

CHILTERN DISTRICT COUNCIL

PLANNING COMMITTEE - 9th August 2018

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2017/00159/AB

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REPORT OF THE HEAD OF PLANNING & ECONOMIC DEVELOPMENT

Alleged Breaches of Planning Control 9 August 2018

SUBJECT:	<i>Planning Enforcement Report – 2017/00159/AB</i>
RESPONSIBLE OFFICER:	<i>Steve Bambrick – Director of Services</i>
REPORT AUTHOR:	<i>Adam Pegley</i>
WARD:	<i>Amersham Town</i>
SITE ADDRESS:	<i>Rookwood Lodge Stanley Hill Amersham Buckinghamshire HP7 9HH (the "Land")</i>
BREACH:	Without planning permission, the construction of a single storey rear and side extension

1.0 INTRODUCTION & SUMMARY

1.1 The site is a residential dwelling situated on Stanley Hill, located within the Metropolitan Green Belt

1.2 A single storey rear and side extension (the subject of this report) has been constructed to the rear of the property without planning permission.

2.0 MAIN ISSUES

2.1 Consideration of why the unauthorised extension is not compliant with local and national planning policy allied with the expediency of enforcement action in the public interest.

3.0 RECOMMENDATION SUMMARY

3.1 That it is expedient in the public interest to issue an Enforcement Notice requiring the removal of the unauthorised single storey rear and side extension from the Land, as it is contrary to relevant planning policy.

4.0 RELEVANT POLICIES

National and Regional Policies

National Planning Policy Framework (NPPF), 2012 – "the Framework"

Local Policies

The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011: Saved Policies GC1, GC3, GB2, GB13, H14, H15, LSQ1, TR11 and TR16.

Adopted Council Enforcement Plan.

5.0 RELEVANT PLANNING HISTORY

5.1 CH/2010/2042/FA - Part two storey, part first floor front/side/rear extension incorporating side porch, single storey rear extension and front porch. Dismissed. Appeal Dismissed.

CH/2013/1594/PNE - Single storey rear extension 7.99 metres beyond the rear wall of original dwelling. Prior Approval Given.

CH/2014/0200/PNE - Single storey rear extensions 7.99 metres beyond the rear wall of original dwelling. Prior Approval Not Required.

6.0 BACKGROUND INFORMATION

6.1 Planning permission is required for this single storey rear and side extension, yet no application has been forthcoming and the unauthorised development remains in situ. The unauthorised development has been witnessed by Council officers who have recorded their findings as part of enforcement case 2017/00159/AB and photographic and other documentary evidence has been saved in the repository attached to this record.

6.2 Contact was made with the owner who has thus far failed to meaningfully engage with the Council.

7.0 CONSULTATIONS AND REPRESENTATIONS

None.

8.0 PLANNING CONSIDERATIONS

The extension is estimated to be treble the footprint of the original dwelling.

The Main Issues

- Impact on the openness of the Green Belt
- If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

8.1 Impact on the openness of the Green Belt

The site is located within the Metropolitan Green Belt. Paragraph 145 and 146 of the National Planning Policy Framework identify development within the Green Belt which is and is not inappropriate. In relation to extensions, paragraph 145 includes the following as an exception to inappropriate development, "*the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building*".

8.2 The unauthorised extension extends over 10 metres to the rear of the dwelling into the open Green Belt. This has resulted in a significant adverse impact on the openness of the Green Belt by not respecting the provisions of the Framework and including a disproportionate addition over and above the size of the original building. Consequently, the single storey rear extension would constitute inappropriate development which, by definition, is harmful to the Green Belt.

8.3 Local Plan Policy GB13 is clear. Extensions to dwellings will be permitted, but only providing that they are *subordinate to the size and scale of the original dwelling* and *are not intrusive in the landscape*. The intent of this policy is to re-inforce the Council's policy to control the size and scale of extensions to dwellings in the open countryside, in order to achieve consistency with the function of the Green Belt by keeping land open. Therefore, only limited extensions will be permitted to existing dwellings. It cannot

be considered that this is a "limited" extension, which at a depth of over 10 meters plus the side extension, goes significantly above and beyond the "permitted development" allowance for larger home extensions. The extension represents a significant and substantial increase in floor space and as such is not considered subordinate or modest in size. Observation of the photographs of the extension (see Appendix A and at the end of this report) show a clear alteration to the character of the dwelling by virtue of the extension, which clearly dominates the existing dwelling. As such, the rural appearance of the area has been adversely affected.

8.4 In summary, the unauthorised extension is inappropriate development which would harm the openness of the Green Belt. Objection is also raised to the development on its size, scale and resultant adverse impact. The Framework advises that substantial weight should be given to any harm to the Green Belt.

8.5 Furthermore, whilst prior approval was given in 2014 for an 8m rear extension, what has been built goes significantly above and beyond this approval and indeed incorporates a large side extension joint with a rear extension. The additional build form envelopes around the original dwelling in such a way as to completely dominate the dwelling and cause a severe adverse impact on the original buildings design and character. The extensions are clearly contrary to the Council's clear design policies and are considered unacceptable. In addition, although the sheer scale of the extensions represents the principle planning harm, the materials used do not harmonise with the existing dwelling, with white render contrasting heavily with the original multi-brick design of the dwelling. Such an extension has clearly not been designed to respect the proportions, materials or character of the original house."

8.6 No planning permission has been submitted for the development and no very special circumstances necessary to justify the development exist. The proposal, therefore, conflicts with paragraphs 143 to 145 of the National Planning Policy Framework and Local Plan Policies GC1, H14, H15, GB2 and GB13.

9.0 HUMAN RIGHTS ACT

The following articles of the Human Rights Act 1998 are considered to be relevant in this case: Part 1 Article 8 - the right to respect for private and family life, home and personal correspondence. Part 2 Article 1 of the First Protocol - the right to protection of property, including peaceful enjoyment of possessions. Both of these rights could be outweighed when considering the general interest and the rights and freedoms of others. The addition of this development causes unacceptable harm to the visual interest and the character of the area in which it is located. The need to remedy the breach is in the interest of the wider community and, with the lack of demonstrable information to the contrary, greater than the needs of the individual.

10.0 EQUALITY IMPACT ASSESSMENT

The Equality Act 2010, which came into effect on 1st October, includes a new public sector Equality Duty, replacing the separate public sector equality duties relating to race, disability and sex, and also covering age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment.

