SUMMARY

A change of use from retail floorspace (A1) to a one bedroom residential flat (C3) has occurred on the ground floor of 180 Hook Road, Surbiton, KT6 5BZ, which does not have the benefit of planning permission.

This unauthorised change of use has resulted in the loss of retail floorspace along a designated Local Centre frontage. Additionally, the residential unit does not provide an acceptable standard of accommodation for current and future occupiers, and does not provide suitable financial contributions in line with S106 requirements. It is therefore contrary to Policies DM13, DM19 and IMP3 of the Local Development Framework Core Strategy (Adopted April 2012), Policies 3.5 and 4.8 of the 2011 London Plan and the Council's Planning Obligations Strategy, Revised Supplementary Planning Document (2011).

It is therefore recommended that an Enforcement Notice is served requiring the cessation of this unauthorised residential use and the removal of all fixtures and fittings associated with this use.

RECOMMENDATIONS

It is RECOMMENDED that the Head of Legal Services and the Head of Planning and Transport be authorised:

1. to issue an Enforcement Notice (s) under S. 172 of the Town and Country Planning Act 1990 (as amended) (ref. para. 24 of the report),
2. to withdraw and to vary such notice (s) under S. 173A,
3. in the event of non-compliance, take action (s) by way of prosecution under S. 179, S.187A and/or direct action under S. 178 of the Act in respect of the breach of planning control/or for injunctive relief under S.187B.

REASON FOR RECOMMENDATION

To issue Notices to remove the identified breaches of planning control at the site.

SITE DESCRIPTION

1. The site comprises a two storey mid terrace property situated on the Northern side of Hook Road. At the time of the last site visit (April 2013), the property was comprised of 3 residential flats - 180a (first floor flat); 180b (‘shopfront’ flat) and 180 (‘garden’ flat). To the rear of the site lies a single storey outbuilding which appears to be used in conjunction with the ‘garden flat.’ The site forms part of a small ground floor parade of retail based uses.

2. The site is designated as a Key Area of Change and a Local Centre within the Core Strategy. The site has a Public Transport Accessibility Level (PTAL) of 2 (poor).
PLANNING HISTORY

3. The relevant planning history of the site is summarised in the table below:

<table>
<thead>
<tr>
<th>Planning Reference</th>
<th>Description</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>08/10151/FUL</td>
<td>Alterations during the course of construction of planning permission 07/10246/FUL (erection of a single storey rear extension) to include erection of a single storey side extension and retention of 2.7m high side boundary wall</td>
<td>Permit with Conditions 08/09/2008</td>
</tr>
<tr>
<td>07/10246/FUL</td>
<td>Erection of single storey rear extension to ground floor flat</td>
<td>Permit with Conditions 19/12/2007</td>
</tr>
</tbody>
</table>

THE BREACH OF PLANNING CONTROL

4. The breach of planning control relates to the unauthorised change of use of part of the ground floor from a retail use (A1) to a residential flat (180b Hook Road or ‘shopfront flat’)

5. RBK records indicate that in 2003 the site operated as a roofing supply shop (Use Class A1) and that from 2006 – 2010 the shop unit was unoccupied.

6. Planning applications 07/10246/FUL and 08/10151/FUL granted permission for the extension and enlargement of the ‘garden flat’ on the ground floor to the rear of 180 Hook Road.

7. Correspondence was received in March 2013 that a change of use of the shop unit to a residential flat had occurred.

8. A site visit on 25/04/2013 revealed that a residential flat (180b) had been created on the ground floor and that this was occupied within the previous retail space. Records indicate that no planning permission for this change of use has been granted.

9. Internal photographs of the flat are present in ANNEX 1 at the end of this report.

PLANNING CONSIDERATIONS

10. A planning assessment of the development as erected is undertaken below:

   Loss of Retail Floorspace

11. Policy DM 19 (Protecting Existing Retail Uses) states that the Council will “support local shops and resist their loss (particularly convenience shops) in Local Centres and outside designated centres.”

12. Paragraph 6.131 of this Policy states the “the protection and enhancement of Local Centres and local shops can be justified by their key role in serving Kingston’s residents, particularly in the south of the Borough. Because there is no dedicated District Centre in the South of the Borough and due to the significant number of Borough Households using their services for their main weekly food shop, Local Centres are vitally important. The protection and enhancement of Local Centres and local shops concurs with regional and national guidance and evidence highlighted in the Local Centres Study (2009) and the Retail Study Update (2010). “
13. Similarly, Policy 4.8 (Supporting a Successful and diverse Retail Sector) states that Boroughs should support convenience retail particularly in District, retail and more local centres, to secure a sustainable pattern of provision and strong, lifetime neighbourhoods. It also states that Boroughs should provide a policy framework for maintaining, managing and enhancing local and neighbourhood shopping and facilities which provide local goods and services, and develop policies to prevent the loss of retail and related facilities that provide essential convenience and specialist shopping.

