



NOTICE OF MEETING

Meeting:	Planning Enforcement Sub-Committee
Date and Time:	Monday 30 January 2023 10.00 am
Place:	Council Chamber
Enquiries to:	Committee Services
Members:	Blewett, Makepeace-Browne, Oliver and Southern (Chairman)

Chief Executive

CIVIC OFFICES, HARLINGTON WAY
FLEET, HAMPSHIRE GU51 4AE

AGENDA

This Agenda and associated appendices are provided in electronic form only and are published on the Hart District Council website.

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- At the start of the meeting, the Lead Officer will confirm the Fire Evacuation Procedure.**
- The Chairman will announce that this meeting will be recorded and that anyone remaining at the meeting had provided their consent to any such recording.**

1 MINUTES OF PREVIOUS MEETING (Pages 4 - 7)

The Minutes of the meeting held on 17 October 2022 are attached to be confirmed and signed as a correct record.

2 APOLOGIES FOR ABSENCE

To receive any apologies for absence from Members*.

***Note:** Members are asked to email Committee Services in advance of the meeting as soon as they become aware they will be absent.

3 DECLARATIONS OF INTEREST

To declare disclosable pecuniary, and any other, interests*.

***Note:** Members are asked to email Committee Services in advance of the meeting as soon as they become aware they may have an interest to declare.

4 CHAIRMAN'S ANNOUNCEMENTS

5 UPDATE ON PLANNING ENFORCEMENT (Pages 8 - 17)

To provide the Planning Enforcement Sub-Committee with an overview of the Planning Enforcement function in 2022.

RECOMMENDATION

That the Planning Enforcement Sub-Committee notes the overview of the Enforcement function.

6 CONDITION OF LISTED BARN AT WEST MINLEY FARM (Pages 18 - 20)

RECOMMENDATIONS

- A. It is recommended that the owner is advised that the Council is considering the issue of an Urgent Works Notice to ensure the building is secured and is wind and watertight. It is recommended that the owner be given fourteen days to undertake works voluntarily to make the building wind and watertight.
- B. If the work is not undertaken voluntarily, it is recommended that a Structural Engineer and contractors are engaged to undertake the works. It is then recommended that the owner is given written notice of the intention to carry out the works: The works which are urgently necessary appear to include:
 - 1. Temporary work to the roof structure including supporting structure. Stabilisation of the roof covering and making watertight through installation of a replacement tarpaulin or other membrane.
 - 2. Temporary work to make the remaining structure watertight through application of a tarpaulin or other membrane across elevations of the building.
 - 3. Temporary work of propping to ensure the building does not collapse.
 - 4. Work to temporarily enclose the site to the public highway.
 - 5. Temporary security measures to prevent vandalism or unwanted entry into the building. That a notice is subsequently served on the owner requiring payment of the expenses incurred in the works.
- C. It is recommended if no further steps are taken to maintain or repair the

building within a further three-month period following the issue of an Urgent Works Notice, that a notice under Section 215, or a Repairs Notice are issued to the owner to secure long term maintenance and repair of the building.

Date of Despatch: Friday, 20 January 2023

PLANNING ENFORCEMENT SUB-COMMITTEE

Date and Time: Monday 17 October 2022 at 10.00 am

Place: Council Chamber

Present:

Blewett, Makepeace-Browne, Oliver and Southern (Chairman)

In attendance:

Mr Nicholas Silvester

Ms Kate Little, Crest Nicholson

Officers:

Mark Jaggard, Executive Director Place

Stephanie Baker, Development Management & Building Control Manager

Maxine Lewis, Planning Team Leader

Sharon Whittaker, Enforcement Officer

Craig Harman, Planning Assistant

Tola Otudeko, Principal Lawyer

Jenny Murton, Committee Services Officer

Claire Lord, Committee Services Officer

1 ELECTION OF CHAIRMAN

Councillor Southern was elected as Chairman.

2 ELECTION OF VICE CHAIRMAN

Councillor Oliver was elected Vice-Chairman.

3 MINUTES OF PREVIOUS MEETING

The Minutes of the meeting held on 1 July 2019 were confirmed and signed as a correct record. Councillors Oliver and Makepeace-Browne highlighted that they did not attend the meeting.

4 APOLOGIES FOR ABSENCE

None.

5 DECLARATIONS OF INTEREST

None.

6 CHAIRMAN'S ANNOUNCEMENTS

None.