10.1 Part 11, Section 149 provides the following 'Public sector equality duty' on authorities: "(1) – A public authority must, in the exercise of its functions, have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it." It is therefore necessary for the authority, in consideration of this report, as with the consideration of any other proposal, to ensure that the above requirements have been met. There are no equality issues arising from taking the recommended action.

10.2 The breaches of planning control and action to resolve the breaches have been assessed in the context of the Human Rights Act and Equalities Act, and action to resolve the breaches is considered proportionate and in the public interest in order to uphold the planning laws of the land and harm caused to the amenity of the area.

11.0 EXPEDIENCY

The issue of an Enforcement Notice by Local Planning Authorities is discretionary and it is the Council's decision to decide whether a notice is expedient in the public interest. In doing so, consideration must be given to all the options:

11.1 Do nothing or under enforce

The breach of planning control was brought to the Council's attention by a concerned resident. To do nothing at all in this case is likely to attract complaints from residents and is, in the circumstances, unjustifiable.

11.2 Negotiate

The adopted Enforcement Plan states that wherever possible, officers will negotiate to bring a contravention into compliance but goes on to recognise that sometimes enforcement action is necessary to reach the right outcome.

The owner has offered no comment and has not sought to engage with the LPA. The harm caused by the unauthorised development is demonstrable. There is no reason to invite a planning application as the development would not be supported at officer level. For these reasons, it is considered that in order to remedy the breach in a timely manner there is no scope for further negotiation.

11.3 Issue an Enforcement Notice

The only other option available to the Council is to issue an Enforcement Notice. This would have the benefit of remedying the harm that is being caused. It would also boost public confidence in the integrity of the planning system and the decision making of the Council as local planning authority as there is local objection to the unauthorised development. Given the owner's attitude, it is likely that an appeal will be forthcoming but the author of this report believes that the Council's case is sound and any appeal would be likely to be dismissed.

12.0 CONCLUSIONS

The Council's solicitor should be instructed to issue an Enforcement Notice pursuant to Section 172 of the Town and Country Planning Act 1990 requiring, within Four (4) months:

Requirements:

- i. Demolish the unauthorised single storey rear and side extension in its entirety (as shown outlined in blue on the attached plan) and remove any resultant debris from the works from the Land.

The reason for issuing a Notice

It appears to the Council that the above breach of planning control has occurred in the last 4 years.

The unauthorised extension has resulted in a disproportionate addition to the original dwelling, is out of scale and extends into open Green Belt land to the rear of the property, such that it would constitute inappropriate development. The extension represents a substantial increase on residential floor space and is not modest and indeed dominates the rear of the existing dwelling through its size and substantial depth.

The unauthorised development is therefore contrary to Policies GC1 and GB13 of The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011 and guidance contained in the National Planning Policy Framework.

The Council does not consider that planning permission should be given because planning conditions could not overcome these objections to the development.

Copies of the notice should be served on:

Lee Roger Garner – 90 Church Street, Chesham, Buckinghamshire, HP5 1JD

Lucy Garner – 90 Church Street, Chesham, Buckinghamshire, HP5 1JD

The Owner, Rookwood Lodge, Stanley Hill, Amersham, HP7 9HH

The Occupier, Rookwood Lodge, Stanley Hill, Amersham, HP7 9HH

Signed:

Steve Bambrick – Director of Services

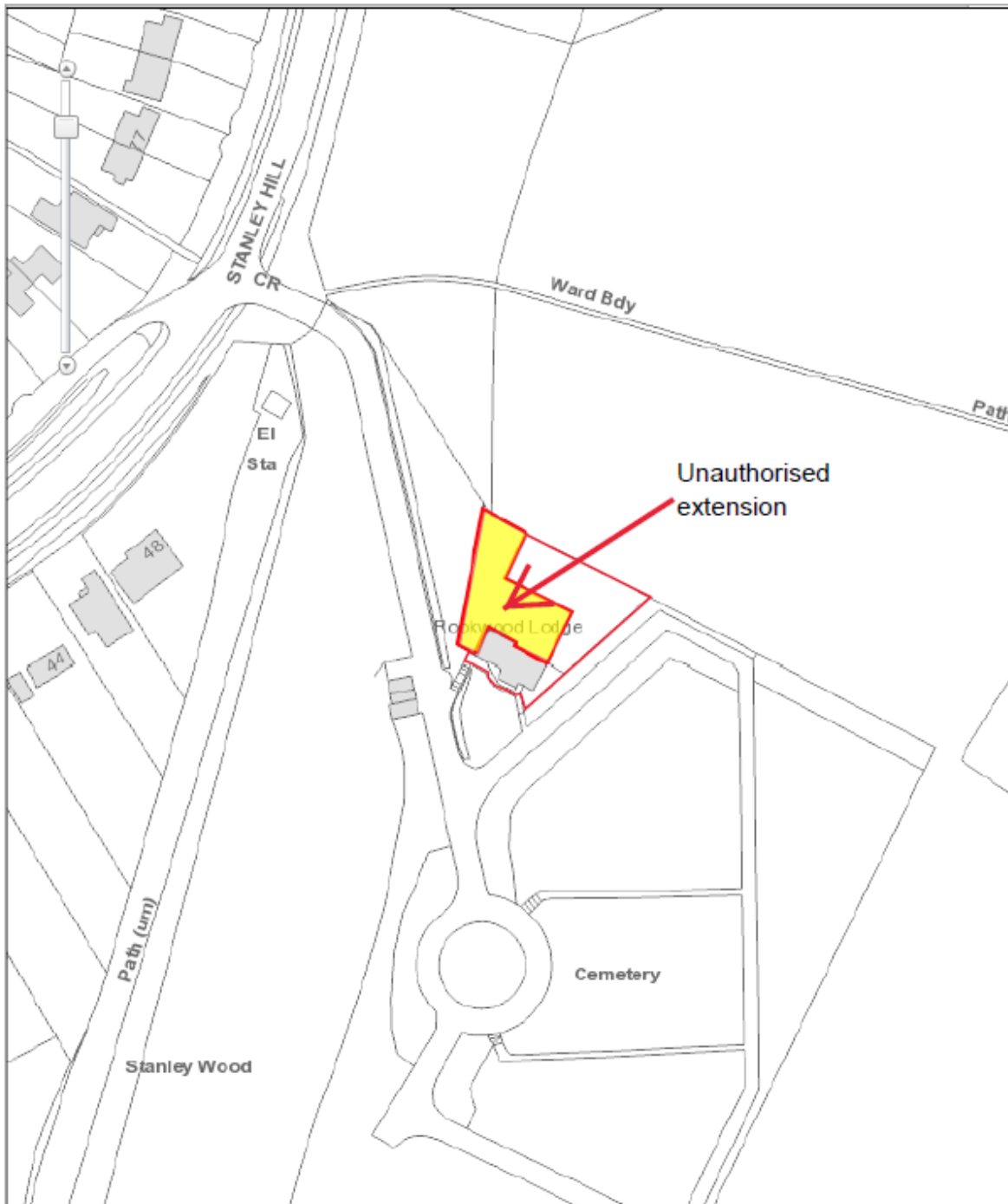
Dated:

