

**East Area Planning Committee**

8 February 2017

## **REPORT RECOMMENDING ENFORCEMENT ACTION**

**Site:** Lawn Upton House: specifically listed below:

Blay's Cottage, 25 Lawn Upton Close, Oxford. OX4 4QF

Clewer House, 26 Lawn Upton Close, Oxford. OX4 4QF

Lawn Upton House, 27 Lawn Upton Close, Littlemore, Oxford, Oxfordshire, OX4 4QF

**Ward:** Littlemore

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### **Recommendation:**

The East Area Planning Committee is recommended to resolve to issue one or more listed building enforcement notices under s38 of the Planning (Listed Buildings and Conservation Areas) Act 1990, for the following reasons:

- 1 The unauthorised works being unauthorised works of alteration to Listed Building(s) affecting its character as a building of special architectural or historic interest are a contravention of sections 7 and 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The unauthorised works as set out in this report fail to preserve the special architectural and historic interest of the Listed Building;
- 2 It is expedient to do so having regard to the effect of the works on the character of the building as one of special architectural or historic interest;
- 3 The unauthorised works as set out in this report fail to preserve the special architectural and historic interest of the Listed Building;
- 4 The unauthorised works cause harm to the Littlemore Conservation Area and fail to preserve or enhance the character or appearance of that Conservation Area;
- 5 The unauthorised works are contrary to local and national policies as set out below; and
- 6 Some of the unauthorised works carried out have started to and would continue to cause serious decay to the building fabric and should be remedied to prevent further irreversible decay.

and to delegate the issuing of the notices to the Head of Planning and Regulatory Services.

## **Main Local Plan Policies:**

### **Oxford Local Plan 2001-2016**

**CP1** - Development Proposals  
**HE3** - Listed Buildings and Their Setting  
**HE7** - Conservation Areas  
**CP7** - Urban Design  
**CP11** - Landscape Design

### **Core Strategy**

**CS18** - Urban design, town character, historic environment

### **Other Material Considerations:**

National Planning Policy Framework  
Planning Practice Guidance  
In Littlemore Conservation Area

### **Relevant Site History:**

96/00084/NFH - Installation of door in place of existing window to provide new entrance to 1st floor flat. PER 19th April 1996.

96/00085/L - Door in existing window at ground in north for new entrance to & upgrading to meet fire safety standards of 1st floor flat. Internal alterations including new staircase, alterations to close off staircase & convert to ground floor cupboard. PER 19th April 1996.

04/02282/FUL - Change of use of Lawn Upton House from school offices and flat to 3 houses. Change of use from disused Garden House to 1 house. Change of use from stables/chapel/learning resource building to one house with pitched roof over existing single storey building. Boundary walls, gates and free standing bin store. 9 car parking spaces (see application no. 04/02293/FUL for 18 flats and access in grounds). (Amended Plans). PER 15th February 2005.

04/02292/LBC - Listed Building Consent for 1) Removal of timber sheds and modern external steel fire-escape. 2) Pitched roof over single storey building part of stables/chapel/resource building. 3) Alterations to Lawn Upton House, Garden House and stables/chapel to form 4 houses/1 flat. 4) Boundary walls and gates. PER 15th February 2005.

04/02293/FUL - Demolition of sheds and outbuildings. Erection of three buildings containing 18 flats: East block - 2 and 3 storey - 10 flats (9x2, 1x1 bed), 10 parking spaces. South block - 2 storey - 6 flats (6x2 bed), 6 parking spaces. West block - 2 storey - 2 flats (2x2 bed), 2 parking spaces. New access road, footpaths, bin store for East block, children's play area. (amended plans). REF 2nd March 2005.

04/02294/CAC - Conservation Area Consent to demolish prefabricated teacher's building, timber sheds and brick outbuildings. REF 1st March 2005.

10/00235/EXT - Renewal of planning permission 04/02282/FUL (Change of use of Lawn Upton House from school offices and flat to 3 houses. Change of use from disused Garden House to 1 house. Change of use from stables/chapel/learning resource building to one house with pitched roof over existing single storey building. Boundary walls, gates and free standing bin store. 9 car parking spaces.. PER 22nd April 2010.

