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NOTICE OF MEETING

Meeting:	Planning Enforcement Sub-Committee
Date and Time:	Monday 15 January 2024 10.00 am
Place:	Council Chamber
Enquiries to:	Committee Services
Members:	Southern (Chairman), Makepeace-Browne (Vice-Chairman), Blewett, Kennett and Oliver

Chief Executive

CIVIC OFFICES, HARLINGTON WAY
FLEET, HAMPSHIRE GU51 4AE

AGENDA

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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 3 - 7)

The minutes of the meeting held on 26 June 2023 are attached for approval.

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 PLANNING ENFORCEMENT UPDATE (Pages 8 - 14)

To provide the Planning Enforcement Sub-Committee with an update on a number of current planning enforcement cases.

Recommendation

That Planning Enforcement Sub-Committee notes the updates of the cases as set out in Appendix 1.

Date of Dispatch: Friday 5 January 2024

PLANNING ENFORCEMENT SUB-COMMITTEE

Date and Time: Monday 26 June 2023 at 10.00 am

Place: Council Chamber

Present:

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

In attendance:

Officers:

Mark Jaggard	Executive Director - Place
Victoria Goldberg	Development Management Team Leader
Katherine Fitzherbert-Green	Development Management Team Leader
Sylvia O'Connor	Enforcement Officer
Ann Greaves	Legal Services Manager
Sharon Black	Committee Services Officer
Emma Evans	Committee Services Officer

The Executive Director - Place opened the meeting and welcomed the members of the public in the Council Chamber. He read out the fire evacuation procedures.

The meeting was temporarily adjourned to allow a third member of the Sub-Committee to arrive to ensure that the number for quoracy was achieved. The meeting recommenced at 10.10am.

1 ELECTION OF CHAIRMAN FOR 2023/24

Cllr Southern was elected as Chair of the Planning Enforcement Sub-Committee for 2023/24.

Proposed by: Cllr Kennett; Seconded by: Cllr Makepeace-Browne

2 ELECTION OF VICE-CHAIRMAN FOR 2023/24

Cllr Makepeace-Browne was elected as Vice-Chair of the Planning Enforcement Sub-Committee for 2023/24.

Proposed by: Cllr Southern; Seconded by: Cllr Kennett

3 MINUTES OF PREVIOUS MEETING

The minutes of the Planning Enforcement Sub-Committee meeting held on 30 January 2023, were agreed as a correct record and were signed by the Chairman.

Proposed by: Cllr Southern; Seconded by: Cllr Makepeace-Browne

4 APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllr Oliver.

5 DECLARATIONS OF INTEREST

There were none.

6 CHAIRMAN'S ANNOUNCEMENTS

The Chairman had no announcements.

The Executive Director – Place introduced Katherine Fitzherbert-Green and Victoria Goldberg who were both Development Management Team Leaders. Katherine Fitzherbert-Green would be the interim Development Management and Building Control Manager while Ms Baker was on maternity leave.

7 CASTLE BRIDGE COTTAGES, HOOK ROAD, NORTH WARNBOROUGH, HOOK

Members of the Sub-Committee were given background information on the terrace of 12 listed cottages. These cottages were within the North Warnborough conservation area, and reference was made to the new Odiham and North Warnborough conservation area appraisal which was adopted in November 2022.

It was noted that allegations had been made against 11 of the 12 cottages. All allegations had been made by the same person.

Members noted information relating to the 11 individual allegations as follows:

No 1

Allegations related to fencing and an oil tank. Officers had found that one fence panel had been recently replaced and needed a slight reduction in height and staining to match the existing. The oil tank was old and rusting and had been there some time, as such the development was immune from enforcement action. No further action was proposed.

No 2

Allegations related to fencing and a shed in the rear garden. No further action was proposed as both appeared to have been in situ for more than 4 years and were immune from enforcement action.

However, it had been noticed that there were two uPVC windows on the ground floor, and it was being recommended that the current owner be served notice to

replace these, but with a longer than average time for compliance with the requirements of the notice.