Signed:

Joanna Swift – Head of Legal and Democratic Services

Dated:

Site Plan



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Appendix 'A'



SUBJECT:	<i>Planning Enforcement Report - 2017/00234/AB</i>
RESPONSIBLE OFFICER:	<i>Steve Bambrick – Director of Services</i>
REPORT AUTHOR:	<i>Lyana Radzif</i>
WARD:	<i>Amersham on the Hill</i>
SITE ADDRESS:	<i>Land Between 32-33 Green Lane Amersham Buckinghamshire HP6 6AS (“the land”)</i>
BREACH:	Untidy site adversely affecting the amenity of the area

1.0 INTRODUCTION & SUMMARY

1.1 The site is a strip of land located between Nos. 32 and 33 Green Lane, which is a residential street located within the built up area of Amersham.

1.2 The site remains in an untidy condition with a large number of building materials, slabs of concrete, weeds and unused fence panels. The site does benefit from structurally sound fencing along property boundaries but remains visible and accessible from the road.

2.0 MAIN ISSUES

2.1 Consideration of whether the site adversely affects the amenity of the area, such that it would be expedient to serve a Notice under Section 215 of the Town and Country Planning Act 1990.

3.0 RECOMMENDATION SUMMARY

3.1 That it is expedient in the public interest to issue a Section 215 (“Untidy Site”) - Notice requiring the owner and occupier to remedy of the condition of the land.

4.0 RELEVANT POLICIES

National and Regional Policies

National Planning Policy Framework (NPPF), 2012 – “the Framework”

Local Policies

The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011: Saved Policies: GC3

Adopted Council Enforcement Plan

5.0 RELEVANT PLANNING HISTORY

5.1 None.

6.0 BACKGROUND INFORMATION

6.1 The land was sold two years ago, and previously was part of the curtilage of the Pheasant Pub.

6.2 Contact was made with the owner who has thus far failed to meaningfully engage with the Council.

7.0 CONSULTATIONS AND REPRESENTATIONS

None.

8.0 PLANNING CONSIDERATIONS

The Main Issues

- Whether the current state of the land caused an adverse impact to the amenity of the area, such that it is expedient for the Council to formally require steps for remedying the condition of the land.

8.1 The site is located within the residential street of Green Lane, which is characterised by open frontages with low walls. The land previously was in use as an access to The Pheasant Pub, however it has been purchased within the past 2 years by another owner and the condition of the land has significantly worsened during that period.

8.2 Local Plan Policy GC3 highlights that as a material planning consideration, the amenities of residential properties are particularly important as occupiers spend much of their non-working time there. The current state of the land represents an unkempt strip of land, with a substantial amount of deposited concrete, building materials, wooden pallets, timber, builder's rubble and old fencing. Such haphazard storage of these materials in a residential area, visible from the street scene, represents a wholly uncharacteristic site to the detriment of the amenity of the area.

8.3 Over the past two years, the land has become increasingly unkempt and overgrown. Whilst the owner has taken some steps to secure the boundaries of the site, it remains in an unacceptably untidy condition and for the reasons given above authorisation is sought for the service of a Section 215 Notice.

9.0 HUMAN RIGHTS ACT

The following articles of the Human Rights Act 1998 are considered to be relevant in this case: Part 1 Article 8 - the right to respect for private and family life, home and personal correspondence. Part 2 Article 1 of the First Protocol - the right to protection of property, including peaceful enjoyment of possessions. Both of these rights could be outweighed when considering the general interest and the rights and freedoms of others. The addition of this development causes unacceptable harm to the visual interest and the character of the area in which it is located. The need to remedy the breach is in the interest of the wider community and, with the lack of demonstrable information to the contrary, greater than the needs of the individual.

10.0 EQUALITY IMPACT ASSESSMENT

The Equality Act 2010, which came into effect on 1st October, includes a new public sector Equality Duty, replacing the separate public sector equality duties relating to race, disability and sex, and also covering age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment.

10.1 Part 11, Section 149 provides the following 'Public sector equality duty' on authorities: "(1) – A public authority must, in the exercise of its functions, have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it." It is therefore necessary for the authority, in consideration of this report, as with the consideration of any other proposal, to ensure that the above requirements have been met. There are no equality issues arising from taking the recommended action.

10.2 The breaches of planning control and action to resolve the breaches have been assessed in the context of the Human Rights Act and Equalities Act, and action to resolve the breaches is considered proportionate and in the public interest in order to uphold the planning laws of the land and harm caused to the amenity of the area.

11 EXPEDIENCY

The issue of a Notice by Local Planning Authorities is discretionary and it is the Council's decision to decide whether a notice is expedient in the public interest. In doing so, consideration must be given to all the options:

11.1 Do nothing or under enforce

The breach of planning control was brought to the Council's attention by a concerned resident. To do nothing at all in this case is likely to attract complaints from residents and is, in the circumstances, unjustifiable.

11.2 Negotiate

The adopted Enforcement Plan states that wherever possible, officers will negotiate to bring a contravention into compliance but goes on to recognise that sometimes enforcement action is necessary to reach the right outcome.

The owner has offered no comment and has not sought to engage with the LPA. The harm caused by the unauthorised development is demonstrable. There is no reason to invite a planning application as the development would not be supported at officer level. For these reasons, it is considered that in order to remedy the breach in a timely manner there is no scope for further negotiation.

11.3 Issue an S215 Notice

The only other option available to the Council is to issue an S215 ("untidy site") Notice. This would have the benefit of remedying the harm that is being caused. It would also boost public confidence in the integrity of the planning system and the decision making of the Council as local planning authority as there is local objection to the unauthorised development. Given the owner's attitude, it is likely that an appeal will be forthcoming but the author of this report believes that the Council's case is sound and any appeal would be likely to be dismissed.

