

HAVANT BOROUGH COUNCIL - REPORT OF HEAD OF PLACE

File Reference: 24/00055/CMP/UNBW

Date: 31st July 2024

Address: 4 Esher Grove, Waterloooville, PO7 6HJ ("the Land")

Breach: Unauthorised Building works - Erection of a garage on the front driveway of the property

SITE AND BACKGROUND

The location of this site is a semi-detached property on North side of Esher Grove in Waterloooville.

The property is located within a residential area with surrounding properties of similar style and design.

Background history- None

Following a site visit, I have explained that the structure would be considered permanent. The garage therefore either needs relocating to a location that would be within permitted development, full removal or a retrospective planning permission application received. There is no record of a planning permission application lodged, so a letter before action was sent out 4th June 2024.

Reasons

The application site is located within the defined urban area.

The garage is visible from the street scene and does not benefit from permitted development under Class E of the Town and Country Planning (General Permitted) (Development) order 2015 as it is contained forward of the principal elevation.

The development is considered to be out of keeping with the surrounding pattern of development and would have a harmful impact on the character and appearance of the property, the street scene and the visual amenity of the immediate locality. As such the development is considered to be 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.

THE HUMAN RIGHTS ACT 1998

The Human Rights Act confers several rights, of which the following are relevant in this case.

First Protocol, Article 1: the right to peaceful enjoyment of possessions. It is necessary to balance the right to use this land as the owner wishes, against the need to protect the character and appearance in this countryside setting. The development is contrary to the Council's adopted policies and Government advice in Planning Policy Guidance Notes. The requirements of the notice are proportionate to the intended objective of local and national planning policy that expect the highest quality of design.

Article 6: Right to a fair trial: If the recipients of the notice are aggrieved by the Local Planning Authority's (LPA) decision there is the right of appeal to the Planning Inspectorate, which is an independent body. Accordingly, the decision-making process falls within the requirements of Article 6.

Article 8 sets out the basis rights for a private, family life and home. This right is a material planning consideration, which is respected, but is not guaranteed. This right must be balanced against all other material considerations when assessing this planning application to enable a planning judgement to be made.

Having regard to all material planning considerations, these override the right to a home on the site, as provided for by Article 8 of the Human Rights Act 1998.

EQUALITY ACT

Section 149 of the Equality Act 2010 imposes the following 'public sector equality duty' on public authorities (which includes local planning authorities):

"(1) – A public authority must, in the exercise of its functions, have due regard to the need to: eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it."

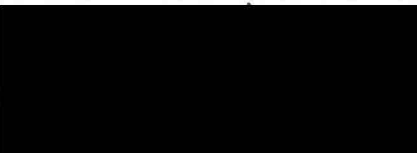
The Council does not consider that its decision to take enforcement action will have any effect on persons with one or more protected characteristics as compared with individuals without those protected characteristics.

Having regard to all the circumstances of this case, it is considered that taking action to resolve the breach is proportionate, expedient and in the public interest in order to uphold the planning laws of the land and address the harm caused by the breach.

RECOMMENDATION

In consultation with the Head of Place is recommended that:

- (i) an Enforcement Notice is issued, pursuant to Section 172 of the Town and Country Planning Act 1990 in accordance with the reasons and requirements as set out above and in the draft notice attached to this report; and
- (ii) In the event of non-compliance with any part of the Enforcement Notice at (i) legal proceedings and/or direct action be authorised.

Signed Officer		Dated	31/07/2024
Signed Executive head of Place		Dated	31/07/2024