10/00236/EXT - Renewal of Listed Building Consent 04/02292/LBC ( 1) Removal of timber sheds and modern external steel fire-escape. 2) Pitched roof over single storey building part of stables/chapel/resource building. 3) Alterations to Lawn Upton House, Garden House and stables/chapel to form 4 houses/1 flat. 4) Boundary walls and gate). PER 22nd April 2010.

10/02424/CND - Details submitted in compliance with conditions 2,3,4,5,6,10 and 11. of planning permission 04/02293/FUL. PER 1st March 2011.

10/02526/CND - Application for the compliance of condition 14 (affordable housing) of planning permission 04/02293/FUL. PER 5th January 2011.

11/00227/CND - Details submitted in compliance with appeal conditions 1, 5, and 10 relating to planning permission 04/02293/FUL. INV.

13/00269/EXT - Application to extend the time limit for implementation of planning permission 04/02282/FUL (Change of use of Lawn Upton House from school offices and flat to 3 houses. Change of use from disused Garden House to 1 house. Change of use from stables/chapel/learning resource building to one house with pitched roof over existing single storey building. Boundary walls, gates and free standing bin store. 9 car parking spaces.). WDN 26th April 2013.

10/00235/CND - Details submitted in compliance with conditions 2 (landscape plan), 5 (hard standings), 6 (tree protection), 7 (method statement), 8 (stone wall) and 9 (cycle parking) of planning permission 10/00235/EXT. PER 9th April 2013.

10/00236/CND - Details submitted in compliance with condition 6 of listed building consent 10/00236/LBC. PER 26th April 2013.

13/00739/FUL - Erection of 22 residential units consisting of 5 x 1-bed, 9 x 2-bed and 8 x 3-bed flats. Provision of 29 car parking spaces, cycle parking and landscaping. (Amended plans and description and additional information). PER 18th October 2013.

13/00740/CAC - Demolition of existing buildings on site. (Amended plans and additional information). PER 26th September 2013.

10/00236/CND2 - Details submitted in compliance with condition 8 (details of internal doors/screens) of listed building consent 10/00236/EXT. PER 3rd October 2013.

10/00235/NMA - Non-material amendment to planning permission 10/00235/EXT involving reconfiguration of parking, relocation of bin and cycle stores, and changes to landscaping. PER 20th September 2013.

13/00739/CND - Details submitted in compliance with conditions 1 (time limit), 2 (approved plans), 3 (materials), 4 (Archaeology), 5 (Phased Risk Assessment), 6 (drainage), 7 (car and cycle parking), 8 (windows), 9 (boundary treatments), 10 (level access), 11 (details of posts), 12 (footpath), 13 (access), 14 (replacement trees), 15 (CTMP), 16 (Landscape Plan), 17 (landscape planting), 18 (landscape management plan), 19 (landscape hard surface design), 30 (landscape underground services), 21 (Tree Protection Plan), 22 (Arboricultural Method Statement), 23 (balconies), 24 (security by design), 25 (highways improvement works), 26 (design and method statement), 27 (street lighting), 28 (renewable energy provision), 29 (tree protection) and 30 (bat survey) of planning permission 13/00739/FUL.. FDO 22nd January 2014.

14/00828/FUL - Demolition of existing garden building and erection of new single storey dwelling (Use Class C3). PER 19th May 2014.

14/00829/LBD - Demolition of existing garden building (for erection of new single storey dwelling). PER 19th May 2014.

14/00829/CND - Details submitted in compliance with condition 3 (notice of commencement) of Listed Building Demolition 14/00829/LBD. PER 25th August 2014.

14/00828/CND - Details submitted in compliance with conditions 4 (window and door details), 5 (replacement chimney and sample), 6 (archaeological work), 7 (landscape design), 8 (underground services) and 11 (foundations) of planning permission 14/00828/FUL. PER 7th October 2015.

NB: In this report, the original whole building is referred to as 'Lawn Upton House' as it was sub-divided into three dwelling houses, now called according to the Land Register:

25- Blay's Cottage, 26- Clewer House and 27- Lawn Upton House.