12.0 CONCLUSIONS

The Council's solicitor should be instructed to issue an Enforcement Notice pursuant to Section 172 of the Town and Country Planning Act 1990 requiring, within Two (2) months:

Requirements:

- ii. Remove from the Land all materials that are being stored in the open. The materials to be removed include bricks, wooden pallets, timber, fencing, concrete, builder's rubble and debris.
- iii. The overgrown grassed areas must be cut back and restored to a tidy condition.

The reason for issuing a Notice

It appears to the Authority that the amenity of a part of their area is adversely affected by the condition of the Land comprising Land between 32 and 33 Green Lane, Amersham, Bucks, HP6 6AS. The area is overgrown and in an untidy condition and being used for the open storage of materials including bricks, wooden pallets, timber, fencing, concrete, builder's rubble and debris. The overgrown and untidy condition of the Land together with the amount of materials being stored in the open is detrimental to the visual amenity of the locality.

Over the past two years the land has become increasingly unkempt and overgrown. During this time various materials have been stored on the land, there is no evidence that this material is attributable in any way to the carrying out of operations or a use of land in accordance with Part III of the Town and Country Planning Act 1990.

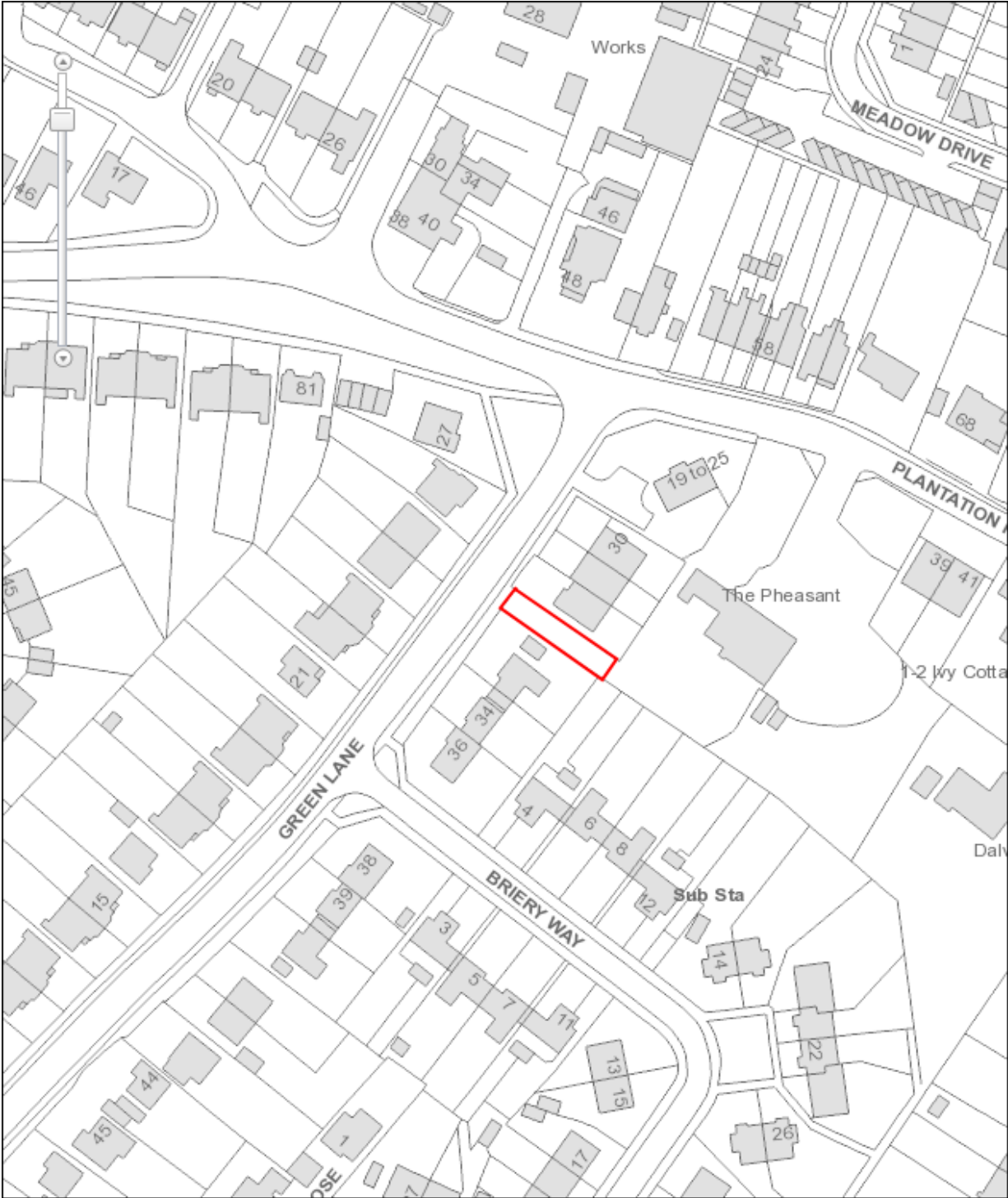
Copies of the notice should be served on:

The Owner/Occupier, Land Between 32-33 Green Lane, Amersham, Bucks, HP6 6AS.

Photograph



Site Plan



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1: 1250

Signed: **Steve Bambrick – Director of Services**

Dated:

Signed: **Joanna Swift – Head of Legal and Democratic Services**

Dated:

SUBJECT:	<i>Planning Enforcement Report – 2018/00002/AB</i>
RESPONSIBLE OFFICER:	<i>Steve Bambrick – Director of Services</i>
REPORT AUTHOR:	<i>Billy Johal</i>
WARD:	<i>Cholesbury, The Lee, Bellingdon</i>
SITE ADDRESS:	<i>High Mead Chesham Road Bellingdon Buckinghamshire HP5 2XU</i>
BREACH:	Failure to remove a structure namely a large metal container after development has been completed, in open Green Belt and AONB.

1.0 INTRODUCTION & SUMMARY

1.1 The site is within the curtilage of a detached residential dwelling known as High Mead, Chesham Road, Bellingdon, Buckinghamshire HP5 2XU. The address is in the open Green Belt and Chilterns area of Outstanding Natural Beauty (AONB).

1.2 A large green metal container (the subject of this report), which had been used for storage whilst building works were being carried has not been removed although the development is now complete. The container which has no permission has been in situ for four years forward of the principal elevation. Due to the time it has remained in situ it cannot be considered as temporary.

1.3 The Director of Service has delegated authority (Council Constitution, delegation 13(a)) to issue an Enforcement Notice, following consultation with the Head of Legal & Democratic Services. Notices are to be issued in the name of the Head of Legal & Democratic Services.

