

**NOT FOR PUBLICATION BY VIRTUE OF PARAGRAPHS 3 AND 6 OF  
SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972****Report of the Director of Legal and Administrative Services****COUNSEL ADVICE****1. Purpose of report**

To seek funding for advice of leading counsel, Mr Ian Maclaren QC, Recorder, on the prospect of planning enforcement action and to inquire into the handling of a planning matter. This is in accordance with the Council's key objective to provide high quality services and the aim of striving to continuously improve the quality and level of services.

**2. Background**

A planning application to build a house at Temple Lake, Nuthall was originally approved in September 2003 and subsequently altered by minor amendments accepted in July 2004. Construction work began in March 2005 and a substantial part of the building has been completed. Various departures have been made from the approved plans: some large, some small, as the scheme has progressed. A planning application which sought to regularise these variations was refused by Development Control Committee in December 2005 and a report recommending enforcement action on certain of the variations was presented to the committee in February 2006. The committee decided to defer the report in order to obtain counsel's advice on the merits of enforcement action.

At the same time significant criticism of the handling of the planning application has been levelled against the Council, particularly in respect of the extent of consultation on the application, the content of the report to the September 2003 committee and the approach to controlling the building as it proceeded.

**3. Financial implications**

It is proposed to seek an authoritative view on both aspects from leading counsel. No budgetary provision is available. It is estimated that advice on the merits of enforcement action could cost up to £10,000. A review could cost up to £30,000. No budgetary provision has been made for these potential costs and a supplementary revenue estimate is therefore required. At this stage of the financial year it is proposed that this expenditure can be contained within the Council's overall budget.

**Recommendation**

**The cabinet is asked to RESOLVE that a supplementary revenue estimate of up to £40,000 be approved to cover costs incurred, with funding to be provided from within the Council's overall budget.**