

Planning Statement.

This statement has been prepared in connection with the Local Planning Authorities Planning Enforcement Investigation reference 23/00095/CMP.

Site Address: 59 Hazleton Way, Waterlooville, PO8 9BP.

Property Owners: Mr and Mrs B Bassett.

LPA: Havant Borough Council.

Investigating Officer: Mr Brendon Flynn. Planning Enforcement Team Leader.

Alleged Breach of Planning Control:

“Without planning permission and within the last four years the erection of a storage shed and cycle shelter at the front of the property contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the Havant Borough Council Borough Design Guide SPD 2011 and the National Planning Policy Framework, all of which seek to ensure development responds positively to the context of the area, are of high-quality design and correspond with or enhance surrounding development and are sensitively integrated with no adverse effects on the street scene and visual amenity”.

1. Site Description

- 1.1 The site comprises a link attached chalet bungalow located on the north-western side of Hazleton Way in Cowplain with the attached garages of no's 57 and 59 forming the attachment. The property has undergone significant changes in 2016 by way of a single storey rear extension, alterations to the roof to provide front and rear dormers with gable lifts.
- 1.2 The lower structure is a mixture of mainly facing brick with rendered and painted elevations. The dormers and gable ends have been finished with coloured and textured plastic cladding. The dwelling benefits from 4 bedrooms, 3 reception rooms and a single attached garage.
- 1.3 The property also benefits from 1 car parking space via the single garage which measures 4.7 x 2.3 internally and 2 car parking spaces within the curtilage of the front garden. The dwelling has no outside access to the rear garden on the south-western boundary with no's 57 and a narrow pathway of only 800mm that significantly restricts the outside access to the rear garden on the north-eastern boundary with no's 61. The front

boundary treatment is of laurel hedging (new planting) alongside the vehicular access.

- 1.4 Within the front garden is a cycle shed and bin enclosure. The structure measures 3.0 metres x 3.1 metres to a maximum height of 2.4 metres with a sloping flat roof. Attached is a bin enclosure measuring approximately 2.8 metres long x 900mm wide with a flat roof to a height of 1.6 metres maximum. In the interests of precision, the council's description of the development should be corrected to read a cycle store and bin enclosure.
- 1.5 The cycle store structure and bin enclosure has coloured and textured plastic cladding that closely match that of the existing dwelling. I have provided 4 photographs for reference. **[Exhibit 1]** Had a planning application been submitted it is very likely that a condition to use these materials would have been imposed in order to contextualise the development with its surroundings. This aspect of the development has been considered and implemented. In these circumstances a retrospective planning application would serve no purpose.

2. Surrounding area

- 2.1 Hazleton Way is a main artery through the estate which is predominantly residential in character. The properties within close proximity to number 59 are generally bungalows and chalet bungalows with a mixture of semi detached and detached. To the north-east of number 59 Hazleton Way is a day nursery converted from a public house (the crows nest) with flats above and a row of shops with flats above. It is evident that many of the bungalows within Hazleton Way have been altered and extended, including roof alterations of varying styles and designs.
- 2.2 Various properties within the Hazleton estate close by have erected significant outbuildings that are facing the highway and have a similar relationship between the main elevation of the dwelling and the street. In order to evidence this, I have provided several photographs. **[Exhibit 2]** Moreover, Hazleton Way has a much wider tarmac running surface (2 lanes) than many other streets and also has grass verges bordering the pavements giving the impression of significant open space to the street scene.
- 2.3 Whilst the front gardens of many properties have open frontages some properties do have planted hedges forming a more private means of enclosure. Landscaping schemes are considered an essential

requirement when assessing the impacts of development at the planning stage, and in many instances a conditional planning permission makes the scheme acceptable in planning terms. In this case a planted hedge of laurel exists which, when matures, will completely cover the structure of the cycle store and bin enclosure. As this aspect of the development has already been implemented it is considered that a retrospective planning application would serve no purpose in this respect.