2.0 MAIN ISSUES

2.1 Consideration of why the storage container has not been removed within a reasonable period of time after development. The failure to remove the container is not compliant with local and national planning policy allied with the expediency of enforcement action in the public interest. A failure to take formal action may result in the container becoming a permanent structure and become immune from enforcement through passage of time.

3.0 RECOMMENDATION SUMMARY

3.1 That it is expedient in the public interest to issue an Enforcement Notice requiring the removal of the storage container.

3.2 That, if necessary, legal proceedings be instituted to secure compliance with the Enforcement Notice.

4.0 RELEVANT POLICIES

National and Regional Policies

National Planning Policy Framework (NPPF), 2012 – “the Framework

The Town and Country Planning (General Permitted Development) (England) Order 2015 - Class A, Part 4, Schedule 2 - Temporary building and structures

Countryside and Rights of Way Act 2000 - Section 85 - Relevant authority shall have regards to the purpose of conserving and enhancing the natural beauty of AONB

Town and Country Planning Act 1990 - Section 171B - Time limits for enforcement.

Development Plan Policies

Policy GC1, GC3, GB2 of the Chiltern Local Plan adopted 1 September 1997 (Including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011.

Policy GC1 – Scale of development with its surroundings.

Policy GC3 _ Protection of Amenities throughout the District.

Policy GB2 – Inappropriate development in Green Belt.

Adopted Council Enforcement Plan

5.0 RELEVANT PLANNING HISTORY

5.1 CH/2016/1885/FA – Single storey front extension to replace porch.

6.0 BACKGROUND INFORMATION

6.1 Enforcement Officers initially received a report in October 2012 alleging, the owner who is a builder was running his building business from the dwelling. The owner was spoken to around October 2012 and during the site visit a large metal storage container subject of this report was seen on the land forward of the principal elevation. The owner was questioned about the container and he stated that the container was for storing material and equipment in relation to his home improvements. Home improvements were observed and without further evidence the investigation was closed.

6.2 A similar allegation was received in January 2018 and again Enforcement Officers met with the owner. On this occasion Officers were told that the container which was in the same location as 2012 was being used for landscaping material in connection to works at the address. The owner was asked to remove the container when the work was complete. On 12 July 2018 Enforcement Officers again met with the owner. The owner stated that he had further used the container for storage of material whilst his porch was constructed. The building works are now complete and the owner has not removed the shipping container off the land. The owner wants to retain the container in situ as he intends doing further development at the address. To date no application has been received by the planning department.

6.3 The container by reason of its visual intrusion with the street scene is considered to be an unsightly addition to the road, in view of outdoor amenity areas of neighbouring properties and in stark contrast with its surroundings. The container has been witnessed by Council officers who have recorded their findings as part of enforcement case 2018/00002/AB and photographic and other documentary evidence has been saved in the repository attached to this record.

7.0 CONSULTATIONS AND REPRESENTATIONS

None.

8.0 PLANNING CONSIDERATIONS

The Main Issues

- Quality of Design
- The container benefited from permitted development, Class A, Part 4, Schedule 2 of General Permitted Development Order 2015. However now that development has been completed the container ceases to benefit from permitted development rights and should be removed, before it becomes immune from enforcement through passage of time.
- To preserve the setting of Green belt and area of outstanding natural beauty.

8.1 The storage container is large structure approximately 8ft (2.43m) width, 8.5ft (2.59m) height and 40ft (12.2m) in length. Due to its scale and location on the Land, views to the container from external viewpoints are not limited and it can clearly be seen from multiple vantage points. Notwithstanding this visual intrusion, a container of this size located in such a prominent location and forward of the principal elevation materially and significantly impacts on local amenity.

8.2 The container has been in situ for nearly 6 years whilst building and renovations works were being carried out at the address. The container had benefited from permitted development rights. Now that the development is complete if it was to remain on site through passage of time it could become a permanent structure and immune from enforcement action.

8.3 The container is situated in a Green belt in an area deemed as an Area of Outstanding Natural Beauty and paragraph 80 of NPPF states that one of the fundamental aims of the green belt policy is to preserve the setting and special character of historic towns and to assist in safeguarding the countryside from encroachment.

9.0 HUMAN RIGHTS ACT

9.1 The taking of enforcement action would amount to an interference with the Human Rights of the owners and or occupiers of the site as set out in the Human Rights Act 1998 ("the HRA"). The Council must act compatibly with the rights of the owners and occupiers of the site and must take into account the impact that a decision to take enforcement action will have on those rights. The right to a fair hearing is an absolute right (Article 6)

9.2 The owners and occupiers of the land are aware that the unauthorised development is a breach of planning control and that the Council is considering taking enforcement action.

9.3 The availability of the statutory right of appeal following the issuing of any Enforcement Notice together with the further statutory right of appeal against the decision of the Secretary of State for Communities and Local Government meets the requirements to ensure a fair hearing.

9.4 The right to respect for private / family life and the protection of property (Article 8 and Article 1 of the First Protocol) is a qualified right. Any decision to take enforcement action is taken pursuant to the provisions of Part VII of the 1990 Act, and any action taken will be taken in accordance with the law. Taking enforcement action against breaches of planning control serves a legitimate aim, namely the preservation of the environment in the wider public interest. This has been confirmed by decision of the European Court of Human Rights in the cases of *Buckley v United Kingdom* and *Chapman v United Kingdom*.

9.5 This report provides consideration whether enforcement action is necessary and proportionate in the particular circumstance of the case. In this respect, the Council has considered whether the objective can be achieved by a means which is less interfering with an individual's rights and whether the measure has an excessive or disproportionate effect on the interests of the affected individual(s). The objective in this case is the proper enforcement of planning control. It is not considered that there is any other means by which this objective can be secured which interferes less with the rights of the owner/occupant(s). Nor is it considered that the service of an enforcement notice would have an excessive or disproportionate effect on their rights.

10.0 EQUALITY IMPACT ASSESSMENT

10.1 The Equality Act 2010, which came into effect on 1st October, includes a public sector Equality Duty, relating to race, disability and sex, age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment.

10.2 Part 11, Section 149 provides the following 'Public sector equality duty' on authorities: "(1) – A public authority must, in the exercise of its functions, have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it." It is therefore necessary for the authority, in consideration of this report, as with the consideration of any other proposal, to ensure that the above requirements have been met. There are no equality issues arising from taking the recommended action.

10.3 The breaches of planning control and action to resolve the breaches have been assessed in the context of the Human Rights Act and Equalities Act, and action to resolve the breaches is considered proportionate and in the public interest in order to uphold the planning laws of the land and harm caused to the amenity of the area.

