HAVANT BOROUGH COUNCIL - REPORT OF HEAD OF PLACE

File Reference: 23/00095/CMP/UNBW

Date: 25th June 2024

Address: 59 Hazleton Way, Waterlooville, PO8 9BP ("the Land")

Breach: Unauthorised storage shed to the front of property

SITE AND BACKGROUND

The application site comprises a link attached 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. Off street parking for three vehicles is available within the curtilage of the property.

Hazleton Way is predominantly residential in character. The properties within close proximity to the application site are generally detached and semi-detached bungalows, however to the north east of 59 Hazleton Way is a row of local 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.

APP/18/00320 - Single storey rear extension, alterations to roof to provide front & rear dormers with gable lifts - Granted

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'.

A letter was sent to the owner detailing Class E and photographs were obtained for the file.

The owner opted to take pre application advice from the Council. The planning departments response sent 17th January 2024 to the development was as follows: 'The shed/cycle storage that was built at the front of the property is considered out of the context of the neighbourhood unfortunately. Therefore, if an application was submitted, the proposal would not receive officer's support because of the impact on the streetscene, 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.'

Following a site visit and confirming the structure still remains in April 2024, a letter before action was sent out.

Reasons

The application site is located within the defined urban area.

The bike store/ storage shed is highly visible from the streetscene 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 it 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	[redacted] Sophie Bebee	Dated	25/06/2024
Signed Executive head of Place	[redacted] Alex Robinson	Dated	25/06/2024

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED BY THE PLANNING AND COMPENSATION ACT 1991)

ENFORCEMENT NOTICE

ISSUED BY: HAVANT BOROUGH COUNCIL

1. THIS NOTICE is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, at the land described below. The Council consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the Notice and the enclosures to which it refers contain important additional information.

2. THE LAND TO WHICH THE NOTICE RELATES

   Land at 59 Hazleton Way, Waterlooville, PO8 9BP ("the Land")

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

   Unauthorised storage shed forward of the principal elevation shown hatched black on the attached plan.

4. REASONS FOR ISSUING THIS NOTICE

   It appears to the Council that the above breach of planning control has occurred within the last 4 years.

   The bike store/ storage shed is highly visible from the streetscene 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.

5. WHAT YOU ARE REQUIRED TO DO

(i) Permanently remove the unauthorised storage shed shown in the approximate location, hatched black on the attached plan from the principal elevation.

(ii) Remove all fixtures/ fittings and consequent waste materials relating to the authorised shed.

6. TIME FOR COMPLIANCE:

Three (3) months after this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 6th August 2024 unless an appeal is made against it beforehand.

Dated: 25th June 2024

Signed: [redacted]

Executive Head of Place

On behalf of:
Havant Borough Council
Civic Centre Road
Havant
Hants
PO9 2AX

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State before the date specified in paragraph 7 of the Notice. Please read the enclosed Planning Inspectorate advice note on how to appeal.

If you appeal and are pleading ground (a) and asking for the deemed planning application to be considered as part of your appeal, you must pay a fee of **£412.00** to the Council (made payable to "Havant Borough Council") and this should be sent with a copy of the appeal form.

Your attention is drawn to the attached extracts of the Town & Country Planning Act 1990.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this Enforcement Notice, it will take effect on the date specified in paragraph 7 of the Notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period(s) specified in paragraph 6 of the notice. Failure to comply with an Enforcement Notice which has taken effect can result in prosecution and/or remedial action by the Council.

SUBMISSION TO SECRETARY OF STATE

If you appeal against this Notice you must submit to the Secretary of State, either when giving notice of appeal or within 14 days from the date on which the Secretary of State sends you a notice so requiring you, a statement in writing specifying the grounds on which you are appealing against the enforcement notice and stating briefly the facts on which you propose to rely in support of each of those grounds.

Persons served:

Benjamin John Christopher Bassett and Melanie Dawn Bassett

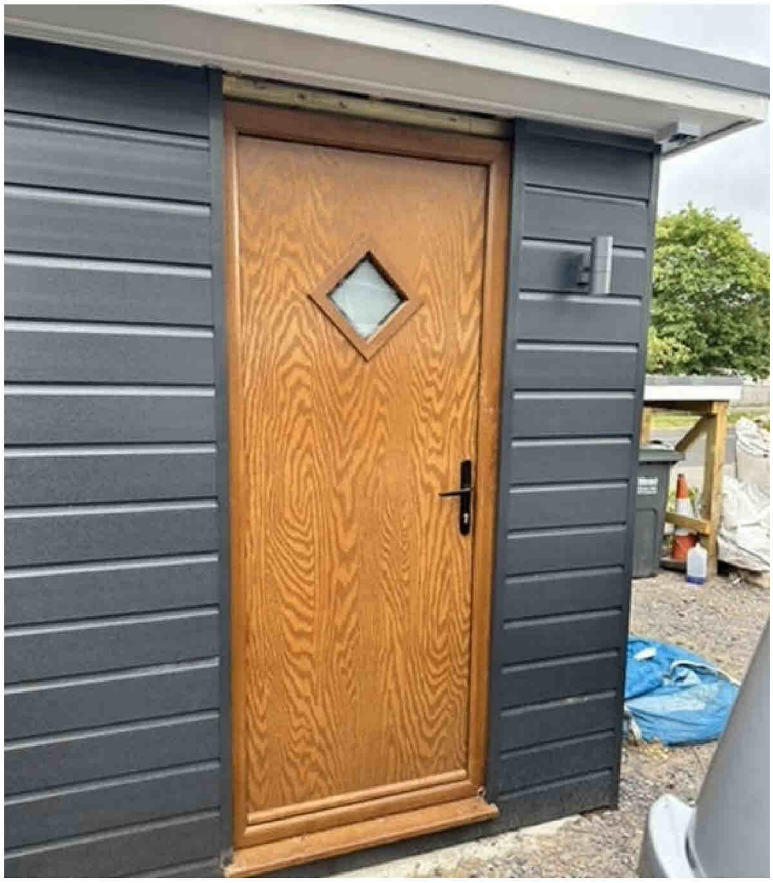
PLAN

HAZLETON WAY
59 Hazleton Way
Havant
BOROUGH COUNCIL
N
Scale: 1:354
© Havant Borough Council - OS Licence 100019217
Printed on: 2024-05-13 09:03:56

APPENDIX A
Photograph before development

APPENDIX B

Photograph shown after development



Appeal information
Address: Customer Support Team
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Direct Line: 0303 444 5000

Email: enquiries@planninginspectorate.gov.uk

1. **THIS IS IMPORTANT**

If you want to appeal against this enforcement notice you can do it:-

- online at the Appeals Casework Portal; or
- sending us enforcement appeal forms, which can be obtained by contacting us on the details above.

You MUST make sure that we RECEIVE your appeal BEFORE the effective date on the enforcement notice.

Please read the appeal guidance documents at https://www.gov.uk/appeal-enforcement-notice/how-to-appeal.

In exceptional circumstances you may give written notice of appeal by letter or email. You should include the name and contact details of the appellant(s) and either attach a copy of the Enforcement notice that you wish to appeal or state the following:

- the name of the local planning authority;
- the site address; and
- the effective date of the enforcement notice.

We MUST receive this BEFORE the effective date on the enforcement notice. This should immediately be followed by your completed appeal forms.