3. Circumstances prior to these investigations

- 3.1** In June 2023 Mr Bassett erected a timber framed structure to the front of his property believing it was covered under permitted development rights. This assumption was informed by a similar structure constructed of timber approximately 6.0 metres long x 3.0 metres wide with a flat roof to a height of approximately 2.4 metres, within the front garden of number 2C Eglantine Walk which front elevation faces Hazleton Way just some 100 metres or thereabouts away. I have provided 2 photographs for reference. **[Exhibit 3]**
- 3.2** The sole purpose of the main structure Mr Bassett erected in the front garden of his property is to facilitate the storage of pedal cycles used by himself, his wife and 5 children. As previously stated, the single garage that exists measures 4.7 x 2.3 metres internally and by the council's own yardstick standards does not adequately cater for the storage of cycles or household items as well as a family car. Promoting walking and cycling is a national incentive and should be encouraged by local councils and not hampered by poor assessment processes.
- 3.3** Most new development proposals will be required to demonstrate minimum reliance on motorised transport and requires cycle storage within an adequate size garage of 6.0 metres x 3.0 metres internally or an outside independent cycle store. This issue will be developed further in this statement.
- 3.4** Whilst it is unambiguously recognised that the assumption that it was permitted development was not correct due to its siting beyond the front elevation of the dwelling, Mr Bassett was simply comparing like for like with the development just down the road as anyone else outside of the planning world would most likely do. It should therefore be noted that Mr Bassett did not wilfully intend to breach planning control. However, the current planning situation needs to be regularised and it is therefore

necessary to assess the expediency to take formal enforcement action against the breach of planning control.

4. Planning considerations

- 4.1 The LPA have sited the adopted and saved policies of the Local Plan that they rely on to support the officers view that planning permission would not be a recommendation should an application be made to formally regularise the planning position.
- 4.2 This leaves two possible options open to the local planning authority.
- 4.3 Issue an enforcement notice to remove the structure.
- 4.4 To remove the breach of planning control will adversely affect the owner's reasonable enjoyment of their property they own. In doing so, the council must take account of all relevant factors and must strike a balance between the competing interests.
- 4.5 Consider the expediency to take no further action.
- 4.6 It is imperative that local planning authorities carryout adequate pre-notice investigations taking account of all material considerations that are relevant to the breach of planning control. The following is considered material to this process.
- 4.7 I refer to the National Planning Policy Framework and paragraph 59 which states;

"Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate".

- 4.8 In maintaining public confidence in the planning system, it should not be overlooked that it will be mainly members of the public that will be subjected to the discretionary enforcement action taken by the LPA. It is therefore imperative that local planning authorities take action that is proportionate to the breach of planning control. Planning Enforcement

Notices are a serious planning tool that carries criminal sanctions if not complied with.

- 4.9 It is not a criminal offence to carry out development without first obtaining planning permission unless it is within an area of Special Designation or a Listed Building. Should the breach of planning control be a serious injury to amenity local planning authorities should not fetter in issuing notices. In the event that the breach is minor in nature a retrospective planning application should be sought by the LPA affording the landowner enough time to research the required evidence, find an architect, provide the necessary drawings where required, and submit the application. 28 days is not a realistic time frame and falls significantly short of what should reasonably be allowed. Council's need to address this issue to be fair and reasonable in the public interest.
- 4.10 In the current investigation 28 days was the specified time frame to submit a retrospective planning application and that is why a retrospective planning application has not been submitted. Planning Practice guides are published in order to guide both local planning authorities and members of the public on what is expected from the parties in planning enforcement proceedings.
- 4.11 Paragraph 003 reference ID 17b-003-2014306 of the practice guide states;
- "There is a range of ways of tackling alleged breaches of planning control, and local planning authorities should act in a proportionate way. The provisions of the Human Convention on Human Rights, such as Article 1 of the first protocol, Article 8 and article 14, are relevant when considering enforcement action. There is a clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether enforcement action is taken, local planning authorities should, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control".*
- 4.12 The LPA have confirmed that only one complaint has been received since June 2023. In these circumstances it is questionable at best how this modest structure can be an injury to amenity requiring protection in the public interest. The neighbours of the adjoining properties have said that they support the development because it does not adversely affect their amenity by overlooking or overbearing.

- 4.13 The planning practice guides state that Local Planning Authorities should not take formal enforcement action against a technical breach of planning control or a breach of planning control that causes no harm to the locality of the site, in order to regularise the planning position. Moreover, the NPPF paragraph 11 states:

“Plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay”.