7 REVIEW OF PLANNING ENFORCEMENT INVESTIGATIONS IN RELATION TO DEVELOPMENT AT HAWLEY PARK FARM, HAWLEY ROAD, BLACKWATER, CAMBERLEY

The Planning Team Leader summarised the report and said that it was to explain the enforcement investigations undertaken in relation to development at Hawley Park Farm.

The meeting was being held due to the large volume of complaints received and reference was made to the 15 issues in section 4.3 of the agenda report.

It was confirmed that the objections received were from long-standing residents living in Rushmoor, as opposed to new occupiers of the development.

The Planning Team Leader highlighted that the recent complaints were primarily related to:

- The breach of working hours;
- Tree protection issues that are currently ongoing.

Members asked whether there had been complaints from other residents of Fernhurst Road. The Planning Team Leader confirmed that there had been reports from several residents.

Members felt it would be helpful for Officers to outline why issues such as this come to a public meeting of Planning Enforcement Sub-Committee. The Planning Team Leader confirmed that the matter was being brought to a public meeting due to the volume of concerns and complaints which had been received by the Council, to set out the matters and differences.

Members asked if the Planning Team Leader could clarify what work had been undertaken by the Enforcement Team to date. The Planning Team Leader confirmed that a Breach of Condition Notice and Temporary Stop Notice had been served last year.

A public speaker, Mr Silvester, addressed the Committee and made reference to concerns raised to the Council previously in addition to correspondence sent to the Council. This correspondence was stated to set out the speaker's concerns with the Officer's report within the Committee agenda, including areas which he felt were incomplete or inaccurate such as references to the NPPF and lack of documenting each issue which had occurred.

Members discussed the points raised by Mr Silvester, including works carried out over the 2022 Jubilee weekend.

Members also discussed with officers the potential feasibility of updating the report with more specific detail that the speaker had requested. Members considered that they would not want a report which included over two years of history as it would be unwieldy.

A second speaker on behalf of the developer, Ms Little of Crest Nicholson, addressed the Committee and thanked residents for their patience during construction works. She acknowledged that it would likely be no-one's preference to live adjacent to a construction site and that the developer had taken steps to address complaints they had received, including working with Hart District Council and Hampshire County Council.

Ms Little highlighted that a new management team had recently been introduced to the site to minimise disruption and it is working very closely with its subcontractors.

Members questioned:

- Crest Nicholson's commitment to compliance with planning permission conditions in the future, given previous breaches in the past.
- How would working hours conditions be policed in future and how will the new management team ensure these conditions are met and not ignored and breached in the future.
- The length of the development's construction phase.

Ms Little confirmed that Crest Nicholson was committed to complying with conditions in future and that this would be ensured by a new reporting structure and working relationship of a new team, liaising with the District Council and County Council where needed. Ms Little confirmed that the anticipated remaining construction phase would last at least another year.

Mr Silvester stated that he had received no feedback from the relevant County Councillor regarding Fernhill Lane and the Development Management & Building Control Manager confirmed that Fernhill Lane is outside of the District Boundary and outside of the planning application red line. As such, issues on Fernhill Lane are not within the Hart District Council remit.

It was agreed that the planning team could provide Crest Nicholson's contact details to Mr Silvester.

Members of the Committee requested that records of the contractors signing in and out processes and attendance sheets be shared with the planning team, and Ms Little agreed to provide this information as it is already recorded for Health & Safety purposes.

Members summarised that the official site visit undertaken by Councillors Makepeace-Browne and Blewett on Thursday 13 October was very useful; they had noticed there were gaps in some fencing and the SANG. Councillor Oliver confirmed he had undertaken his own site visit over the weekend and had spoken to residents whilst there.

Mr Silvester raised his concerns regarding boundary fencing.

The Enforcement Team Leader confirmed that there are two different types of fencing at this site, post and rail and close boarding. She confirmed that some of the fencing installed is permitted development and the team will seek to monitor this issue when and where appropriate.

The Development Management & Building Control Manager reiterated that Mr Silvester had been provided with a single point of contact with the Council, the Planning Team Leader. This is to avoid the scenario where information has not been seen by the Enforcement team.

The Chairman asked Mr Silvester to re-send any questions he had to the Planning Team Leader as she is his designated point of contact.

DECISION

The Planning (Enforcement) Sub-Committee unanimously endorsed the contents of the report and noted the information.

