

Rebuttal Statement for the Appellant:

Enforcement Notice Appeal: APP/M1710/C/24/3349196

Local Planning Authority Submission: **Appeal Statement.**

The Local Planning Authorities Appeal Statement has some inaccuracies which I make the following comments for the Inspectors consideration:

I refer to the Enforcement History section which states....

An enquiry was raised in June 2023 to suggest 'a large wooden shed /structure has been erected up to the pavement which looks very unsightly and too big for a front garden'. A further enquiry was received in April 2024 suggesting 'a new tall, outbuilding has been built in front of number 59 (forward of a wall forming the principal elevation) right up to the boundary of the footpath. This sets precedent for others to do similar on the estate.

I am of the view here that if it is pertinent for the local planning authority to be so specific about the public's complaints within their statement, then it is equally important for the Council to be accurate in the details concerning the complaints.

I am somewhat concerned that the Council are claiming that two complaints were received from members of the public particularly after they confirmed in correspondence received by the appellant in April 2024 that only one complaint had been received. The complaint history is covered within the Report of the 'Head of Place' dated 25th June 2024 (Paragraph 4) which states...

In June 2023 an enquiry was received at the Council to suggest a large wooden structure had been erected in the front garden of 59 Hazleton Way. Concerns were expressed that it 'looks very unsightly and too big for a front garden'.

Nothing recorded by the Head of Place within the report which is dated 25th June 2024 about a second complaint being received in April 2024. It is therefore unambiguous that the decision to take formal enforcement action has been based on only one complaint from the public realm.

Moreover, there is no reference to the structure being 'erected up to the pavement' in the complaint that was presented to the Head of Place to consider, or in any of the correspondence received by the appellant.

The Formal Enforcement Notice contains photographic evidence at Appendix 'A' and Appendix 'B'. The landscaping was planted within the formal curtilage of the site forward of the new structure. Paragraph 6 of the report states....

The shed/cycle storage that was built at the front of the property is considered out of context of the neighbourhood unfortunately. Therefore, if an application was submitted, the proposal would not receive officer support because of the impact on the street scene, the character of the area, and the position at the front of the property with no screening at front boundary, thus it is unlikely to be approved.

No reference or acknowledgement within this report of the existing evergreen landscaping within the curtilage of the site forward of the new structure. The photographs attached to the notice clearly indicate ample room for the landscaping that was in place. It is therefore a matter of fact that the reference to 'no screening at the front boundary' within the Report of the Head of Place is manifestly incorrect and unfounded.

The planning officers seem to have intentionally painted a picture within the report to the Head of Place that strongly suggests that due to the shed being 'highly visible within the street scene' with no screening at the front boundary, that the only course of action is to have the structure removed, when the lesser steps (that were already in place) to landscape it would regularise the alleged breach.

The Report also infers that that the appellant has been complacent and has simply refused to accept that the development requires planning permission saying at Paragraph 4 Enforcement History....

Mr Bassett maintained throughout the investigation that he believed the development did not need planning permission but did agree to take pre application advice directly from the planners which was requested in July 2023.

The LPA notified the appellant by correspondence dated 29th June 2023 that the development did not benefit from permitted development rights due to being forward of the principal elevation of the dwelling. The appellant readily accepted this and followed the advice of the LPA with full cooperation in an attempt to regularise the planning position. Photographs and measurements of the structure were requested in correspondence dated 4th July 2023 by the LPA and provided by the appellant on the same day.

The advice given by the LPA to seek pre-application advice was accepted by the appellant. In August 2023 Mr Bassett paid the sum of £63.00 for pre-application advice and provided further photographs of the site to support his case. The additional evidence was requested by the LPA so that the information could be used to carry out a 'desk-based study' and respond accordingly. The requested information was provided.

A response was eventually received from the case officer dated 17th January 2024 some 14 weeks later, as set out in the Council's statement. The Council's 3 options to regularise the planning position, were not in line with the appellants needs or expectations. I had received my instructions from the appellant to act as his agent in early February 2023, but due to my workload I was unable to formally represent them and address the alleged breach of planning control at short notice. It is noted that Mr Bassett should have notified the LPA of the instructions to his agent.

The LPA issued a letter before action on 2nd April 2024 as their statement confirms. Fortunately, by this time, I was able to draft a letter for the appellant to send to the Council dated 11th April 2024 requesting additional information. [REDACTED]

Having considered the strength of the appellants evidence, the precedence already set of like for like development within the locality of the site and surrounding area, the existing planted evergreen landscaping that would completely screen the development from the street scene, and the fact that only one member of the public had raised a complaint, I was of the view that it was not expedient to issue formal enforcement proceedings in this case.