14. The unauthorised change of use has resulted in the loss of approximately 25m² of retail floorspace within a designated Local Centre. As such, it is contrary to the aims and objectives of Policy DM19 of the Core Strategy and Policy 4.8 of the 2011 London Plan.

Quality of residential accommodation

15. Part c) of Policy DM13 (Housing Quality and Mix) of the Core Strategy states that the Council will expect new residential development to provide adequate internal space appropriate to the intended number of occupants in accordance with London Plan Policies.

16. Policy 3.5 of the 2011 London Plan states that Housing developments should be of the highest quality internally, externally and in relation to their context and the wider environment. It also states that Local Development Frameworks should incorporate minimum space standards that generally conform with the space standards set out within table 3.3 of Policy 3.5. It also states that “the Mayor will, and boroughs should seek to ensure that new development reflects these standards. The design of all new dwellings should also take account of factors relating to ‘arrival’ at the building and the ‘home as a place of retreat,’ have adequately sized rooms and efficient room layouts, meet the changing needs of Londoners over their lifetimes, address climate change adaptation and mitigation and social inclusion objectives and should be conceived and developed through an effective design process.”

17. Table 3.3 of Policy 3.5 requires that 1 person, 1 bed residential units provide a gross internal area (GIA) of at least 37m² unless they are of “exemplary design” and contribute the achievements of other London Plan objectives.

18. Internal measurements were taken during the site visit on 25/04/2013. From these, it is calculated that this flat (180b) provides a GIA of approximately 25m², far lower than the 37m² required by Policy 3.5.

19. Additionally, the existing shopfront still remains and the unauthorised residential flat is separated from it by some timber (plywood). As a result the unit also does not have satisfactory insulation along this shopfront ‘wall’. Additionally, the flat only has two very small natural light sources, and is also poorly ventilated. There is no adequate ‘bedroom’ area, with occupants being required to sleep above the cramped kitchen and WC facilities (which would be difficult/impossible for those with mobility difficulties or wheelchair users).

20. Given the above, it is considered that flat 180b provides cramped and unacceptable accommodation for current and future occupants, contrary to Policy DM13 of the Core Strategy and Policy 3.5 of the London Plan.
Section 106 Contributions

21. Finally, the creation of a new flat/dwelling in this location would usually be subject to various charges in accordance with the Councils Supplementary Planning Document (SPD) 'Planning Obligations.' The unauthorised development would be subject to a charge of £3100 broken down as follows:

(a) Health Care - £700
(b) Sustainable Travel - £650
(c) Public Realm - £1300
(d) Management/Monitoring fee - £450

22. As such, without a legal agreement securing contributions towards health/social care facilities, sustainable travel and sustainable environment within the Borough, the development is contrary to Policy IMP3 of the Local Development Framework Core Strategy Submission Draft, May 2011 and the Council's Planning Obligations Strategy, Revised Supplementary Planning Document (2011).

Other Matters

23. Assessment has also been made on the impact the unauthorised change of use is having on neighbouring amenity and highway safety, however it is considered that this use is not causing unacceptable harm in either of these regards.

SUGGESTED REQUIREMENTS OF THE ENFORCEMENT NOTICE/ BREACH OF CONDITION NOTICE

24. Given the assessment above, it is recommended that enforcement action is taken requiring the cessation of the residential use at 180b Hook Road and the removal of all fixtures and fitting associated with this unauthorised use as set out below:

1) Cease the use of number 180b Hook Road as a residential unit.

AND

2) Remove all the fixtures and fittings associated with this use.

Period for compliance:

Within 5 months of the Notice taking effect.

The reasons for issuing the Notice:

This unauthorised change of use has resulted in the loss of retail floorspace along a designated Local Centre frontage. Additionally, the residential unit does not provide an acceptable standard of accommodation for current and future occupiers, and does not provide suitable financial contributions in line with S106 requirements. It is therefore contrary to Policies DM13, DM19 and IMP3 of the Local Development Framework Core Strategy (Adopted April 2012), Policies 3.5 and 4.8 of the 2011 London Plan and the Council's Planning Obligations Strategy, Revised Supplementary Planning Document (2011).

Background papers: held by Paul Young (author of report) – tel 020 8547 5309.
e-mail: paul.young@rbk.kingston.gov.uk; Enforcement File ref EN/13498
INTERNAL PHOTOGRAPHS OF FLAT 180B