The meeting closed at 10.38 am

PLANNING ENFORCEMENT SUB - COMMITTEE

DATE OF MEETING: Monday 30th January 2023

TITLE OF REPORT: Update on planning enforcement

Report of: Executive Director - Place

Cabinet member: Councillor Graham Cockarill

1 PURPOSE OF REPORT

- 1.1** To provide the Planning Enforcement Sub-Committee with an overview of the Planning Enforcement function in 2022.

2 OFFICER RECOMMENDATION

- 2.1** That the Planning Enforcement Sub-Committee notes the overview of the Enforcement function.

3 BACKGROUND

- 3.1** The Council has a duty to investigate complaints about development, including building and engineering works and changes of use, that may have been carried out without the necessary permission or consent.
- 3.2** Effective planning enforcement is a useful tool in tackling breaches that would otherwise have had an unacceptable impact on amenity in the District and to help maintain the integrity of the Development Management process.
- 3.3** There are a range of enforcement powers available to the Council, however whether the Council takes any enforcement action is a discretionary matter. When considering taking any formal action the Council must consider if it is expedient to do so having had regard to the Development Plan and any other material considerations including the Enforcement Plan. It is also necessary to weigh up in each case whether taking Enforcement Action is in the public interest.
- 3.4** Taking formal Enforcement Action should be regarded as a last resort and many breaches of planning control can be resolved informally without action being taken. For example, retrospective planning permission can be obtained or the transgressor can voluntarily cease the breach through negotiation with Officers.
- 3.5** Councillors are often the public face of the Council and Member involvement in planning matters is crucial in maintaining an effective enforcement service. This report has therefore been prepared to provide an overview of the enforcement function in 2022.

Whilst taking formal enforcement action by serving Enforcement Notices or other actions can be high-profile what often gets overlooked is the amount of work involved in collaboratively resolving cases without the need for formal action which has resulted in a breach ceasing or being regularised.

4 CONSIDERATIONS

4.1 Number of Service Requests

Following on from the extraordinary previous two years, the number of service requests received by the team has reduced and now reflects service levels prior to the Covid-19 pandemic:

1st April to 30th June 2022 (Quarter 1), 56 requests to investigate alleged breaches of planning control were received from customers.

1st July to 30th September 2022 (Quarter 2), 47 requests were received.

1st October to 31st December 2022 (Quarter 3), 41 requests were received.

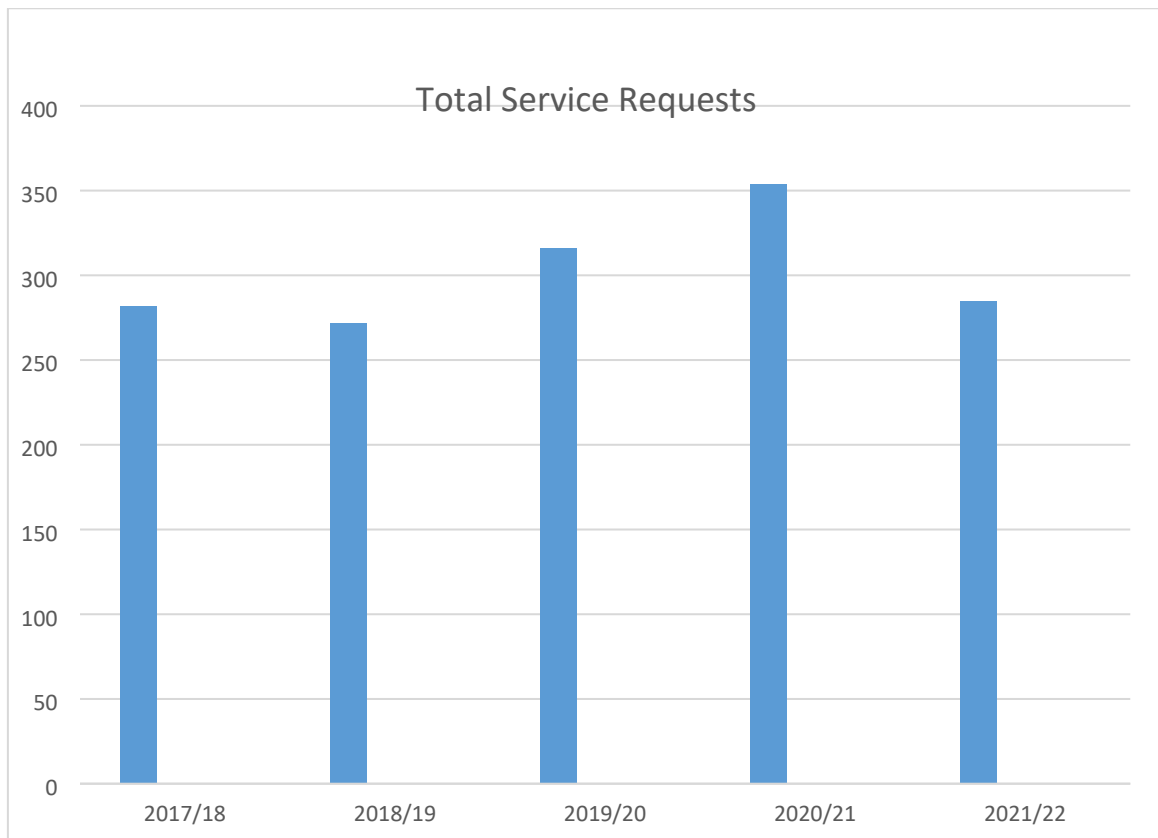
As this report is being prepared during Q4 no details are included for this period.