- 4.14 The main issue for the LPA is stated to be the significant dimensions of the structure that is located in a prominent position at the front of the property with very limited existing screening making the structure highly visible from the roads and the public realm.
- 4.15 That the new structure resulted in an adverse visual impact within the street scene and would set a precedent for inconsistent and out of character outbuildings.
- 4.16 The local planning authority will be expected to evidence these assertions at appeal. The onus will be on the LPA to substantiate with evidence each reason stated in their assessment against the adopted policies of the Local Plan.
- 4.17 I am not convinced that an Inspector will accept that the existing planted hedge would not in time completely cover the structure and completely alleviate the visual affect on the street scene. Since the front boundary treatment is in place it is likely that a condition to replace any planting that dies or is damaged within 5 years would be attached to any permission.
- 4.18 The planning authority has no policy in place to restrict the height of the hedge to less than 2.4 metres in height which is an adequate height to screen the structure and satisfy the public realm.
- 4.19 It is also questionable at best that the LPA can convincingly claim that one disgruntled member of the public reflects a proportionate representation of the public realm. It is also questionable how such a highly visible incongruous structure according to the council, located prominently at the front of the property has attracted only one complaint.
- 4.20 With regards to setting a precedence for inconsistent and out of character front outbuildings I have provided sufficient evidence to show

that the precedence you fear has already been set within the locality of the site and down the road.

4.21 I claimed earlier in the statement that the issue in relation to the need for the cycle shed would be developed further within the statement. There is a genuine and proven need by national standards for promoting walking and cycling. The whole family are committed to walking and cycling and as there are seven members of the family, they have seven cycles to store. The existing garage is a single size of 4.7 metres x 2.3 metres and caters for one car parking space only.

4.22 This leaves the required 2 other car parking spaces within the front garden. This also leaves the family with the problem of storage for the cycles that is readily accessible. Having 5 children of which 3 are triplets at the age of 3 a 4-year-old and a 6 year old it is difficult for one parent to safely manage them from the back of the house to the front with such a restricted side access. The children attend Padnell infant school which promotes healthy living and welcome children riding bikes and scooters to school and have storage racks for these outside of the office. Cycling also alleviates the need to travel by car which is promoted significantly by central government. I have provided the schools notice board leaflet to evidence the facility for storing the cycles at the school. **[Exhibit 5]**

4.23 The SPD document refers to residential car parking spaces size and arrangement. Garages and car ports para 4.09 states

“A single garage/car port should measure a minimum of 3.0 metres in width by 6.0 metres in length internally. This will allow room for a modern car to be parked and still allow room for access down the side of the vehicle. The length is to allow room for storage, particularly cycles”.

4.24 Storage for bicycles para 4.12 states

“All properties should provide with long stay, secure (overnight) cycle storage facilities. Should a garage meeting the standards referred to above be provided for a residential property then no further external storage facility will be insisted on for that property”.

4.25 It is clear that the adopted policy document identifies that a single size garage is not adequate for the storage of cycles and that in these circumstances outside storage should be provided. As the appropriate citing for this facility is within the front garden and the structure is modest in size, is constructed with materials that contextualise it with its surroundings and has significant landscape screening, the local

planning authority should accept that it is not in the public interest to initiate formal enforcement proceedings in this case.

- 4.26 In the event that formal enforcement action is taken to remove the breach of planning control the property owner has indicated that an appeal will follow, and as extensive evidence has been provided to satisfy public concern a full award of costs will be made.

5. Planning outcome

- 5.1 In the unlikely event that an enforcement notice is upheld, and the structure has to be removed, it will not prevent the provision of cycle storage within the front garden. The owner will simply obtain a large box van and park it in the front garden and use the side door to access the cycles from within the van. A box van is 2.6 in height and will not contextualise with its setting unlike the existing structure. The landscaping will be removed for access purposes which will open the site to the public realm. This outcome is not in any way a threat to the local authority. It is the only lawful way of achieving what the owners of the property need.
- 5.2 The most recent correspondence from Mr Brendon Flynn suggests that he would like to achieve an equitable solution. Mr Flynn is a very experienced planning consultant who I know is fair and impartial. I will be very surprised if any formal enforcement action is taken in this case. The structure will be completely screened from the public realm by landscaping that is already in place.
- 5.3 It is demonstrable in these circumstances that no material harm to amenity is caused by this development and that it is not expedient to pursue formal enforcement action to simply regularise a breach of planning control that causes no harm to the locality of the site.
- 5.4 I very respectfully submit this statement along with the exhibits for consideration.

End of statement.