Having further conducted a full assessment of the evidence weighing in the appellants favour, I decided that it would be worthwhile submitting the evidence via a 'Planning Statement' with supporting evidence and photographs to the enforcement team leader for consideration. The planning statement and 5 x Exhibits were sent to the LPA by email dated 15th May 2024. This evidence has been provided to the Inspector at **Appendix 1** of the appellants SOC.

The LPA have not made any reference to it, or any acknowledgement of receiving it at any stage, prior to issuing the enforcement notice or within their formal statement. Moreover, the Report of the Head of Place dated 25th June 2024 some 6 weeks or thereabouts from receipt of the evidence makes no mention about it whatsoever.

Not only have the Council failed to recognise the extensive amount of effort and expense the appellant made in providing the significant amount of evidence to inform a satisfactory planning outcome, but they have also made a comment that is manifestly incorrect and, in my view, intended to be detrimental to the appellant's case. The appellant has NOT maintained throughout the investigation that he believed the development did not need planning permission.

I refer to Paragraph 3.4 of the appellants 'planning statement' that states....

Whilst it is unambiguously recognised that the assumption that it was permitted development was not correct due to its citing 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 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.

The appellant strongly felt that the evidence that was provided to the LPA throughout the investigation was sufficient for the LPA to close the case on the test of expediency in line with the advice within the Planning Practice Guides.

It should be stressed that the case officer and the senior officers of the Council have a duty under their development management responsibilities to present all relevant information for consideration to the Head of Place and to record the relevant facts accurately, **in the interests of natural justice**. It seems to me that the LPA have been obstructive by not accepting, recording and providing relevant material to the Inspectorate.

The LPA have stated

A reply to pre application advice was sent January 2024 where the planning officer concluded:

Further to a site visit to the area and after consulting with senior planning officers, I am of the opinion that the constructed storage shed, and cycle shelter are considered out of context with the area and the street scene. The significant dimensions of the shed, being fixed and located prominently at the front of the property, with very limited existing screening makes the structure highly visible from the roads and the public realm.

The LPA make reference within the statement to the significant dimensions of the shed being fixed at the front of the property. The height of the shed is no more than 2.4mts. The footprint dimensions of the shed being 3.0 mts x 3.1mts equate to just over 9 square mts. The total area of the frontage to the property is approximately 109 Square mts. It is therefore questionable at best how a structure of these modest proportions amounting to no more than 9% of the total front garden area can be described as significant.

The LPA have not put forward any conditions in the event that the Inspector grants planning permission for the deemed planning application, claiming that there are no conditions to outweigh the harm identified.

I refer the Inspector to paragraph 4.17 of the planning statement provided to the LPA in May 2024 that states....

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 effect 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. Paragraph 4.18 states...

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.

Whilst a compelling case was made within this statement by the appellant that the planted evergreen hedge will completely cover the shed and alleviate the visual effect on the street scene, it was readily accepted by the appellant that a condition to protect the hedge would be a significant material consideration in granting planning permission.

This view has not changed, and I am troubled to see that the LPA are still in denial that the planted evergreen hedge will rapidly grow and make the development acceptable in planning terms and that a condition to protect the hedge is necessary in this case.

My final point is that the LPA circulated details of the Enforcement Appeal to local residents dated 20th November 2024 to offer them an opportunity to make any comments they felt were appropriate directly to the Inspectorate, in connection with the Enforcement Notice that was served on Mr Bassett. [REDACTED] 2

Letters of support for the development were cross copied to the appellant with the Councils statement:

Comment 1)

The storage shed in question is situated close to the boundary between Mr Bassett and our property. It is almost completely screened from our view by our evergreen fir trees, this also screens the view of pedestrians and cars approaching from the left. Mr Bassett's laurel hedge screens at the front. What we can see of the shed is well built, tidy, and in no way offensive to the eye. We are surprised this shed has been flagged by the Council. In our opinion Mr Bassett is just making good use of his own land and in no way impacts the street scene in a negative way.

Comment 2)

We live at number 46 Hazleton Way, directly opposite number 59. We have no issue with the storage shed at the front of the property. The shrubs at the front of the property almost completely cover the shed now and hide most of the structure from street view, and this is before they are even fully grown. We see no reason why the shed cannot remain in its current position.

The LPA were very clear within the letter, the reasons the enforcement notice was issued. No letters of complaints were submitted to the Inspectorate in relation to the visual amenity of the street view to support the Council's action. I am still of the view that only one member of the public has made a complaint as recorded within the Report of the Head of Place since June 2023 some 19 months ago.

End of Statement.