

# CAMBRIDGE CITY COUNCIL

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REPORT OF: Head of Planning Services

TO: Planning Committee DATE: 7 Oct 2015

WARD: Coleridge

## **PLANNING ENFORCEMENT REPORT FOR BREACH OF PLANNING CONTROL**

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**Address: 136 Perne Road, Cambridge**

**Details of breach of planning control: material change of use of the  
land for stationing of mobile home**

SUMMARY	<p>On 11 September 2014 East Area Committee authorised the service of an enforcement notice for the creation of a separate residential planning unit and the stationing of a mobile home for permanent residential use at 136 Perne Road.</p> <p>On appeal the Inspector found the enforcement notice to be flawed and invited the City Council to withdraw the notice and reissue it under s. 171B (4)(b) TCPA 1990.</p>
RECOMMENDATION	<p>That planning committee note the use of urgency powers to withdraw the said enforcement notice and authorise the service of an enforcement notice in the terms advised by the Planning Inspectorate.</p>

### **1 BACKGROUND**

- 1.1 On 11 September 2014 the East Area Committee authorised the service of an enforcement notice in respect of the creation of a separate residential planning unit and the stationing of a mobile home for permanent residential use at 136 Perne Road, Cambridge.

Appendix A contains a copy of the report to East Area Committee with the background to the investigation.

- 1.2 The enforcement notice was served on 2 October 2014. A copy of which is attached in Appendix B.
- 1.3 An appeal against the service of the enforcement notice was lodged with the planning Inspectorate and the appeal was due to be determined by a Public Inquiry scheduled for 21 July 2015.
- 1.4 On 8 July 2015 the Inspector appointed to determine the appeal wrote to the City Council advising that the enforcement notice it had served was flawed. The enforcement notice alleged the material change of use of a mobile home to a separate residential unit. The reasons for issuing the notice referred to the four year time bar on enforcement action. The Inspector advised that he considered that the occupation of the mobile home as a residential self-contained unit did not constitute the material change of use to a dwellinghouse (i.e. a 'building') subject to the four year rule. Instead the stationing of the mobile home concerns the 'use of land' for which a ten year time bar on enforcement action applies.

The Inspector explained that the notice could not be corrected at the public inquiry without potentially causing injustice to the Appellant who may have prepared his case thinking that the four year time bar on enforcement action being taken applied, instead of the ten year period. The Inspector invited the City Council to withdraw the enforcement notice and reissue it in the correct form, he also suggested appropriate wording for the enforcement notice. A copy of the Inspector's letter can be found in Appendix C.

- 1.5 Section 171B of the Town and Country Planning Act 1990 (as amended) provides the time limits after which a breach of planning control becomes immune from enforcement action.

In the case of a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

However, where there has been a change of use of the land, no action enforcement action can be taken after the end of a period of ten years beginning with the date of the breach.

- 1.6 The statement of reasons on the original notice advised that the breach of planning control would become immune from enforcement action after four years. The Inspector's view is that the separate residential use of the mobile home would only become immune from enforcement action after a continuous ten

year period and so if the Appellant was not aware of this before the appeal this could cause injustice to him.

- 1.7 On 16 July 2015 the Council's urgency powers were used to withdraw the enforcement notice and officers notified the Planning Inspectorate and the Appellant.
- 1.8 Since the withdrawal of the notice, officers have confirmed that the separate residential use of the mobile which constitutes a breach of planning control continues. Therefore it is considered expedient to serve a notice for the breach of planning control.
- 1.9 The Appellant has been advised that officers intend to seek your authority to draft and serve a new enforcement notice and that Members will be considering this report at the October Planning Committee meeting.
- 1.9 Officers have noted the Human Rights Act 1998 and the Equality Act 2010 and consider that the service of a new notice to regularise the technical error in the drafting of the original notice would be lawful, fair, proportionate, non-discriminatory, and necessary in the public interest to achieve the objective of upholding national and local planning policies.

## **2 RECOMMENDATION**

2.1 That the planning committee:

(i) note the use of urgency powers

(ii) confirm the authorisation to draft and serve an enforcement notice in respect of the breach of planning control described in this report and as more fully set out in the East Area Committee Report of the 11 September 2014 adopting the following wording suggested by the Inspector: 'Without planning permission, the material change of use of the land to a mixed use comprising a single dwellinghouse and land used for purposes incidental thereto and use for the stationing of a mobile home occupied as a separate unit of residential accommodation'

(iii) confirm the reference to the ten year limitation period for taking enforcement action in the statement of reasons.

## **APPENDICES**

**Appendix A** Committee report from 11 September 2014

**Appendix B** Enforcement Notice 2 October 2014

**Appendix C** Letter from Planning Inspectorate 8 July 2015

The contact officer for queries on the report is Debs Jeakins tel 457163.

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