Members heard from the owner (name withheld).

Members discussed:

- The impact on breathability of the building with uPVC windows in place
- If no action was taken, whether this would set a precedent
- How long it was believed the uPVC windows had been in place (estimated to be around 20 years)
- The difficulty of the situation for the current property owner
- Whether it would be possible to delay any notice being served so that replacement only needed to happen upon sale of the property

Members of the Sub-Committee felt that it would be most appropriate, under the owner's current circumstances and given the length of time that the uPVC windows had been in place, to put forward and agree an alternative recommendation.

Members agreed that in time it was appropriate for the uPVC windows to be replaced with windows of an appropriate manufacture in keeping with the Grade 2 listed status of the building. Members considered this should be prior to the time of sale of the property or on need to replace the windows in question, whichever came first. The cost of the replacement of the window frames to be borne by the current owner.

It was noted that there needed to be a charge on the land to ensure this was clear. It was also discussed there needed to be precise timeframe for the works, and it was recognised that Members felt this should be a long period.

It was noted this could be via an enforcement notice, or by a S106 legal agreement.

DECISION

Recommendation was proposed by the Chairman and seconded by Cllr Makepeace-Browne.

Officers to be tasked with communicating with the owner and legal services to find the best way forward to ensure the above was met.

It was agreed this would be in liaison with Cllr Kennet.

The Planning Enforcement Sub Committee approved the recommendation as follows:

For: Southern; Makepeace-Browne; Kennett

Against: Blewett

No 3

Allegations related to the erection of fencing and an outbuilding. It was noted that as both the fence and the summerhouse had been there for more than four years, they were immune from enforcement action. No further action was proposed.

No 4

Allegations related to the fence between numbers 4 and 5 and also an outbuilding in the back garden. It was noted that as both the fence and the shed had been there for more than four years, they were immune from enforcement action. No further action was proposed.

Speaker: Mr Jacobs

No 5

Allegations related to the erection of fencing and a brick shed. It was noted that the brick shed was an extension to the house with correct planning permission. No further action was proposed.

No 6

Allegations related to the erection of fencing and a glazed extension. It was noted that the glazed extension was on No 7 and had planning permission.

It was noted that the fence had been there for more than four years and as immune from enforcement action. No further action was proposed.

Nos 7 – 12

The Committee considered the alleged breaches. In all cases the Officers report concluded that no action was proposed.

Speaker for No 7: Ms Beard

In conclusion, Sub-Committee members were happy to unanimously endorse the recommendations above for cottages 1 and 3-12.

8 UPDATE ON PLANNING ENFORCEMENT LIVE CASES

The Development Management Team Leader gave a verbal update on the following notable cases:

- West Minley Farm: condition of listed barn
- Hawley Park Farm
- Land South of Beechcroft – Hares Farm, South Warnborough (Alleged Breach of Planning Control)
- Land at Five Acres, Broad Oak, Odiham
- Paynes Cottage, Potbridge
- Chapel Bungalow/Potbridge Scrapyard
- Land North of Winchfield Court, Winchfield
- Bulls Yard Farm, Hartford Bridge, Hartley Wintney
- Big Meadow, Wingate Lane, Long Sutton (Section S106 Financial Contribution)
- Hatchwood Place, Odiham

The Development Management Team Leader highlighted that the team is currently reviewing the Planning Local Enforcement Plan. This reflects a commitment in the Council's 2023/24 Service Plan. Members of the Planning Enforcement Sub Committee will be consulted at the appropriate stage, probably after the Summer.

The meeting closed at 11.45 am

PLANNING ENFORCEMENT SUB-COMMITTEE

DATE OF MEETING: 15 JANUARY 2024

TITLE OF REPORT: PLANNING ENFORCEMENT UPDATE

Report of: Executive Director – Place

Cabinet Portfolio: Development Management and Community Safety

Key Decision: No

Confidentiality: Non-Exempt

PURPOSE OF REPORT

1. To provide the Planning Enforcement Sub-Committee with an update on a number of current planning enforcement cases.

RECOMMENDATION

2. That Planning Enforcement Sub-Committee notes the updates of the cases as set out in Appendix 1.

BACKGROUND

3. 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.
4. 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.
5. 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 Local Enforcement Plan. It is also necessary to weigh up in each case whether taking Enforcement Action is in the public interest.
6. 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 Officers may be able to negotiate to ensure the breach cease.
7. 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 update on a number of cases.
8. 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.

