

DECISION-MAKER:	PLANNING AND RIGHTS OF WAY PANEL
SUBJECT:	ENFORCEMENT REPORT IN RESPECT OF 141 BURGESS ROAD, BASSETT, SOUTHAMPTON
DATE OF DECISION:	18 JANUARY 2011
REPORT OF:	PLANNING AND DEVELOPMENT MANAGER
STATEMENT OF CONFIDENTIALITY	
Not applicable	

BRIEF SUMMARY

An unauthorised change of use of 141 Burgess Road has taken place from single, four-bedroom dwelling to use primarily as an office to an architectural practice / property development company/consultant.

RECOMMENDATIONS:

- (i) Serve an Enforcement Notice, requiring the unauthorised use of 141 Burgess Road primarily as an office to cease and that should that unauthorised use not cease that authority be given to prosecute such a breach of control via the Magistrates Court.
- (ii) Offer assistance to the business(es) operating from the address to find alternative accommodation, authorised for office use.

REASONS FOR REPORT RECOMMENDATIONS

- 1 The unauthorised use of 141 Burgess Road primarily as an office prevents the property being used as a single dwelling house. This is contrary to Policy H6 of the City of Southampton Local Plan Review (March 2006).

DETAIL

Introduction

- 2 This report updates the 23rd November 2010 report to the Planning and Rights of Way Panel (attached with the meeting minute at **Appendix 1**). At this meeting it was resolved to serve an Enforcement Notice requiring the unauthorised use of 141 Burgess Road as an office to cease. The serving of this notice was deferred to enable officers to discuss any possible alternative courses of action with the owner.

Update

- 3 On the 30th November 2010 officers of the planning department met the owner of 141 Burgess Road. The owner suggested the submission of a further application for a live/work unit which could be time-limited for a period of two years to enable the completion of the dwelling to the rear of the site, thereby compensating for the loss of 141 as a dwelling (see letter attached at **Appendix 2**).
- 4 Whilst policy CS16 of the Core Strategy is relevant, the primary policy consideration in this instance is saved policy H6 of the City of Southampton Local Plan Review (March 2006 - LPR) which resists the net loss of dwellings. Allowing the breach of control to continue for a further two years would be contrary to the provisions of policy H6 and furthermore, there is no

mechanism in place to secure the delivery of the dwelling after the two year period has elapsed and thereby leading to a further delay in resolving this situation.

Conclusion and preferred option recommended by Officers

- 5 The evidence suggests that there is no residential use of the building but if there is any residential use, then it has taken the character of a purely ancillary function of the building, whose primary use is now firmly as an office contrary to policy H6 of the LPR. Continued unauthorised use for business purposes does not meet the objectives of this policy, which is to protect a net stock of family housing.
- 6 It is therefore considered expedient to serve an Enforcement Notice to require use of 141 Burgess Road primarily as an office to cease. This is because continued unauthorised use (since March 2006), has caused the loss of a four bedroomed, family dwelling house to the Council's stock of housing and is therefore contrary to Policy H6 of the Local Plan Review (March 2006) The compliance period recommended is 3 months. The owner of the property would have the ability to Appeal the decision within a 28 day period.

RESOURCE IMPLICATIONS

Capital/Revenue

- 7 There is the possibility that the owner could claim costs for unreasonable behaviour by the Local Planning Authority, if an Appeal against the Enforcement Notice were to succeed. The risk is however, considered to be small given the Council's statutory and up to date Development Plan and the evidence that exists in terms of housing need and relocation opportunities.

Property/Other

- 8 None.

LEGAL IMPLICATIONS

Statutory Power to undertake the proposals in the report:

- 9 None

Other Legal Implications:

- 10 None

POLICY FRAMEWORK IMPLICATIONS

- 11 None

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SUPPORTING DOCUMENTATION

Appendices

1.	Previous report to Planning and Rights of Way Panel and committee minute
2.	Letter from owner of 141 Burgess Road

Documents In Members' Rooms

1.	None
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Integrated Impact Assessment

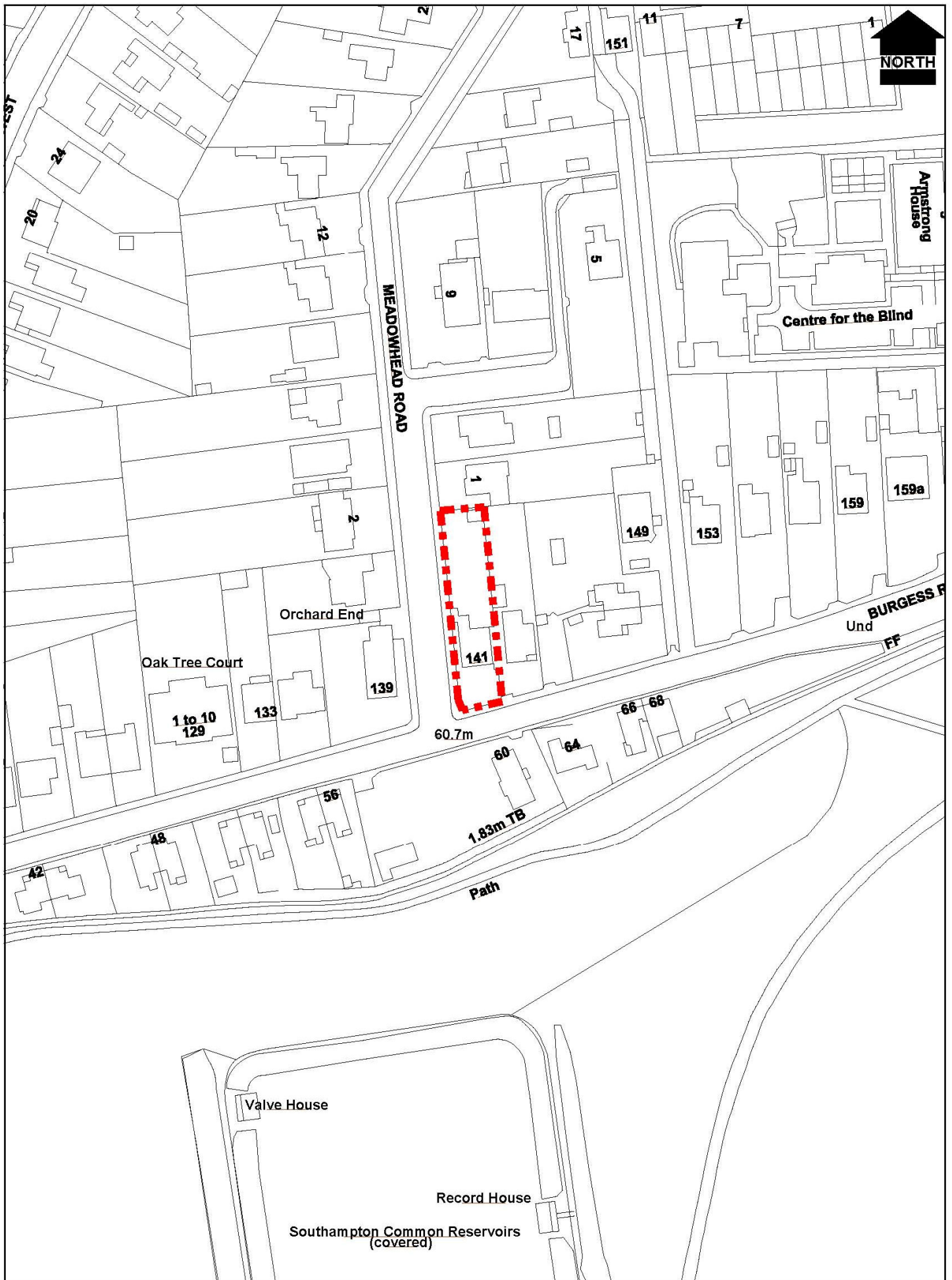
Do the implications/subject/recommendations in the report require an Integrated Impact Assessment to be carried out.	No
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Other Background Documents

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	Redacted complainants' letters	
2.	6 letters from Quayside Architects	
3.	Letter of support form 139 Burgess Road	
Integrated Impact Assessment and Other Background documents available for inspection at:		N/A
WARDS/COMMUNITIES AFFECTED:		Bassett



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Date :06 January 2011

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