## **1. Special architectural and historic interest:**

(Significance as set out in 'Conservation Principles' by Historic England).

1.1 Historic Significance: Lawn Upton House has important associations with nationally important people. The house was built in 1846 by Charles Crawley, having close associations with John Henry Newman, (later Cardinal Newman) and with the Oxford Movement.

1.2 Lawn Upton House was built on a plot of land south of the church of St Mary and St Nicholas, on land owned by Charles Crawley and bought from his friend, John Henry Newman. Sir William Herschel purchased Lawn Upton House and Herschel extended the house to the north and built outbuildings, probably between 1876 and 1899.

1.3 Newman arrived in Littlemore in 1828 holding cottage services in rented

rooms together with his Sunday evening lectures; eventually a new church was built, extended courtesy of Charles Crawley in 1848. Littlemore now become an independent parish.

1.4 Lawn Upton House was extended in 1881 to the north, with a wing built by Sir William James Herschel. Herschel was the inventor the Finger-Print Identity System (which revolutionised identification of criminals) and part of the astronomer family of Herschel, of world importance.

1.5 Eventually, after a chequered history, the building was run by the Community of St John the Baptist and run as St Mary's Home as part of the Oxford Penitentiary for so-called fallen women and the Clewer nuns. Later on the house was converted into a school with timber outbuildings, finally being divided into three houses.

1.6 The property was set in what were its own substantial landscaped gardens and grounds with mature trees, some planted by Rev Newman. The lodge building is at Sandford Road/David Nicholls Close and is listed grade II. The driveway was long and the lodge was indicative of the comparative opulence of this house, compared to the small rural form of the majority of the houses in the village.

1.7 Aesthetic and Architectural significance: The large stone built house is of Gothic design in the form of a Cotswold Manor house, in an 'H' plan form, with tiled roof, multiform ashlar ridge stacks, coped gables, octagonal staircase turret in corner between main range and south wing, 1st floor oriel window to south wing, bas relief next to the front door, roof finials, gargoyle, Crawley Coat of Arms over oriel window, casement windows some with stone mullions and front garden with low stone wall. It was built of coursed squared local rubble lime stone with stone dressings and lead windows some with diagonal lead comes.

1.8 The significance derives also from the use of natural materials including stone, timber, lead, and pointing material. The craftsmanship was high as befitted a high status building and techniques were of a traditional form.

1.9 Evidential and Communal significance: Lawn Upton House was the largest new house in Littlemore at its time and illustrates changing social history and also illustrates higher convenience and status. Its design sits well in its local context using appropriate materials including local stone.

1.10 Reverend Newman had many trees planted at Lawn Upton House and to Sandford Road so as to improve the appearance of the village.

## **2. Relevant recent history**

2.1 Listed building consent was granted as part of application 04/02292/LBC for 1) Removal of timber sheds and modern external steel fire-escape. 2) Pitched roof over single storey building part of stables/chapel/resource building. 3) Alterations

to Lawn Upton House, Garden House and stables/chapel to form 4 houses/1 flat.  
4) Boundary walls and gates; approved on 15th February 2005.

2.2 This consent was later renewed under 10/00236/EXT, Renewal of Listed Building Consent 04/02292/LBC, approved on 22nd April 2010.

2.3 Lawn Upton House was listed grade II on 23 September 1985 and is in the Littlemore Conservation Area.

2.4 The context is that unauthorised works are understood to have been undertaken as part of the conversion of the properties by a party who has now sold their interest on. Enforcement notices seeking rectification of the works can only be served on the owners of the relevant land, therefore in order to enable remedial action to happen officers are recommending that enforcement notices are issued against the current owners. This is an unfortunate quirk in the operation of the law in this situation but officers have been in discussions with each of the property owners to explain the situation and to advise where appropriate.

2.5 There have also been some delays in identifying the full extent of the unauthorised works due to staff changes in Planning and Regulatory Services earlier in 2016 but the buildings have now all been surveyed and a schedule of all of the unauthorised works and the measures needed to address them are attached to this report.

