

Enclosures List

APP/M1710/C/24/3349196

Statement of Case for the Appellant.

Appendix 1: Scan 0665 Planning Statement, Photographs and exhibits 1-5. Scan 0665 Covering email correspondence dated 15th May 2024. Scan 0666 Enclosures List.

Appendix 2: Report of Head of Place dated 25th June 2024.

Appendix 3: Officers Report dated 29th May 2018.

Appendix 4: Street Scene Photographs (3) with site/location plans of development forward of the principal elevation.

Appendix 5: Street Scene Photograph of the Appeal site taken 17th December 2024.

Statement of Case for the Appellant.

Appeal Reference: APP/M1710/C/24/3349196

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

Appellant: Mr and Mrs Ben Bassett.

Agent: Mr Raymond Saunders.

LPA: Havant Borough Council.

This statement of case has been prepared in connection with an appeal against the Local Planning Authorities Planning Enforcement Notice dated 24th June 2024 reference **23/00095/CMP**.

Alleged Breach of Planning Control: Within the last 4 years...

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

Reasons for issuing the enforcement notice.

The bike store/storage shed is highly 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.

As such the development is considered....

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 terms of the notice:

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. (Should read **Unauthorised**)?*

What is a breach of planning control

A breach of planning control is defined in section 171A of the Town and Country Planning Act 1990 as:

- *The carrying out of development without the required planning permission; or*
- *Failing to comply with any condition or limitation subject to which planning permission has been granted.*

Any contravention of the limitations on, or conditions belonging to, permitted development rights, under the Town and country Planning (General Permitted Development) (England) Order 2015, constitutes a breach of planning control against which enforcement action may be taken.

Section 55 of the Town and Country Planning Act 1990 defines development as...

The carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any building or other land.

The requirement to remove all fixtures/fittings and consequent waste materials relating to the unauthorised shed is beyond the scope of this enforcement notice as there is no breach of any planning condition associated with any stored building materials forward of the principal elevation. Building materials are not development as defined within section 55 of the 1990 Town and Country Planning Act. The alleged breach of planning control does NOT refer to any temporary storage of building materials that may or may not be associated with the development.

The alleged breach of planning control states...

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

The structure itself is in two distinct uses, albeit they are attached to each other and appear to be one unit from the street scene view. However, the LPA is aware that the bin storage facility is much smaller and in a different use.

The area hatched black on the plan is far greater than the extent of the 'storage shed' which raises two important points to be considered.

- (i) The cycle storage facility area and....
- (ii) A refuse bin storage facility area.

The notice states...

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

It is far from clear if the terms of the notice include the refuse bin storage facility as it has not been specifically referred to within the alleged breach description. The notice is therefore vague and imprecise and gives an element of confusion as to whether the refuse bin storage facility is considered a breach of planning control that warrants protection in the public interest and falls to be included within the terms of the notice. This point is respectfully drawn to the Inspectors notice for consideration and correction as deemed appropriate.

Having raised concerns relating to the terms and construction of the notice I now turn to the main issue of the requirement to remove the storage shed.

Circumstances prior to the notice being served.

Within the investigation process I was engaged by the appellant to provide evidence that would inform the decision-making process in an attempt to reach a solution that would be in the public interest, having regard to the Adopted Local Plan, the NPPF, and information and recommendations within the Planning Practice Guides.

I provided the LPA with a planning statement along with several photographs and supporting evidence. The evidence was based on the relevant adopted policies within the Local Plan and Planning Practice Guidance on Ensuring Effective Enforcement and was simply disregarded by the LPA. This evidence has been provided to the Inspector and should be referred to as

supplementary to this statement to prevent duplicating the same evidence within this statement of case. **Appendix 1.**

The LPA have provided a 'Report of the Head of Place' dated 25th June 2024. A copy of the report is at **Appendix 2** for convenience which states.....

*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 street scene, the character of the area, and the position at the front of the property **with no screening at the front boundary**, thus it is unlikely to be approved'.*

The report further states....

The application site is located within the defined urban area. The bike store /storage shed is highly 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 CS 16 of the Havant 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.