In comparison with the pandemic years of 2018/20/21 the number of service requests have been significantly lower, however, it is fair to say that a number of the related cases have been more complex, time consuming and challenging.

	Number of service requests					
	17/18	18/19	19/20	20/21	21/22	22/23
Q 1 April-June	74	80	90	79	109	56
Q2 July - September	73	77	87	102	60	47
Q3 October - December	68	55	67	85	49	41
Q4 January - March	67	60	72	55	67	N/A

In comparison with the pandemic years of 2019/20/21 during the last year we have seen a fall in the number of service requests, however, it is fair to note that in a number of the cases multiple complainants have been recorded to one case to avoid duplicity and a number of the cases considered have been more complex, time consuming and challenging.

It is notable that over the last six years, overall case numbers rose and now appear to have fallen to pre – pandemic levels, officers therefore acknowledge this marked increase might have been directly related to the pandemic. As a result, service requests and resources will continue to be monitored.



4.2 Number of Cases Closed and Resolution

When a request to investigate an alleged breach of planning control is received, the case is prioritised by the Enforcement Team Leader in accordance with the Council's Enforcement Plan:

Priority 1 – High priority (Site visit within 2 working days):

- Demolition or alteration of a Listed Building
- Demolition of a building within a Conservation Area.
- Works to trees protected by a Tree Preservation Order or within a Conservation Area. Any unauthorised development/activity/operation, falling within planning control that presents an immediate and serious danger to the public

Priority 2 – Medium priority (Site visit within 5 working days):

- Development not in accordance with the approved plans during the construction process
- Development causing serious harm to the amenity of nearby residents, e.g. through impact on privacy or outlook
- Advertisements causing serious harm to amenity or highway safety
- Commencement of works without clearing conditions precedent

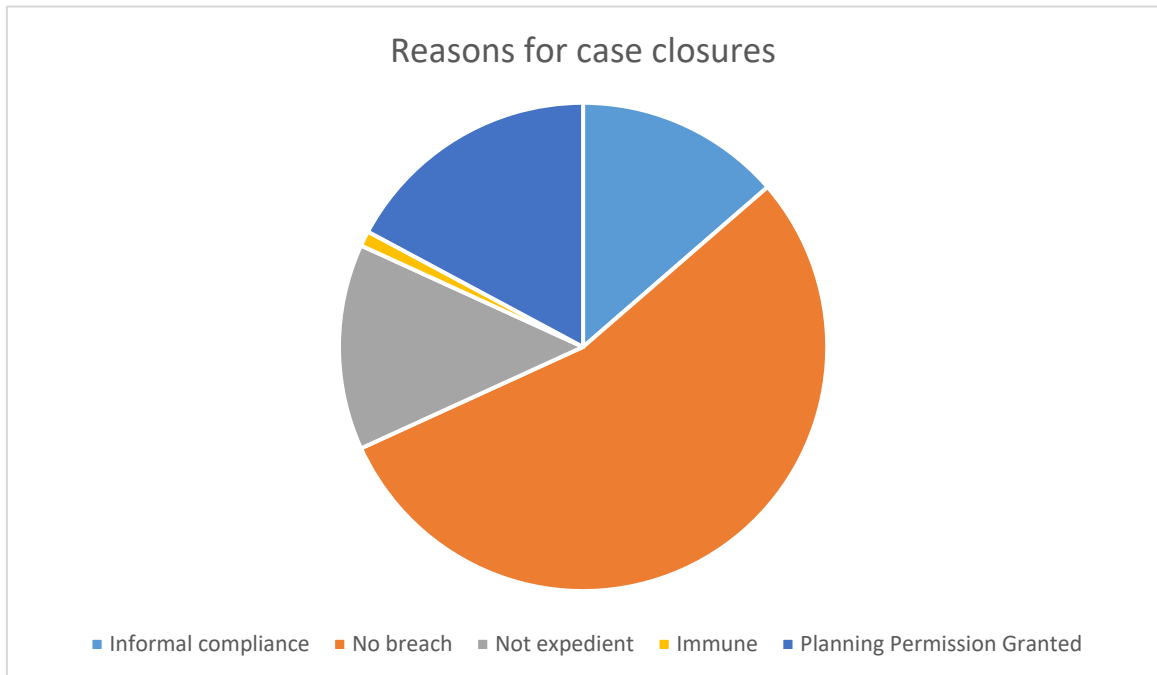
Priority 3 – Low priority (Site visit within 10 working days):

