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Date of meeting Tuesday, 28th January, 2014
Time 7.00 pm
Venue Council Chamber, Civic Offices, Merrial Street,
Newcastle-under-Lyme, Staffordshire, ST5 2AG
Contact Geoff Durham

Planning Committee

AGENDA

PART 1 – OPEN AGENDA

Quarterly Enforcement Management Report

(Pages 1 - 6)

Members: Councillors Miss Baker, Cairns, Clarke (Chair), Fear, Hambleton,
Mrs Hambleton, Howells, Matthews, Miss Reddish, Stringer (Vice-Chair),
Studd, Sweeney, Turner, Williams and Mrs Williams

PLEASE NOTE: The Council Chamber and Committee Room 1 are fitted with a loop system. In addition, there is a volume button on the base of the microphones. A portable loop system is available for all other rooms upon request.

Members of the Council: If you identify any personal training/development requirements from any of the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Democratic Services Officer at the close of the meeting.

Meeting Quorums :- 16+= 5 Members; 10-15=4 Members; 5-9=3 Members; 5 or less = 2 Members.

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

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Planning Committee 29 October 2013

QUARTERLY REPORT ON PROGRESS ON ENFORCEMENT CASES WHERE ENFORCEMENT ACTION HAS BEEN AUTHORISED

The purpose of this report is to provide details of progress made on those cases where enforcement action has been authorised either by the Planning Committee or under delegated powers. Members should note that many breaches of planning control are resolved without recourse to the taking of formal enforcement action.

The four cases that were identified as being closed within the report to the Planning Committee meeting on the 29th October 2013 last have been removed from the agenda. No further cases have been added since the previous report. Details of each case, and the progress made within the last Quarter, and the target for the next Quarter are contained within the attached Appendix. The report indicates a further case has been closed during the last Quarter and that enforcement action has been authorised in a further case.

A report on one of an open case where enforcement action has been authorised which contains information that is considered to be exempt by reason of the provisions of paragraphs 6 and 7 of Schedule 12A of the Local Government Act 1972, as amended, is provided separately.

RECOMMENDATION

That the information be received.

Report Ref	Address and Breach of Planning Control	Date When Enforcement Action Authorised	Progress/Action particularly that within last Quarter	Target for Next Quarter
02/00034/207 T57/3/324	Back Lane/Bar Hill, Onneley Failure to comply with conditions attached to planning permission for infilling and formation of cricket pitch	20.11.2001 & 10.01.2006	<p>Enforcement Notices issued in August 2010 requiring remedial works to be undertaken by 31 March 2012 to create a more acceptable landform and landscape surrounding the 'Cricket Club' Land. No appeal was made against the Notices which therefore came into effect. In the third quarter of 2010 planning permission 03/527/FUL was issued and a meeting held with the Cricket Club who confirmed intentions to comply fully with conditions of that permission.</p> <p>Visits confirmed progress on site, and the cricket club completed their second playing season. Submitted details to seek to discharge the conditions on permission 03/527/FUL were approved, and the application for a new pavilion (11/00477/FUL) was approved on 4 November 2011 (subject to further conditions).</p> <p>No indications received of any compliance with the Notice by owner of the adjoining land, although some works of compliance had been undertaken by other parties on that land, and offers of assistance had been given. Site visits indicated that progress continued to be made on the Cricket Club elements to comply with conditions imposed, however significant progress had not been made on the adjacent land outside of the Cricket Club's responsibility.</p> <p>"Final warning" letter sent but did not lead to any response and prosecution proceedings were commenced. This led to two adjournments as reported to the Committee on 5 February 2013. As advised, a contractor was appointed by the landowner and works commenced on site on 21 February 2013 after delays for bad weather. Officers have attended the site on several occasions during the compliance works and report that the majority of the requirements of the Enforcement Notice have been complied with. All that remained as of 18 March 2013 is for a drainage ditch to be cleared and an overflow to be created, along with the final seeding of the site and it was agreed that work would recommence in early April 2013 when the weather and temperature would better help with the establishment of a grass sward. In light of the works undertaken, prosecution proceedings were withdrawn on 27 February 2013.</p> <p>Site visits have been undertaken subsequently and the only outstanding matter is that the grass had not yet fully established.</p>	<p>Planning Officer to consider whether grass established sufficiently to conclude that Notice has been effectively complied with and additional work not required.</p> <p>If so the case will then be closed.</p>