It is evident that the case officer has determined that the development would not receive officer support, if an application was made, due to '**no screening at the front boundary, thus it is unlikely to be approved.**' The alleged policy conflict follows that unfounded assessment. The LPA have attached photographs to the Enforcement Notice. Appendix 'A' shows the property frontage prior to the works taking place. Appendix 'B' shows the property frontage after the works have been completed.

The photographs at appendix 'B' clearly show a newly planted evergreen laurel hedge at the front boundary of the property that was planted at the same time the development was carried out in 2023. It is a significant material consideration that the planted laurel hedge, when established, will sensitively integrate the development with no adverse effects on the street scene and visual amenity, as it will completely obscure the storage shed from the street scene thereby removing any policy conflict or conflict with the National Planning Policy Framework which seeks to approve sustainable development that can be reasonably approved, without delay.

The report further states.....

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

The case officer had carried out a site visit and would have seen for themselves that a planted hedge of evergreen laurel was in place at the front boundary that would in time, screen the shed in the same way as the shed forward of the principal elevation at 2c Eglantine Walk some fifty metres or thereabouts down the road, that was given as an example in earlier correspondence. The statement within the report to the Head of Place dated 25th June 2024, that no screening existed at the front boundary, thus it is unlikely to be approved is therefore completely unfounded and a gross misrepresentation of the facts.

The extensive evidence set out within the planning statement clearly identified that the front boundary benefits from a newly planted evergreen laurel hedge that was planted with the sole purpose of screening the development from the public views into the site. Taking into account the photographic examples that was provided with the 'planning statement' of other like for like development forward of the principal elevations, it is questionable at best that the LPA consider it to be in the public interest to enforce the removal of a structure that will be fully screened by the planted evergreen laurel hedge that exists.

The Council have referred to policy conflict by virtue of the development being forward of the principal elevation and having a harmful impact on the character and appearance of the property, the street scene, and the visual amenity of the immediate locality. However, the structure is clad with like for like materials in keeping with the front first floor dormers of the dwelling that was approved by the LPA in 2018.

The officers report recommending permission is provided at **Appendix 3**. At Paragraph 7.4 it states....

The proposed dormers will both sit back into the roof, back from the front line of the wall below, and will be below the existing ridge line. The dormer windows will be smaller than the windows below and are not considered to dominate the roof of the dwelling. The dormers and gable ends are to be clad with grey weatherboard cladding, which is considered acceptable within this particular street scene, which has a variety of materials visible.

At paragraph 7.6 it states...

The design and appearance of the proposal is deemed appropriate in context to the main building and is therefore considered to be acceptable, meeting the requirements of Policy CS16 of the HBLP (Core Strategy). It is considered that the scheme would not result in an adverse impact on the visual amenity of the locality.

The LPA will be expected to demonstrate how the first floor dormers that are clad in the same materials and are a dominant visual feature within the street scene are compliant with Policy CS16 of the HBLP and the modest cycle storage facility clad in like for like materials that benefits from landscaping that will be completely screened by the evergreen hedge, does not comply.

The cycle storage facility is modest in size, clad with materials that contextualise it with its setting and has a genuine and proven need that complies with policy. The planning statement previously submitted to the LPA makes reference to the SPD document which states at paragraph 4.09....

Garages and Carports

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. And at paragraph 4.12....

Storage for Bicycles

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.***

The National Planning Policy Framework paragraph 10 states...

*So that sustainable development is pursued in a positive way, at the heart of the Framework is **a presumption in favour of sustainable development** (paragraph)11...*

For decision taking this means...

c) Approving development proposals that accord with an up-to-date development plan without delay.

I can see no policy conflict that would outweigh the benefits of allowing this development and granting planning permission. The LPA having made reference to policy CS16 and development forward of the principal elevation being in conflict with policy, it is pertinent to question how developers can make provision for the security of road vehicles and the storage of bicycles without being forward of the principal elevation in many cases.

I have provided some photographs and a site plan at **Appendix 4**.

The photographs show 3 examples of development forward of the principal elevation without any meaningful landscaping. The properties are all facing the highway with significant double garages clearly prominently visible from the street scene. The properties are in the same road at Old Copse Road, Havant, PO9 2YA.