OVERVIEW

9. There are currently 190 live cases pending consideration and 45 cases with notices issued.

10. The team are extremely busy and in the last six months have issued:

- 5 x Planning Contravention Notices (PCNs),
- 1 x S215 Notice, and
- 3 x enforcement notices.

11. Prior to Christmas there was a four-day public inquiry relating to an appeal against an enforcement notice. There are a further 7 live appeals relating to enforcement notices.

MATTER ARISING FROM THE REPORT FOR THE JUNE SUB-COMMITTEE

12. There was an error in the June 2023 Committee report, on page 12 relating to number 7 Castle Bridge Cottages North Warnborough, the report stated:

'At the time of writing this report I have been unable to contact the owner to arrange a mutually convenient time and date to conduct a site visit, despite writing and leaving phone messages.'

13. It is agreed that the owner did reply by email to the Officer copying in Councillors Dorn, Hale and Kennett and the Development Management & Building Control Manager. Photographs of the property were provided on 15 June 2023.

ACTION

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

Appendices

Appendix 1: Update on planning enforcement case.

Appendix 1: Update on notable cases

West Minley Barn, Minely Road

The Planning Enforcement Sub-Committee considered a report on this site in January 2023. West Minley Farm Barn is a listed building consisting of a timber framed barn situated immediately adjacent to the highway Minley Road. The Council had been alerted that the physical condition of the building has deteriorated to such a degree that the structure now appears dangerous.

The site has seen significant positive progress in the last two months. The owner has engaged a timber framed specialist. The specialist has detailed how the structure can be repaired safely to avoid the need for deconstruction. This is important in terms of preserving the significance of this important listed building.

There is now an agreed methodology for the works which will be submitted as part of a listed building consent application. This will look at phasing the works, so that the urgent work is done initially, and the remaining work is complete within 2-5 years. The long-time frame is required due to the complex nature of the work, specialist input required and the required funding.

In the interim, the site is secure and supportive scaffolding has been erected.

Hawley Park Farm, Blackwater

The Planning Enforcement Sub-Committee considered a range of matters relating to the Hawley Park Farm site in October 2022.

The main issue which is still relevant relates to the provision of the Suitable Alternative Natural Greenspace (SANG) at the Hawley Park Farm site. Officers visited the site in November to review the condition of the SANG. The SANG is substantially complete and is well used. Some minor maintenance issues were noted during the visit which have been brought to the attention of the developer (Crest Nicholson) to address. It was noted during the visit that a number of trees had failed across the site. The developer has confirmed that the failed trees will be replaced before the end of the current planting season (end of March).

2 Castle Bridge Cottages, North Warnborough

The Planning Enforcement Sub-Committee considered a range of matters relating to a number of properties at Castle Bridge Cottages in June 2023

In respect of number 2 Castle Bridge Cottages the report recommended serving a listed building enforcement notice requiring the replacement of two unauthorised uPVC windows. The Sub-Committee resolved the following:

‘Members of the Sub-Committee felt that it would be most appropriate, under the owner’s current circumstances and given the length of time that the uPVC windows had been in place, to put forward and agree an alternative recommendation.

Members agreed that in time it was appropriate for the uPVC windows to be replaced with windows of an appropriate manufacture in keeping with the Grade 2 listed status of the building. Members considered this should be prior to the time of sale of the property or on need to replace the windows in question, whichever came first. The cost of the replacement of the window frames to be borne by the current owner.

It was noted that there needed to be a charge on the land to ensure this was clear. It was also discussed there needed to be precise timeframe for the works, and it was recognised that Members felt this should be a long period.