- Advertisements
- Minor works including fences, walls, small extensions
- Condition monitoring

- Untidy sites
- Other breaches of planning control

Once the initial investigation has been completed, officers will make a recommendation on the case. Cases are closed for a variety of reasons and the graph and table below sets out the cases closed and their reason for being closed.

The graph below shows the split in the reasons for cases being closed in January to March 2022.



Whilst the above pie chart represents a simple snapshot of cases closed during one quarter of the last year, it is notable that just over half of the closed cases investigated (54%) during this quarter did not represent a breach of planning control. Based on recent officer experiences this is reflective of the nature of service requests received during and following the pandemic period. Prior to the pandemic period, officers usually experienced up to one third of cases being not planning breaches, however, this has clearly increased. Officers will continue to monitor whether this situation continues or as a result in the reduction of number of service requests received this percentage falls.

Members will see that an equivalent number of cases were closed because the breach had ceased due to negotiation, or that planning permission was subsequently granted for the development. It is important to highlight these cases because they amount to a large proportion of workload that is otherwise unreported. In relation to the number of cases closed due to the breach ceasing these should be regarded as successful outcomes.

Whilst no formal enforcement action was taken during this quarter, members will be aware that such action has been taken during the year.

Number of live enforcement cases

The total number of ongoing/live enforcement cases recorded in the system is 201 cases. These cases remain ongoing for a number of reasons :

2016 – There are 27 cases relating to Enforcement Notices issued in relation to Bramshill. The Court of Appeal remitted these cases to the Secretary of State to rehear the appeals. The appeals remain in abeyance pending determination current and ongoing applications/proposals for the site. In this respect no further action can be taken until a decision on these appeals is reconsidered by the Secretary of State.

2017 – There are 3 cases open. Two of these cases relate to sites being monitored. One case relates to a listed building where due to the personal circumstances of the owner (terminal illness) it was not considered in the public interest to pursue a prosecution for unauthorised works to a listed building. The property in question has been sold so further consideration on the expediency of action could take place as the responsibility for the unauthorised works has passed to the new owners. A review of the case will therefore take place within the next quarter.

2018 – There is 1 open case which may result in instructions to legal.

2019 – There are 13 open cases which are long running matters including some of the notable cases referenced later in this report. They are in the main issues relating to alleged breaches of condition particularly in relation to failure of landscaping. These cases continue to be monitored.

2020 – There are 38 open cases.

The remaining 112 open cases are active investigations.

Officers are satisfied that all casework is regularly monitored and investigations are progressed in accordance with the adopted Local Enforcement Policy priorities.

4.3 Formal Enforcement Action

There are a range of options open to the Council when considering enforcement action including the following:

- Enforcement Notice
- Breach of Conditions Notice
- Planning Enforcement Order
- Stop Notice
- Temporary Stop Notice
- Injunction
- S215 Notices (untidy site)
- Listed Building Enforcement Notices

Formal action including the serving of an Enforcement Notice should only be taken where the Council is satisfied that there appears to be a breach of planning control and it is expedient to issue a notice. In deciding whether to issue a notice or take any other

form of action, the Council has to take into account the provisions of the Development Plan and any other material considerations. Generally taking such action should be treated as a last resort where negotiations to remedy the issue have failed, however there will of course be instances where negotiation is not appropriate.

Whilst Enforcement notices are a powerful tool, the fact that an Authority may not have served a large number of notices doesn't mean that it is failing to manage or deal with unauthorised development or works within its area.