11 EXPEDIENCY

The issue of an Enforcement Notice by Local Planning Authorities is discretionary and it is for the Council's to decide whether a notice is expedient in the public interest. In doing so, consideration must be given to all the options:

11.1 Do nothing or under enforce

The breach of planning control was brought to the Council's attention by a concerned resident. To do nothing at all in this case is likely to attract complaints from residents and is, in the circumstances, unjustifiable.

11.2 Negotiate

The adopted Enforcement Plan states that wherever possible, officers will negotiate to bring a contravention into compliance but goes on to recognise that sometimes enforcement action is necessary to reach the right outcome.

The owner has offered no comment and has not sought to engage with the LPA. The harm caused by the unauthorised development is demonstrable. There is no reason to invite a planning application as the development would not be supported at officer level. For these reasons, it is considered that in order to remedy the breach in a timely manner there is no scope for further negotiation.

11.3 Issue an Enforcement Notice

The only other option available to the Council is to issue an Enforcement Notice. This would have the benefit of remedying the harm that is being caused. It would also boost public confidence in the integrity of the planning system and the decision making of the Council as local planning authority as there is local objection to the unauthorised development. Whilst the owner has not engaged with the Council to date, an appeal may be forthcoming but the author of this report believes that the Council's case is sound and any appeal would be likely to be dismissed.

12.0 NEXT STEPS

If the recommended action is authorised by the Director of Services, the Head of Legal & Democratic Services will be instructed to prepare and issue the Enforcement Notice as detailed below, which will be served by the Enforcement Team

13.0 RECOMMENDATION

The Council's Director of Service exercise his delegated authority to issue an Enforcement Notice of the Town and Country Planning Act 1990 requiring, within Four (4) months:

Requirements:

- i Remove the building as shown outlined in red on the plan (and shown in the Photograph at Appendix 'A' of this notice) from the Land, including all associated fixtures, fittings and waste materials therefrom.

The reason for issuing a Notice

It appears to the Council that the breach of planning control has occurred in the last 4 years.

The unauthorised development is of a significant scale and presents as an overbearing, incongruous, obtrusive and unneighbourly addition to the street scene.

As such, the unauthorised development is contrary to Policies EP3 and H13 of the South Bucks Local Plan 1999 and polices contained in the National Planning Policy Framework, Paragraphs 56-58 (Requiring good design)

The Council does not consider that planning permission should be given because planning conditions could not overcome these objections to the development.

Copies of the notice should be served on:

The Owner, High Mead, Chesham Road, Bellingdon, Buckinghamshire, HP5 2XU

The Occupier, High Mead, Chesham Road, Bellingdon, Buckinghamshire, HP5 2XU

HSBC Bank PLC (Co. Regn. No 14259 40-41-42 of Mortgage Service Centre P.O Box 6308 Coventry CV3 9LB

That legal proceedings be taken, if necessary, to secure compliance with the Enforcement Notice.

I, Steve Bambrick, Director of Services, agree the above recommendation

Signed

Dated

I, Joanna Swift, Head of Legal & Democratic Services, agree the above recommendation

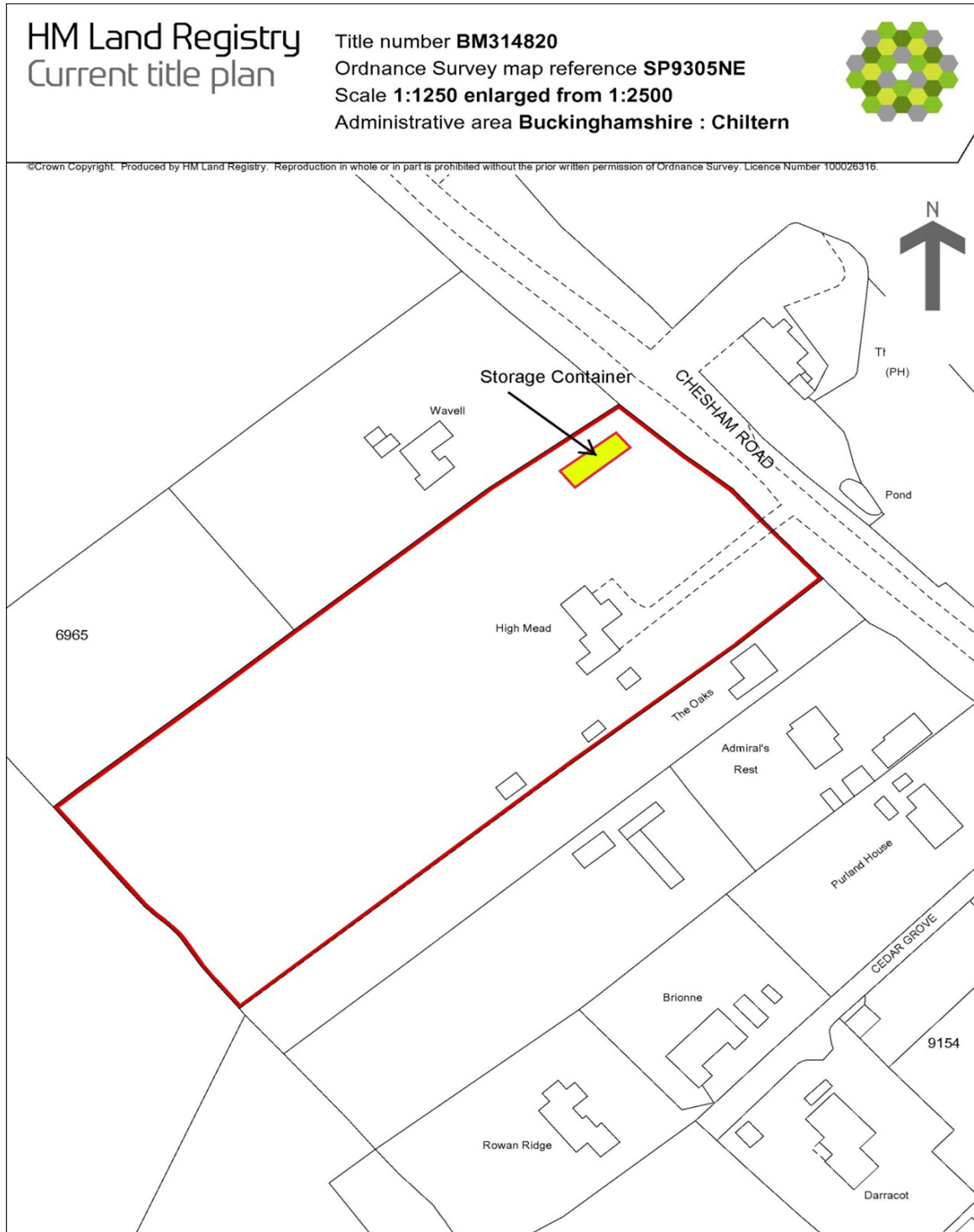
Signed

Dated

Appendix A



Site Plan



This is a print of the view of the title plan obtained from HM Land Registry showing the state of the title plan on 12 July 2018 at 16:12:15. This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by HM Land Registry, Leicester Office.