The site plan reveals that no other properties in the locality of these 3 properties have garages or storage facilities forward of the principal elevation thereby highlighting that sporadic development forward of the principal elevation is acceptable thereby complying with policy. The development at the appeal site should not be considered in conflict with policy simply because the neighbouring properties choose not to provide it or they do not require it.

I have provided an up-to-date photograph of the appeal site taken on 17th December 2024. **Appendix 5**. The evergreen laurel hedge has matured enough to almost completely obscure the bin store and is well on the way to completely obscuring the cycle storage facility. Considering it was only planted in 2023 it is likely to achieve its purpose of completely covering the development within the next two growing seasons.

To summarise:

The cycle storage facility is modest in size and no more than 2.4 metres in height.

The officers report recommending planning permission for the first floor dormers, acknowledges that the cladding is compliant with policy CS16 thereby the use of the same cladding must also be compliant with the policy.

Examples of similar development within the locality of the site and the surrounding area, that have been provided to the LPA and the Inspector should be taken into account. Credibility in planning outcomes relies on consistency.

Notwithstanding the fact that the storage facility is modest in size and is constructed with materials that contextualise it with its surroundings, it has the benefit of evergreen landscaping that will completely obscure it from the street scene. The Council's argument that it is visually harmful completely falls away in this regard and carries no credibility.

It has to be reiterated that the one member of the public that has complained does not in my view, represent a fair and reasonable balance that equates sufficiently with the competing interests of the property owner and the public interest, enough to warrant upholding the enforcement notice and refusing planning permission.

The inspector will have an opportunity to attach a condition requiring the laurel hedge to remain and any plants that die or get damaged within 5 years should be replaced with the same species of equivalent size. Reason: To protect the visual amenity of the street scene.

Taking into account the significant evidence to support the deemed planning application, and the fact that only one member of the public has complained about the development, the Inspector is respectfully urged to correct the notice, then quash the notice, and grant planning permission for the deemed planning application.

End of Statement.

Appendix 1

APP/M1710/C/24/3349196

Planning Statement, Photographs and Exhibits 1-5 Submitted to
the LPA at investigation stage for consideration 15th May 2024
Scan 0665

Scan 0665 covering email correspondence dated 15th May 2024.

Scan 0666 Enclosures list.

15TH MAY 2024

Hi Ben,

Please find the attached evidence that will need to be submitted today.



scan0665 Ben Bassett Enforcement Planning Sta...

SCAN 0665

The enclosures list (scan 0666) also needs to go with this. I have provided the contents of the email that needs to be sent with this evidence below.

Dear Mr Flynn,

Thank you for allowing us the time to provide a planning application. Unfortunately, the 28 days time frame you have allowed is insufficient and therefore we have instructed our planning advisor to prepare our evidence which you have indicated you will consider in determining the expediency to take formal action against the alleged breach of planning control.

The evidence we rely on is by way of a 'planning statement' with extensive photographic evidence showing the site and its surroundings. The examples we have provided are of similar structures within the locality of the site and are only a small representation of what actually exists within the Hazleton Estate as a whole. Taking this evidence into account we have been advised that any enforcement notice issued to remove this structure, which will be completely screened by the existing landscaping within an acceptable time, is more than likely to be quashed at appeal.

We have been advised that we will need to pay double the fees under ground 'a' of any planning appeal we make, but that is a consequence of not having enough time to prepare an application as you would under normal circumstances, that would offer the opportunity to provide the same planning statement and evidence that we are providing now.

The planning system is not designed to punish people for having the right to enjoy the property they own. It is in place to permit development that accords policies that are adopted within Local Plans. It is a matter of fact and degree that national planning policy and the policies the LPA refer to "*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*". Whilst it would be a stretch to say the development is of high quality design it is in context with its setting and the surrounding area. Moreover, it will not be visible when the landscaping has matured satisfying local distinctiveness within the street scene.

We hope that you will consider the evidence favourably and make the decision to take no further action in these proceedings. Thank you. Kind regards Mr and Mrs Bassett.