

# CAMBRIDGE CITY COUNCIL

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REPORT OF: Head of Planning Services

TO: Planning Committee                      DATE: 03/06/15

WARD: Trumpington

## PLANNING ENFORCEMENT CONTROL ENFORCEMENT NOTICE REPORT

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### **Zahza Grill, 60 Trumpington Road, Cambridge Unauthorised operational development relating to the erection two outbuildings, an extension to a flue and a structure to the front of the property.**

SUMMARY	A planning enforcement investigation has identified unauthorised development at the above address, namely the erection an outbuilding, a rear extension, a structure to the front of the property and an extension to a flue without planning permission.  The development is not acceptable because it is considered to be out of keeping with the property and local area.
RECOMMENDATION	That enforcement action is authorised in respect of the breach of planning control to serve an enforcement notice.

## 1 INTRODUCTION

This report seeks delegated authority to serve an Enforcement Notice to address the unauthorised development at 60 Trumpington Road, Cambridge, namely, “Without planning permission the erection an outbuilding to the rear of the site, a timber structure to the front of the property, an extension to the rear of the property and an extension to an existing flue.” See appendix A for site plan.

## 2 PLANNING HISTORY

Reference	Description	Outcome
05/1349/ADV	External signage.	Application returned
C/87/0108	Alterations and erection of single storey extension to existing public house.	Approved with conditions

## 3 BACKGROUND / TIMELINE OF ENFORCEMENT INVESTIGATION

- 3.1 Officers received a complaint in August 2014 advising that an outbuilding was under construction that may require planning permission.
- 3.2 A site inspection was made in August 2014 during which it was confirmed that the works undertaken did not constitute permitted development. Additional works were also identified on site that required planning permission.
- 3.3 A letter was sent to the owners inviting a retrospective application for consideration on 5<sup>th</sup> September 2014. Negotiations continued and a further site meeting was held on 28<sup>th</sup> November 2014 during which officers pointed out all of the works that required planning permission.
- 3.4 A retrospective application was received in January 2015 and was validated on 05/02/2015. It was noted that not all of the works undertaken on the site were included in the application. A further application was therefore requested for the timber structure at the front of the property (which had been omitted from the application received.)
- 3.5 The “Retrospective application for a separate single storey dry storage building, extension to existing extract duct and single storey rear extension” was refused planning permission on 02/04/2015.
- 3.6 Officers have delegated authority to serve an enforcement notice for works that have been refused as part of a retrospective planning application.
- 3.7 However, as the planning application failed to cover all unauthorised works on the site, an enforcement notice would only be able cover part of the unauthorised operational development.

3.8 In order to take comprehensive enforcement action officers consider that one enforcement notice should be served that covers all of the unauthorised development on the site. Authority is therefore requested from Committee in line with Scheme of Delegation.

#### **4 ASSESSMENT AGAINST PLANNING POLICY AND OTHER MATERIAL CONSIDERATIONS**

4.1 The National Planning Policy Framework states:

‘Para 207 Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.’

4.2 National Planning Policy Guidance states:

Para 17b-003: ‘There is a clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether enforcement action is taken, local planning authorities should, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control’.

4.3 Assessment against Cambridge Local Plan 2006:

In order to issue an Enforcement Notice there must be sound planning reasons to justify taking such action. The opinion of planning officers is that the freestanding chipboard shed, the timber structure to the front of the property, the rear timber extension and upward flue extension are all bulky, poorly designed and poorly-constructed developments, whose materials do not reflect or contrast positively with those of the original building. These elements respond poorly to the character of the immediate locality, and of Trumpington Road, contrary to policies 3/4, 3/7, 3/12 and 3/14 of the Cambridge Local Plan 2006 and government guidance on good design in the National Planning Policy Framework 2012.

In addition, the chipboard shed because of its position, height, and inappropriate materials, is also considered to have an inappropriate

dominant visual impact on the occupiers of Nos. 2 and 3 North Cottages, detracting from their residential amenity contrary to policy 3/4 of the Cambridge Local Plan 2006.