SUBJECT:	<i>Planning Enforcement Report - EN/18/2074</i>
RESPONSIBLE OFFICER:	<i>Steve Bambrick – Director of Services</i>
REPORT AUTHOR:	<i>Mitchell Kitts</i>
WARD:	<i>Chalfont St Peter</i>
SITE ADDRESS:	<i>Land to the rear of 23 High Street Chalfont St Peter Buckinghamshire SL9 9QE (“the Land”)</i>
BREACH:	Without planning permission, the material change of use of a garden outbuilding on the Land to a self-contained unit of residential accommodation.

1.0 INTRODUCTION & SUMMARY

1.1 The Land comprises a ground floor residential unit with residential over that comprises a small suite of like properties in the High Street, Chalfont St Peter. A ‘garden store’ at the rear of the Land has been given over to use as a self-contained residential dwelling.

2.0 MAIN ISSUES

2.1 Consideration of why the unauthorised development is not compliant with local and national planning policy allied with the expediency of enforcement action in the public interest.

3.0 RECOMMENDATION SUMMARY

3.1 That follow up action be authorised in accordance with Central Government Guidance in paragraph 207 of the National Planning Policy Framework (NPPF) and Chiltern & South Bucks District Councils’ Joint Planning Enforcement Plan and that the Head of Planning and Economic Development and Head of Legal and Democratic Services be authorised to serve such Enforcement Notices, including Stop Notices in respect of the development described above, as may be considered appropriate. The precise steps to be taken, period of compliance and the reasons for serving the notice to be delegated to the Head of Planning and Economic Development. In the event of non-compliance with the Notice, the Head of Planning and Economic Development be authorised to instigate legal proceedings in consultation with the Head of Legal and Democratic Services and/or take direct action to secure compliance with the Notice.

4.0 RELEVANT POLICIES

National and Regional Policies

National Planning Policy Framework (NPPF), 2012 – “the Framework”

Local Policies

The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011: Saved Policies: GC1, GC3, H12 and H20

Adopted Council Enforcement Plan.

5.0 RELEVANT PLANNING HISTORY

5.1 CH/2011/0998/FA - External staircase and landing to serve first floor flat and insertion of door within existing rear elevation – Approved on 23rd August 2011

6.0 BACKGROUND INFORMATION

6.1 Planning permission for the activity described above is required, yet no application to regularise the activity has been forthcoming and the unauthorised development remains in situ. This unauthorised development has been witnessed by Council officers who have recorded their findings as part of enforcement case EN/18/2074 and photographic and other documentary evidence has been saved in the repository attached to this record.

6.2 Contact was made with the owner who has thus far failed to meaningfully engage with the Council.

7.0 CONSULTATIONS AND REPRESENTATIONS

None.

8.0 PLANNING CONSIDERATIONS

8.1 The Main Issue:

Impact of the development on the living conditions of present and future occupiers

Two people occupy the outbuilding and it has one bedroom. National policy on housing standards is set out in detail in the Written Ministerial Statement of 25 March 2015 ("the March 2015 WMS"). This WMS introduces a set of national technical standards, including the Technical housing standards-nationally described space standard ("the National Space Standard"). The March 2015 WMS states that, "from October 2015: existing Local Plan... policies relating to... internal space should be interpreted by reference to the nearest equivalent new national technical standard." For one bed/two person dwellings the National Space Standard sets a minimum of 50 SqM. As the March 2015 WMS is the most up-to-date expression of national planning policy on this matter. The floor plan calculation suggests a GIA of 17 SqM. The unit therefore fails the National Space Standard by some degree and the Standard is clearly expressed as a minimum. The inadequacy of the floor-space arrangement fails to meet the day-to-day needs of its occupants. On the basis of size deficiencies alone, the accommodation provided offers a very poor quality of life for occupants. With such constraints on space, there would be insufficient room for furniture, access and movement, meaning that occupants would have limited scope for even the most basic items of furniture or possessions that could be accommodated. Consequently, the development conflicts with emerging local policy and national policy as expressed and reflected in the March 2015 WMS and the National Space Standard.

9.0 HUMAN RIGHTS ACT

The following articles of the Human Rights Act 1998 are considered to be relevant in this case: Part 1 Article 8 - the right to respect for private and family life, home and personal correspondence. Part 2 Article 1 of the First Protocol - the right to protection of property, including peaceful enjoyment of possessions. Both of these rights could be outweighed when considering the general interest and the rights and freedoms of others. The addition of this development causes unacceptable harm to the amenity interest of the occupants of the 'dwelling'. The need to remedy the breach is in the interest of the wider community and, with the lack of demonstrable information to the contrary, greater than the needs of the individual.

10.0 EQUALITY IMPACT ASSESSMENT

The Equality Act 2010, which came into effect on 1st October, includes a new public-sector Equality Duty, replacing the separate public sector equality duties relating to race, disability and sex, and also covering age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment.

10.1 Part 11, Section 149 provides the following 'Public sector equality duty' on authorities: "(1) – A public authority must, in the exercise of its functions, have due regard to the need to: (a) eliminate

discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.” It is therefore necessary for the authority, in consideration of this report, as with the consideration of any other proposal, to ensure that the above requirements have been met. There are no equality issues arising from taking the recommended action.

10.2 The breaches of planning control and action to resolve the breaches have been assessed in the context of the Human Rights Act and Equalities Act, and action to resolve the breaches is considered proportionate and in the public interest in order to uphold the planning laws of the land and harm caused to the amenity of the area.

11.0 EXPEDIENCY

The issue of an Enforcement Notice by Local Planning Authorities is discretionary, and it is the Council's decision to decide whether a notice is expedient in the public interest. In doing so, consideration must be given to all the options:

11.1 Do nothing or under enforce

The breach of planning control was brought to the Council's attention by a concerned resident. To do nothing at all in this case is likely to attract complaints from residents and is, in the circumstances, unjustifiable.