All types of notice have a period for compliance which will vary depending on the nature of the breach and the steps required to remedy the situation. After the compliance period the Enforcement Team will visit to check whether the notice has been complied with. Failure to comply with the requirements of a notice may result in the Council seeking to prosecute.

There are rights of appeal associated with any Enforcement Notice in the same way that an applicant can appeal against the refusal of a planning application. For example, an appeal against a planning Enforcement Notice (as opposed to a Listed Building Enforcement Notice for example) can be made on the basis of the following grounds:

- a. That planning permission ought to be granted or the condition or limitation concerned ought to be discharged;
- b. The matters stated in the enforcement notice have not occurred;
- c. The matters stated in the enforcement notice (if they occurred) do not constitute a breach of planning control;
- d. At the date when the notice was issued, no enforcement action could be taken;
- e. Copies of the enforcement notice were not served in accordance with the relevant statutory requirements;
- f. The steps required by the notice exceed what is reasonably necessary to either remedy any breach or to remedy any injury to amenity (i.e. the steps are excessive); and or
- g. Any period for compliance falls short of what should reasonably be allowed.

Where an appeal is lodged, the notice is effectively held in abeyance pending the outcome of the appeal. Unfortunately, the planning appeals process is slow and the Planning Inspectorate has seen unprecedented levels of planning and enforcement appeals, resulting in the Inspectorate asking Authorities to resolve issues at the local level wherever possible. Timescales for planning enforcement appeals which are heard by written representations have an average delay of 50 weeks to determine them. For local hearings this time increases to 93 weeks whereas Public Inquiries are 59 weeks on average.

During 2022 the Enforcement team was extremely busy dealing with some complex and difficult matters.

Four separate Enforcement Notices and two Breach of Condition Notices were issued during the year. Notably, the team also successfully obtained 2 separate Injunction Orders from the High Court which relate to ongoing cases.

The details of these notices are entered into the Register of Enforcement and other notices which is published online via the Councils' website.

During 2022 the following notices were issued :

New Farm, Froyle Lane, South Warnborough – Unauthorised residential use of 4 structures – Enforcement Notice required cessation of the unauthorised use – no appeal was lodged against this notice and it was complied with.

1 Ridgeway Parade – Extraction Equipment at pizza shop – Breach of Condition Notice required work to be undertaken in accord with planning permission – notice complied with.

12 Hawkwell, Church Crookham – Unauthorised fence – Breach of Condition Notice required removal/reduction in height – notice complied with.

The Frog and Wicket, Eversley Cross – Unauthorised Pergola – Enforcement Notice required removal – subject to appeal

2 Haywood Drive, Fleet – Building not in accordance with approved plans – Enforcement Notice required removal – subject to appeal

Land South of Beechcroft, South Warnborough – Unauthorised use of land for residential caravan and associated developments – Enforcement Notice required use to cease and work to be removed – notice comes into effect unless appeal lodged by 21/1/23.

4.4 Notable Cases

Land at Five Acres, Broad Oak, Odiham

An Enforcement Notice relating to a change of use of land arising from the siting of a mobile caravan structure for residential purposes in relation to the keeping of alpacas on the above mentioned land was issued in September 2021.

The notice requires removal of the timber caravan structure and reinstatement of the land. An appeal against this notice has been lodged.

The matter is to be considered through the Informal Hearing procedure. The Hearing is scheduled to take place on 24th January 2023.

Paynes Cottage, Potbridge

An Enforcement Notice relating to change of use of land to commercial use was issued in 2019. An appeal against the notice was lodged,

The original inquiry date (Nov 2021) was postponed by PINS as the inspector became unavailable due to unforeseen circumstances.

The revised inquiry is now scheduled to take place over 4 days from 7th March 2023.

Land North of Winchfield Court

Members will recall that this site was sold in parcels to a number of owners. Some of the new owners have caused significant disruption to neighbouring occupiers through activities on the land.

A Temporary Stop Notice and 2 Enforcement Notices were served in relation to 3 of the parcels of land in May of 2021 requiring that the use of the land for the stationing of a caravan used for residential accommodation and storage of waste/building materials ceased and unauthorised operational development including erection of gates/fencing exceeding 1 metre in height, an unauthorised access, engineering works, culverting works, alterations to a former sewage pumping station, unauthorised extensions to the building and the creation of a hardstanding were removed.

Appeals against the Enforcement Notices have been lodged. These appeals will be heard through the Informal Hearing procedure, however, no date for this hearing has been fixed.