It was noted this could be via an enforcement notice, or by a S106 legal agreement.”

Since the meeting Officers have met with legal to discuss a way forward. A letter will be sent to the owners to propose that the owner enters into a S106 agreement requiring that the owner replaces the unauthorised windows prior to the sale of the property. If the owner declines to enter into such an agreement, the matter will be referred back to the Sub-Committee.

Land South of Beechcroft, Hares Farm, Pickaxe Lane, South Warnborough

The Council submitted its hearing statement in October 2023 to defend the appeal submitted against the reissued enforcement notice. A hearing date has not yet been set by the Planning Inspectorate.

The Council has received reports that the caravan on site is being lived in in breach of the terms of the injunction. Legal advice has been sought in respect of pursuing a committal application.

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 subsequent appeal was dismissed and the owners were required to remove the caravan and supporting development.

A compliance check was carried out in December 2023 and confirmed that the caravan remains on site, but it is no longer occupied. The owner advised that efforts are being made to sell the structure so that it can be removed from the site.

To allow an extension of the time period for compliance, the Council has requested evidence that genuine efforts are being made to secure compliance with the requirements of the notice.

Land North of Winchfield Court

A Temporary Stop Notice (TSN) and 2 x 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.

Following a thorough review of the case the Council, following consultation with the Parish Council and the local residents, decided to withdraw both enforcement notices. It is proposed to issue new notice(s) which will better capture the breaches of planning control on site and expand on the reasons for taking action.

In the revised notice(s), it is proposed to better address the concerns of local residents and the Parish Council and link to the revised content of the December 2023 version of the NPPF and recently 'made' updated Neighbourhood Plan as well as the Local Plan. This will give more robust notice(s).

It is proposed to wait for the determination of the planning appeal on the adjacent site as the Decision notice may also inform how the enforcement notice is framed.

Paynes Cottage, Potbridge

An Enforcement Notice was issued on the 8 June 2023 alleging a change of use to a telecommunications installation business. The notice was appealed, and a four-day public inquiry concluded on the 18 December 2023. A decision is due by the 11 January 2024.

Chapel Bungalow

This is no longer a Planning Enforcement case. The Council's Environmental Health team are leading on matters relating to this case.

Enquiries have been made from a third party whether the scrap yard use could be resumed. The enquirer was informed that an area could be used for the breaking up of vehicles as set out in the Lawful Development Certificate ref 00/00370/LDCEX.

Big Meadow / Wingate Lane, Long Sutton

The site remains under construction with the intention to have the onsite drainage and Plots 1 and 4 complete by the end of January 2024 and signed off by Building Control. Whilst Plot 1 was previously rented out and occupied, this was without Building Control completion. Plot 4 has continued to remain empty.

In terms of the S106 agreement and the Injunction, no sums have been received to date against the outstanding amount. The receiver (Allsop) has indicated that they may seek a Deed of Variation to the S106 to re-negotiate the interest. The receiver is aware this would require an open book viability exercise and a formal process with the Council.

It is understood that the receiver is also reviewing the landscaping scheme and the topography (plus the drainage details) to propose an alternative scheme which apparently would comprise a similar design, albeit with a different topography.

The receiver has been advised that any deviation from the approved scheme will require regularising through planning, and that any work undertaken ahead of this would be at their own risk.

Granary Court, South Warnborough

An enforcement notice was issued on the 7 September 2023 alleging the carrying out of engineering operations to form a means of vehicular access onto a classified road (B3349) comprising the regrading of the bank and a new hard surfaced area. The enforcement notice has been appealed, the start date letter for the appeal has not yet been received.

Bull Yard Farm, land south of the A30 opposite White Lion Antiques

The works carried out on the land do not require planning permission such as the clearing of the land and the erection of fencing. The existing structures on site have been sited on the land for a number of years and are deemed uninhabitable or immune from enforcement action.

The Council has notified the Environment Agency and the Hampshire County Council as the Lead Local Flood Authority concerning the changes to the land and the current owner was advised to contact the EA and the LLFA.