guidance in the ODPM's Planning Policy Guidance Note 18 that Local Planning Authorities should attempt to persuade the owner of a property to voluntarily remedy the harmful effects of the unauthorised works. However, it goes on to state that "negotiations should not be allowed to hamper or delay whatever formal enforcement action may be required to make the development acceptable on planning grounds, or to compel it to stop (LPAs should bear in mind the statutory time limits for taking enforcement action)." It should be noted that the statutory time period that would make the unauthorised dwelling in this case authorised has not arisen.

4.3 Notice was not served prior to the sale of the property because the Council's Planning Investigation Team Leader was in negotiation with the owner seeking a resolution to the issue. It was the opinion of the Planning Investigation Team Leader that because the property was for sale the issue of the unauthorised flat would be resolved by the purchaser, who was aware of the situation. The Planning Investigation Team Leader considered that the service of a notice would only serve to make any sale unlikely to go ahead as mortgage funds often cannot be secured on properties where notices have been served. This would in turn make resolution of the problem likely to take longer as tenants would remain in the property.

4.4 The sale of the property saw all the tenants move out and the use as three flats cease. The Planning Investigation Team Leader will be meeting the owner of the property on site on 16/11/04. If there is evidence that an unauthorised extra flat persists in the property then his team will proceed with the issue of an enforcement notice.

## 5. THE SCRUTINY CRITERIA

5.1 The Overview and Scrutiny Procedure Rules in the Council constitution set out the following factors which the Overview and Scrutiny Organisation Committee will have regard to, in considering whether or not a request should be agreed for scrutiny:

- The importance of the matter raised and the extent to which it relates to the achievement of the Council's strategic priorities, the

implementation of its policies or other key issues affecting the well being of the City or its communities;

- Whether there is evidence that the decision-making rules in Article 11 of the constitution have been breached; that the agreed consultation processes have not been followed; or that a decision or action proposed or taken is not in accordance with a policy agreed by the Council.
- The potential benefits of a review especially in terms of possible improvements to future procedures and/or the quality of Council services.
- What other avenues may be available to deal with the issue and the extent to which the Councillor or body submitting the request has already tried to resolve the issue through these channels (e.g. a letter to the relevant Executive Committee, the complaints procedure, enquiry to the Chief Executive or Chief Officer, Council question etc.)
- The resources available and the need to ensure that the process is not overloaded by requests.

5.2 On this basis the request for scrutiny would appear to be premature at this stage. It would appear that the request does not fit scrutiny criteria at the present time since other avenues open to Councillor Theobald have not been fully explored. A letter has been sent to Councillor Theobald from the Director of the Environment on 9 November 2004 setting out the present position.

5.3 The following is an extract from the letter. 'I can confirm that following the new correspondence the Planning Investigation Team Leader is looking once more into the use of the property. He has served a notice on the new owner requiring that he give full ownership details, including details of occupiers of all the rooms. This should reveal the number of units of accommodation the building is divided into. He is also arranging a further site inspection. If he finds that the building is being used and is arranged as more than the authorised main dwelling plus basement flat then enforcement action will be immediately forthcoming. Max Woodford will be in touch with you directly within 14 days of the date of this letter to confirm his findings and to confirm what enforcement action will be taken.'

## **6. PROCEDURE RULES AND GUIDELINES FOR AD HOC OVERVIEW AND SCRUTINY PANELS**

6.1 The Overview and Scrutiny Procedure Rules in the Council constitution relating to Ad hoc Overview and Scrutiny Panels are as follows:

1. The OSOC may establish ad hoc Panels to undertake particular investigations, reviews and commissions. Such Panels will undertake their work on a task and finish basis and will be appointed for a fixed period, on the expiry of which they shall cease to exist. Ad hoc Panels may meet as often as required within this fixed period. The Membership, Chair, terms of reference and duration of any ad hoc Panel will be determined by the OSOC when the Panel is appointed.

2. Ad hoc Overview and Scrutiny Panels will not have Sub-Committee status and the OSOC may not delegate its powers to them. The ad hoc Panels will report their findings to the OSOC. The Membership of the ad hoc Panels will not be subject to the political balance rules in section 15 of the Local Government and Housing Act 1989, but they will normally be established on a cross-party basis.

3. The Chair and Members of any ad hoc Overview and Scrutiny Panel shall be appointed by the OSOC from amongst the persons included in the Overview and Scrutiny 'pool'. The Overview and Scrutiny 'pool' may comprise of all Councillors who are not the chair of an Executive Committee, and may also include non-councillors who the OSOC may agree from time to time to co-opt.

4. In order to avoid delay in making appointments to ad hoc Panels, the OSOC may simply specify a number of Members to be appointed from each political group. In this case the Chief Executive will make the appointments in accordance with the wishes of the relevant political group(s).

5. When nominating Members to serve on ad hoc Panels, the OSOC and/or political group(s) shall take into account the expertise and experience of available Members of the 'pool', and that no Member may be involved in scrutinising a decision in which he/she, or a Committee/Sub-Committee of which he/she is a member, has been involved.

6. There shall be no provision for substitute Members to attend meetings of ad hoc Overview and Scrutiny Panels.

7. The OSOC shall ensure that the number of ad hoc Overview and Scrutiny Panels which are in existence at any one time does not exceed the capacity of the Member and officer resources available to support their work.

8. If an Overview & Scrutiny Committee includes anyone who is not a Member of the Authority, with the exception of church and parent governor representatives on the Education Overview and Scrutiny Panel (see 3.2 above) such persons will not be entitled to vote.

6.2 Scrutiny Panel Guidelines agreed by OSOC are available from the  
Committee Administrator.

## APPENDIX 1

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|-----------------------|--|
| <b>Meeting/Date</b>   | Overview and Scrutiny Organisation Committee: 15 November 2004 |
| <b>Report of</b>      | Director of Cultural Services                                  |
| <b>Subject</b>        | 7 Ridgeside Avenue, Patcham                                    |
| <b>Wards affected</b> | Patcham  |

### **Financial implications**

There are no direct financial implications arising from this report.

### **Legal implications**

There are no direct legal implications arising from this report.

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| <b>Corporate/Citywide implications</b>   | <b>Risk assessment</b>  |
| There are no direct corporate/citywide implications arising from this report.                      | No risk assessment has been undertaken in relation to this report.    |
| <b>Sustainability implications</b>   | <b>Equalities implications</b>  |
| There are no direct sustainability implications arising from this report.                          | There are no direct equalities implications arising from this report. |
| <b>Implications for the prevention of crime and disorder</b>                                       |   |
| There are no direct implications for the prevention of crime and disorder arising from this report |   |

### **Background papers**

None

### **Contact Officer**

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