The Enforcement Notices will not come into effect until the appeal has been determined, as mentioned above, there is a very significant delay in determining enforcement appeals via the hearing or inquiry procedures.

Officers will update members when the matter progresses.

Land South of Beechcroft

The Enforcement team successfully secured an injunction in the High Court in relation to this matter in October 2022. Without planning permission, a twin-unit caravan and structures had been placed on the land capable of human habitation. The Injunction prevented the transgressor from occupying the land for residential purposes.

Subsequently, the Enforcement team served an Enforcement Notice on the land to require the removal of the twin-unit caravan, structures and all operational development. The Council has received no notification of an appeal having been lodged against this Enforcement Notice to date.

The Enforcement Notice will come into effect on 21st January 2023 unless an appeal is lodged beforehand. Officers will continue to monitor the situation.

Big Meadow, Wingate Lane, Long Sutton

The Enforcement team successfully secured an injunction in the High Court in relation to this matter in December 2022. The planning application reference was 15/00424/FUL for "The erection of 5 dwellings with carport/store, access road and landscaping; change of use of agricultural field to public open space and associated landscaping" which was granted planning permission on 17th June 2016. The relevant enforcement references are 20/00282/XPLAN3 and 19/00263/XPLAN3.

In recent months, Council Officers have repeatedly requested the payment of the second affordable housing contribution referenced in Clause 15.2 of the s106 Legal Agreement. Despite sending invoices, reminders, and emails from shared legal services (outlining that legal proceedings may follow) the debt remains unsettled.

We applied for an Injunction in the High Court to prevent the sale or occupation of the final (fifth) dwelling at the site unless and until the debt was paid to the Council. The Injunction Order was made by the judge.

The Injunction was served on the developer in December 2022 however no response from the developer or dialogue of any form has been received despite further contact from our legal team.

As a result, Officers have authorised the shared legal services team to proceed to seek a County Court Judgment to recover this debt.

The matter will continue to be monitored.

The year ahead

Members will be aware that the Peer Review into development management services highlighted no particular issues with performance of the planning enforcement function. A subsequent review by a “critical friend” similarly raised no urgent actions requiring attention.

Officers are however mindful that the adopted Planning Local Enforcement Plan has been in place since January of 2016.

Whilst officers consider it remains fit for purpose, it is recommended that it is reviewed in light of any practical or legislative changes which may need to be considered since it was adopted 7 years ago.

Subject to resourcing availability, a key action to be considered is therefore recommended :

- Reviewing the adopted Local Enforcement Plan

5 FINANCIAL AND RESOURCE IMPLICATIONS

There are no anticipated financial implications in respect of this report although workloads for the team will continue to be monitored.

It should be noted that the Enforcement Team Leader will be leaving Hart District Council in March 2023 and the Assistant Enforcement Officer left in January 2023 for new opportunities elsewhere in local government. As a result, recruitment campaigns are underway to secure replacement permanent staff. The Development Management & Building Control Manager is also in discussions with agencies in respect of temporary staff to cover between March (when the Enforcement Team Leader leaves the Council) and May 2023, which is the earliest anticipated start date for a permanent replacement.

6 ACTION

It is recommended that the Committee notes the contents of this report.

Contact Details:

Stephanie Baker stephanie.baker@hart.gov.uk 01252 774136
Development Management & Building Control Manager

Maxine Lewis maxine.lewis@hart.gov.uk 01252 774459
Planning and Enforcement Team Leader

NATURE OF BREACH

Condition of Listed Barn at West Minley Farm.

BACKGROUND

West Minley Farm Barn is a listed building consisting of a timber framed barn situated immediately adjacent to the highway Minley Road.

The site formerly formed a part of the Minley Manor estate. The barn is a late C17th or early C18th timber framed building covered by a Welsh slated roof. It was added to the statutory list in 2012 and a subsequent application to delist it was dismissed in 2018.

RELEVANT HISTORY

18/01087/LBC – First aid repairs to listed barn – application withdrawn.

19/01653/LBCLW – Temporary support to building, remove tarpaulin and roof slates and store roof slates, provide additional brackets and temporary bracing to timber frame, replace existing tarpaulin, replace timber cladding with metal corrugated cladding. Split decision. Appeal Dismissed.

CONSIDERATIONS

Officers were alerted that the physical condition of the building has deteriorated to such a degree that the structure now appears dangerous. An initial site visit has taken place and it has been established that there are significant problems with the structure of the building, the roof structure appears to be failing and as a result significant numbers of the roofing slates have slipped, fallen, or have collapsed internally to the building.

