

REPORT OF: Head of Planning Services

TO: East Area Committee DATE: 11/09/14

WARD: Coleridge

**PLANNING ENFORCEMENT CONTROL
ENFORCEMENT NOTICE REPORT**

136 Perne Road, Cambridge

**The creation of a separate residential planning unit and the stationing
of a mobile home for permanent residential use**

SUMMARY	A planning enforcement investigation has identified a breach of planning control, namely without planning permission the material change of use of a mobile home to create a separate residential unit. The development is not acceptable because it is contrary to policies in the Cambridge Local Plan and the stationing of the caravan has a detrimental effect on the amenity of the area.
RECOMMENDATION	That an enforcement notice be authorised to address the outstanding breach of planning control.

1 INTRODUCTION

- 1.1 This report seeks delegated authority to serve an Enforcement Notice to address the unauthorised development at 136 Perne Road, namely, “Without planning permission the material change of use of a mobile home to a separate residential unit.” (See Appendix A for site plan).

2 PLANNING HISTORY

See Appendix B.

3 BACKGROUND / TIMELINE OF ENFORCEMENT INVESTIGATION

- 3.1 136 Perne Road, Cambridge is a two storey semi-detached 1930s property set back from the highway with a front, side and rear garden area. The property abuts the Perne Road/Birdwood Road/Radegund Road Roundabout. On the opposite side of Perne Road is John Conder Court, a residential block of flats, and to the south west of the site on the opposite side of the roundabout there is a parade of commercial units.
- 3.2 The property lies within Flood Zone 2 and is in Conservation Area No.1 (Central). The building is neither listed nor of local interest.
- 3.3 There is an extant enforcement notice on the site that prevents the planning unit being used for the sale of motor vehicles.
- 3.4 In November 2013 Officers became aware that a mobile home that had been brought on to the site was being let separately from the main house and was being used as an independent residential unit.
- 3.5 Officers advised the owner of the property that this unauthorised development was not acceptable in planning terms and a Planning Contravention Notice was served as the first step to resolving the breach of planning control.
- 3.6 The Planning Contravention Notice was returned on 8 January 2014 and confirmed that the mobile home was being used as a separate residential unit. There is no permitted development right to site this mobile home within the curtilage of a C3 dwellinghouse and use it as separate residential accommodation.
- 3.7 Development has taken place without the requisite planning permission and negotiations to try and resolve the breach of planning control have been unsuccessful.
- 3.8 Section 171 B(2) of the 1990 Act provides:

“Where there has been any breach of planning control consisting in the change of any building to use as a single dwellinghouse no enforcement action may be taken after the end of the period of four

years beginning with the date on which the operations were substantially completed.”

As the breach falls within this period officers consider that the matter should be addressed.

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 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.

4.4 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.

4.5 Consideration should be given to the Human Rights Act 2000 and to the Equalities 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 (PSED) under S.149 of the Equalities Act. 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, 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.

- 4.6 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 and that human rights and equalities considerations do not outweigh the reasons for proceeding with planning enforcement in this instance.

5 RECOMMENDATION

- 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 without planning permission the creation of a separate residential planning unit and the stationing of a mobile home for permanent residential use at land to the rear of 136 Perne 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

- i) Cease the use of the mobile home as a separate residential unit
- ii) Remove the mobile home from the site.

5.3 Period for Compliance:

- i) and ii) 8 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 creation of a separate residential building without planning permission is contrary to policies 3/1, 3/4, 3/7, 3/10, 3/12 and 4/11 of the Cambridge Local Plan 2006, and to government guidance in Paragraphs 53, 58, 61, 64, 131 and 135 of the National Planning Policy Framework 2012.

Mindful of the NPPF, 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 2000 and to the Equalities 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 has also had regard to its public sector equality duty (PSED) under S.149 of the Equalities Act.

The Council consider that the service of an enforcement notice with a reasonable period for compliance is lawful, fair, proportionate, non-discriminatory, and necessary in the general public interest to achieve the objective of upholding national and local planning policies, which seek to protect the character of local street scenes

APPENDICES

Appendix A Site plan of the property
Appendix B Property history

The author and contact officer for queries on the report is Deborah Jeakins on extension 7163.

Report file: N:\Development Control\Planning\Enforcement\ Committee Reports\136 Perne Road report 2014