11.2 Negotiate

The adopted Enforcement Plan states that wherever possible, officers will negotiate to bring a contravention into compliance but goes on to recognise that sometimes enforcement action is necessary to reach the right outcome.

The owner has offered no comment and has not sought to engage with the LPA. The harm caused by the unauthorised development is demonstrable. There is no reason to invite a planning application as the development would not be supported at officer level. For these reasons, it is considered that in order to remedy the breach in a timely manner there is no scope for further negotiation.

11.3 Issue an Enforcement Notice

The only other option available to the Council is to issue an Enforcement Notice. This would have the benefit of remedying the harm that is being caused. It would also boost public confidence in the integrity of the planning system and the decision making of the Council as local planning authority as there is local objection to the unauthorised development. Given the owner's attitude, it is likely that an appeal will be forthcoming but the author of this report believes that the Council's case is sound and any appeal would be likely to be dismissed.

12.0 CONCLUSIONS

The Council's solicitor should be instructed to issue an Enforcement Notice pursuant to Section 172 of the Town and Country Planning Act 1990 requiring, within Four (4) months:

Requirements:

- 1 Cease the use of the outbuilding (as shown outlined in blue on the plan and in the photographs at Appendix 'A' of the notice) as a self-contained dwelling.
- 2 Remove the shower from the outbuilding (as shown outlined in blue on the plan and in the photographs at Appendix 'A' of the notice), including all associated fixtures, fittings and waste materials therefrom.

The reason for issuing a Notice

It appears to the Council that the above breach of planning control has occurred in the last 4 years.

The unauthorised development that now occupies the space of the former outbuilding on the Land fails to meet minimum floor-space standards thus providing sub-standard living accommodation. It has not been demonstrated that the architectural merits of the development outweigh the failure to meet nationally described floor space standards. Accordingly, this poor quality of design, due to the cramped conditions therein, is harmful to the residential amenity interests of present and future occupiers.

The unauthorised development is therefore contrary to Saved Policy GB1 of the South Bucks District Local Plan Adopted 1999 and polices contained in the National Planning Policy Framework.

The Council does not consider that planning permission should be given because planning conditions could not overcome these objections to the development.

Copies of the notice should be served on:

The Owner(s)/Occupier(s) – Land to the Rear of 23 High Street, Chalfont St Peter, Buckinghamshire, SL9 9QE

Signed:

Dated:

Steve Bambrick – Director of Services

Signed:

Dated:

Joanna Swift – Head of Legal and Democratic Services

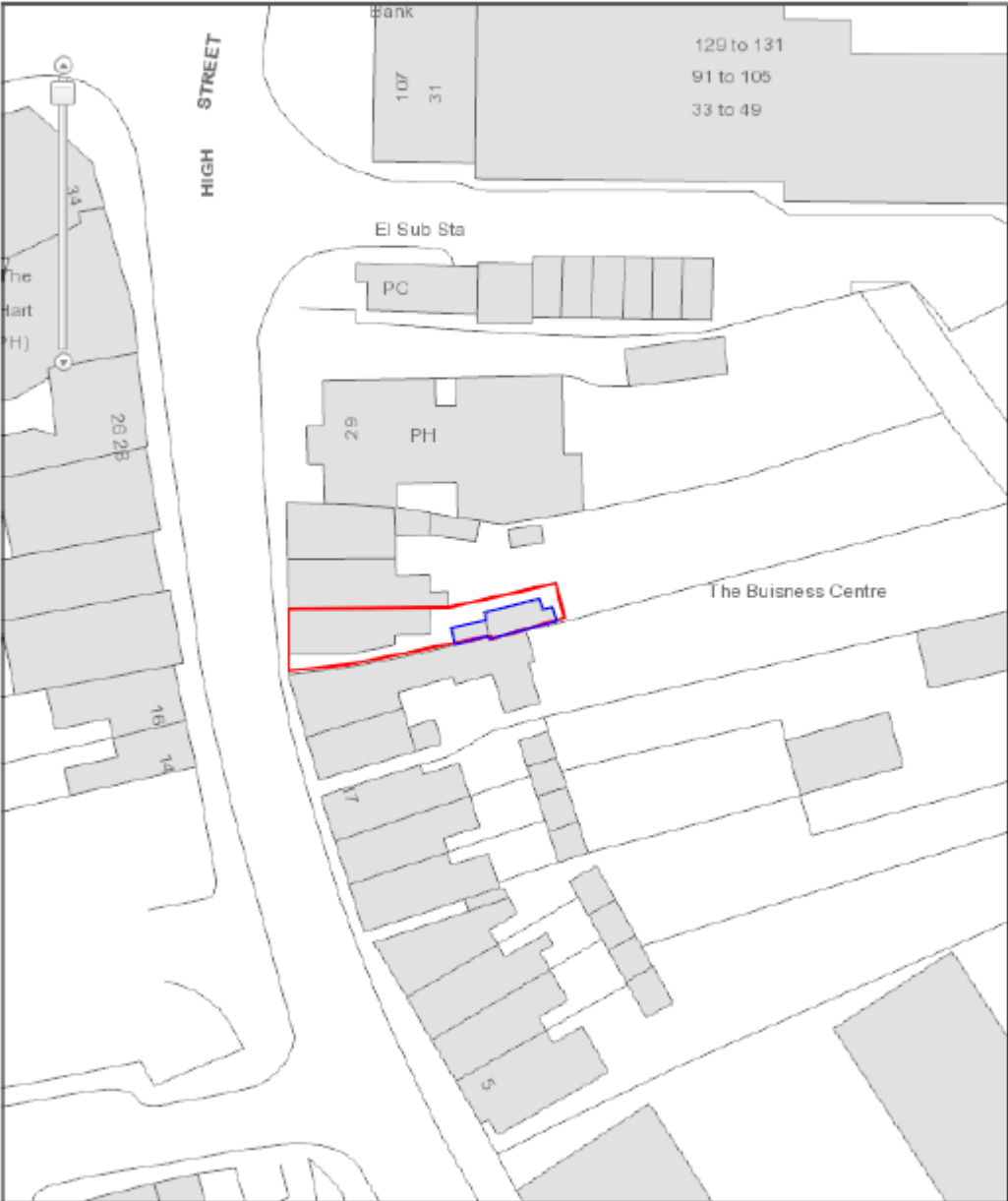
Appendix A





Location Plan

23 High Street, Chalfont St Peter, SL9 9QE



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1: 500

The End