As the building is a statutorily listed building, the Council, as Local Planning Authority needs to assess the condition of the building and consider action to resolve matters.

EXPEDIENCY

Historic buildings are at their most vulnerable when they are neglected, left empty and deteriorate. The Historic England publication “Stopping the Rot” clearly sets out that visual evidence of disuse can itself begin the downward spiral because it advertises the building as an easy target for vandals and thieves.

The condition of the building in this case and its lack of enclosure from the public highway provides opportunity to access the building as an easy target.

The exterior of the building indicates remedial works are needed due to lack of maintenance, this has resulted in loss of wall fabric, loss of slates, it also appears from visual inspection that significant structural movement may have happened. A

comprehensive set of photographs has been taken focussing on the areas of failure. These photographs provide essential evidence in relation to the previously recorded condition of the building.

It is therefore considered expedient to take formal action in this case as a continuing spiral of lack of intervention, repair or maintenance can be actively demonstrated.

In exercising powers to intervene, the Council has a number of options.

The power to execute urgent works to preserve unoccupied listed buildings may be exercised by any local authority under section 54(1) of the Listed Buildings Act 1990. The local authority may require the owner to pay the costs incurred in carrying out the works, but the owner has a right of appeal to the Secretary of State.

The use of Urgent Works Notices should be restricted to emergency repairs to keep a building wind and weatherproof and safe from collapse, or action to prevent vandalism or theft. The steps to be taken should be the minimum consistent with achieving this objective and should not involve an owner in great expense. The works specified should be those urgently necessary at the time and should not include precautionary or preventive work that may become necessary in the future (*Robbins v Secretary of State for the Environment* 1989).

Section 48 of the Listed Buildings Act 1990 enables local authorities to serve a Repairs Notice on the owner of a listed building specifying the works considered necessary for the proper preservation of the building. Where after a minimum of 2 months reasonable steps are not being taken, the authority can begin compulsory purchase proceedings. A repairs notice does not commit the authority to proceed to compulsory purchase proceedings and can be withdrawn at any time. Proper preservation implies positive action to put and to keep a listed building in good repair in a way which fully respects its special architectural or historic interest, and to prevent it being exposed to harm. This normally involves undertaking regular repairs and routine maintenance. A Repairs Notice should be considered when a building is neglected and the need for permanent repair accumulates to the point where there is potential for serious harm.

The Historic England publication also suggests the use of a notice under Section 215 of the Town and Country Planning Act 1990 may be appropriate where the amenity of the area is adversely affected by the condition of land. This is a broad power which can be used in respect of any land designated or not, including buildings whether they are in use or not. In the case of a notice under Section 215 case law identifies such a notice may be appropriate where there is any want of maintenance or repair in the land.

The use of such notices is not mutually exclusive so a combined approach can be taken.

In this case, it appears that due to lack of maintenance, the condition of the building is deteriorating in this respect it is considered an urgent works notice and/or a notice under Section 215 of the Town and Country Planning Act may be appropriate and proportionate responses to the condition of the building. Should the owner then fail to undertake repairs or routine maintenance, a Repair Notice should be considered.

RECOMMENDATIONS

- A. It is recommended that the owner is advised that the Council is considering the issue of an Urgent Works Notice to ensure the building is secured and is wind and watertight. It is recommended that the owner be given fourteen days to undertake works voluntarily to make the building wind and watertight.
- B. If the work is not undertaken voluntarily, it is recommended that a Structural Engineer and contractors are engaged to undertake the works.

It is then recommended that the owner is given written notice of the intention to carry out the works:

The works which are urgently necessary appear to include:

1. Temporary work to the roof structure including supporting structure. Stabilisation of the roof covering and making watertight through installation of a replacement tarpaulin or other membrane.
2. Temporary work to make the remaining structure watertight through application of a tarpaulin or other membrane across elevations of the building.
3. Temporary work of propping to ensure the building does not collapse.
4. Work to temporarily enclose the site to the public highway.
5. Temporary security measures to prevent vandalism or unwanted entry into the building.

That a notice is subsequently served on the owner requiring payment of the expenses incurred in the works.

- C. It is recommended if no further steps are taken to maintain or repair the building within a further three-month period following the issue of an Urgent Works Notice, that a notice under Section 215, or a Repairs Notice are issued to the owner to secure long term maintenance and repair of the building.