- 4.4 Enforcement is a discretionary power and the Committee should take into account the planning history, the details of the breaches of planning control and the other relevant facts set out in this report.
- 4.5 Officers investigating the breach of planning control and setting out their recommendations have been mindful of, and complied with the Planning Investigation Service Policy and the City Council's Enforcement Concordat.
- 4.6 Consideration should be given to the Human Rights Act 1998 and to the Equality Act 2010. In terms of human rights, officers have noted Article 1 Protocol 1 (protection of property), Article 6 (a right to a fair hearing within a reasonable time), Article 8 (right to respect for private family life) and Article 14 (prohibition of discrimination) as being relevant considerations. The Council must also have regard to its public sector equality duty under S.149 of the Equality Act 2010. The duty is to have due regard to the need (in discharging its functions) to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing, minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
  - Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnerships, race, religion or belief, sex and sexual orientation.

Officers do not consider that the recommendation in this report would have a disproportionate impact on any protected characteristic.

- 4.7 Officers consider that the service of an enforcement notice with a reasonable period for compliance would be lawful, fair, proportionate, non-discriminatory, and necessary in the public interest to achieve the objective of upholding national and local planning policies.
- 4.8 Consideration has been given to Human Rights including Article 1 Protocol 1 (protection of property), Article 6 (a right to a fair hearing within a reasonable time), Article 8 (right to respect for private family life) and Article 14 (prohibition of discrimination). It is considered that taking necessary and appropriate action would be lawful, fair, non-discriminatory, and necessary in the general public interest to achieve the objective of upholding local planning policies.
- 4.9 If members choose not to authorise the service of an Enforcement Notice the unauthorised operational development would become immune from enforcement action after a period of four years and the enforcement case would be closed.

## **5 RECOMMENDATION**

### **Enforcement Notice**

- 5.1 (i) To authorise an enforcement notice under S172 of the Town and Country Planning Act 1990 (as amended) in respect of a breach of planning control, namely the unauthorised operational development consisting of the erection an outbuilding to the rear of the site, a timber structure to the front of the property, an extension to the rear of the property and an extension to an existing flue at 60 Trumpington Road specifying the steps to comply and the period for compliance set out in paragraphs 5.2 and 5.3, for the reasons contained in paragraph 5.4.
- (ii) to authorise the Head of Planning Services (after consultation with the Head of Legal Services) to draft and issue the enforcement notice.
- (iii) to delegate authority to the Head of Planning Services (after consultation with the Head of Legal Services) to exercise the Council's powers to take further action in the event of non-compliance with the enforcement notice.

### **5.2 Steps to Comply**

Remove the outbuilding to the rear of the site, the timber structure to the front of the property, the extension to the rear of the property and the extension to the existing flue, and revert the flue to its previous condition.

5.3 Period for Compliance:

6 months from the date the notice comes into effect.

5.4 Statement of Reasons:

It appears to the Council that the breach of planning control has occurred within the last four years. The applicant has undertaken development without the benefit of planning permission.

The operational development is inappropriate as the freestanding chipboard shed, the timber structure to the front of the property, the rear timber extension and upward flue extension are all bulky, poorly designed and poorly-constructed developments, whose materials do not reflect or contrast positively with those of the original building. These elements respond poorly to the character of the immediate locality, and of Trumpington Road, contrary to policies 3/4, 3/7, 3/12 and 3/14 of the Cambridge Local Plan 2006 and government guidance on good design in the National Planning Policy Framework 2012.

The chipboard shed because of its position, height, and inappropriate materials, is also considered to have an inappropriate dominant visual impact on the occupiers of Nos. 2 and 3 North Cottages, detracting from their residential amenity contrary to policy 3/4 of the Cambridge Local Plan 2006.

Mindful of the National Planning Policy Framework, Development Plan policy and other material considerations, the Council consider it expedient to serve an enforcement notice in order to remedy the breach of planning control.

Consideration has been given to the Human Rights Act and officers have noted Article 1 Protocol 1 (protection of property), Article 6 (a right to a fair hearing within a reasonable time), Article 8 (right to respect for private family life) and Article 14 (prohibition of discrimination). The Council has also had regard to its public sector equality duty under S.149 of the Equality Act 2010.

Officers consider that the service of an enforcement notice with a reasonable period for compliance would be lawful, fair, proportionate, non-discriminatory, and necessary in the general public interest to achieve the objective of upholding national and local planning policies.

**BACKGROUND PAPERS**  
**EN/0318/14- Investigation papers**

**APPENDICES**

- Appendix A**      Site plan of the property  
**Appendix B**      Photographs of the structures as built.

The contact officer for queries on the report is Alison Twyford on extension 7326.

Report file: N:\Development Control\Planning\Enforcement\ Committee Reports\ 60 Trumpington Road EN report June 2015