2.6 In recognition of the circumstances, officers are recommending a pragmatic approach to those works to be remedied. The recommendations for remedial action have been focussed where the harm to the significance and fabric of the listed buildings is the most substantial. Officers will continue to work with all parties to find the most appropriate solutions.

2.7 Members will be aware that in certain circumstances, a person who executes unauthorised works to a listed building may have committed an offence. The expediency of pursuing action in relation to the parties who undertook the original works is also being investigated. This issue is not before the Committee at this stage.

### **3. Breaches of listed building control.**

3.1 The Planning (Listed Buildings and Conservation Areas) Act 1990 Section 38, 'Power to issue listed building enforcement notice' states:

'Where it appears to the local planning authority-

(a) That any works have been or are being executed to a listed building in their area; and

(b) That the works are such as to involve a contravention of section 9(1) or (2), they may, if they consider it expedient to do so having regard to the effect of the works on the character of the building as one of special architectural or historic interest, issue a notice under this section' (in this Act referred to as a "listed building enforcement notice")

- 3.2 Section 9(1) is contravened where works are executed for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised. The works are authorised if they are carried out in compliance with listed building consent (including conditions attached to that consent). Section 9(2) is contravened where works are carried out to a listed building under a listed building consent without complying with conditions attached to that consent.
- 3.3 Officers have investigated this case, having inspected the interiors, exteriors and boundary walls and found there to be serious breaches of listed building control which are considered sufficient to warrant formal enforcement action.
- 3.4 A schedule of unauthorised works is at the Appendix with their harmful impacts. A presentation of relevant photographs will be separately circulated and exhibited at the committee meeting.
- 3.5 A listed building enforcement notice must set out the alleged contravention(s) and the remedial steps required. Those steps can be;
- a) for restoration of the building to the state it would have been in had the contravention(s) not taken place; or
  - b) if restoration would not be reasonably practicable or would be undesirable, for executing such further works specified in the notice as considered necessary to alleviate the effect of the works which were carried out without listed building consent; or
  - c) for bringing the building to the state in which it would have been if the terms and conditions of any listed building consent which has been granted for the works had been complied with.
- 3.6 The works must be remedied because of the harm caused to the special architectural and historic interest of the listed building, the harm to the Littlemore Conservation Area and the failure to preserve or enhance the character or appearance of that Conservation Area. Officers advise that the conditions for issuing notices under section 38 are met.
- 3.7 Some of the unauthorised works carried out have started to, and would continue to cause serious decay to the building fabric and should be remedied to prevent further irreversible decay.

#### **4. Harm**

4.1 The harm can be summarised thus:

- Much work carried out that has started to (and will continue to) cause serious damage and decay with rainwater and moisture being trapped;
- Loss of original materials;
- Highly incongruous modern materials;
- Loss of original features;
- Loss of high quality craftsmanship;
- Some very poor quality workmanship in contrast to the high quality of the original;
- Damage to the understanding of the house being a high quality building having

- with historic associations with nationally important people;
- Loss of aesthetic value; and
- Loss of communal values.

4.2 The remedial works set out in the Appendix would not effect full restoration. That is considered by officers to be neither reasonably practical nor desirable. Officers consider that those remedial works are necessary to alleviate the effect of the works which were carried out without listed building consent.

## **5. Conclusion:**

5.1 That committee is asked to resolve that enforcement action to be taken under s38 of the Planning (Listed Buildings and Conservation Areas) Act in relation to the properties as listed above and seeking the remediation as set out in the Appendix in relation to the contraventions also as set out in the Appendix.

## **6. References**

Littlemore Conservation Area Appraisal, Oxford City Council, April 2008  
Listed building consent and planning application documents  
The Statutory List of Buildings of Special Architectural or Historic Interest  
Historic England 'Good Practice Advice' (GPA) Notes  
'Conservation Principles', Historic England, 2008  
'Oxford, an Architectural Guide', G Tyack, OUP, 1998  
'The Buildings of England: Oxfordshire', J Sherwood and N Pevsner, Penguin, 1975

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**Date:** 30 January 2017