Report Ref	Address and Breach of Planning Control	Date When Enforcement Action Authorised	Progress/Action particularly that within last Quarter	Target for Next Quarter
09/00019/207 T57/3/409	Archway House, The Drive, Alsagers Bank Unauthorised front boundary wall	11.08.2011	<p>Enforcement Notice served against an unauthorised front boundary wall. Steps required to be taken are to reduce the height of the wall to the height permitted in the GPDO.</p> <p>The Notice came into effect on 10th January 2012. Officers agreed a timetable of works to comply with the Notice that would have seen all works completed during the summer school holidays - the property being in close proximity to a primary school. This timetable was then not been adhered to due to personal problems for one of the owners.</p> <p>A timetable for compliance was sent but this did not achieve the objective. Site visits confirmed the continued breach, and Legal Services were instructed to bring prosecution proceedings. Legal Services sent out notice of intent to commence prosecution proceedings to the land owner on 23 January 2013 to which no reply was received.</p> <p>Subsequent communications have been received from the other party, who officers had not been in communication with, who now is the sole owner of the property and claims to have been unaware of the proceedings and issues. That party now engaged in discussion with your officers and although no appeal was pursued on this or any other ground they are suggesting that there is evidence that the wall was already immune from enforcement action when the Notice was served.</p> <p>The case has been to court on several occasions with deferrals sought. In the last instance the defendant entered a not guilty plea to the prosecution on the basis that she was not aware of the enforcement notice. Consideration was given to the case advanced at the prosecution hearing and on the basis that there was no evidence that could be advanced to demonstrate that the notice had been correctly served on the sole owner, the notice was withdrawn.</p> <p>Evidence has been submitted indicating that the wall was immune from action at the time that the notice was served. The wall is certainly now immune from any action, nevertheless an application for a Certificate of Lawfulness has now been invited. As the wall is considered immune the case has been closed.</p>	CASE CLOSED

Report Ref	Address and Breach of Planning Control	Date When Enforcement Action Authorised	Progress/Action particularly that within last Quarter	Target for Next Quarter
12/00193/207 C2	19 Biddulph Road, Harriseahead, ST7 4LB Unauthorised extension of residential curtilage and erection of summerhouse/ garden shed	26.02.2013	<p>The breach of planning control was identified by Officers following an enquiry from a prospective purchaser of 19 Biddulph Road. Site inspections confirmed that land to the rear of the properties had been enclosed and utilised as residential gardens without the benefit of planning permission. Officers advised that the submission of an application would be unlikely to be supported.</p> <p>Planning permission was applied for retrospectively under application 12/00780/COU for the change of use of agricultural land to garden land at 17 and 19 Biddulph Road. The application was refused. Officers wrote to the applicants on 26th February 2013 to seek a resolution on site and timetable for compliance prior to the service of any notice. At a member's request the matter was reported to Planning Committee on 26th March 2013 The Committee resolved to invite a new application for the change of use of the land to be submitted within 6 weeks.</p> <p>As indicated above the subsequent joint application for 17 and 19 Biddulph Road refused at the Planning Committee meeting on the 4th June on the grounds that the authority does not consider, in respect of the garden of 19 Biddulph Road, that the required very special circumstances exists that clearly outweigh the harm to the Green Belt and the landscaped. Additionally it was resolved that the Head of Legal Services be authorised to issue enforcement and all other notices and to take and institute on behalf of the Council all such action and proceedings as are authorised by, and under the Town and Country Planning Act 1990 to obtain the following</p> <ol style="list-style-type: none"> 1) the removal of all garden planting, garden paraphernalia including the pond 2) the erection of a fence separating the lawful curtilage from the unlawful curtilage (allowing for a small service strip) – the time periods within which such steps are to be taken to be determined by officers. <p>An enforcement notice, dated 6th September, was served which was due to take effect on 16th October. An appeal has been lodged and Planning Inspectorate has confirmed that it will be considered at a Public Inquiry on 3rd June. Statement's of case on behalf of the Borough Council and the appellants have been exchanged and comments made by each party on the other party's case.</p>	Comply with appeal timetable.

Report Ref	Address and Breach of Planning Control	Date When Enforcement Action Authorised	Progress/Action particularly that within last Quarter	Target for Next Quarter
13/00061/207 C2	21 Rathbone Avenue, Maybank Unauthorised Conservatory	4.6.2013	<p>A retrospective planning application was taken to Planning Committee meeting on the 4th June 2013 where it was resolved to refuse the application on the grounds that the development is harmful to residential amenity, of an overbearing appearance and of an inappropriate design for the house given its scale. Additionally it was resolved to authorise the Head of Central Services to issue enforcement and all other notices and to take and institute on behalf of the Council all such action and proceedings as are authorised by, and under the Town and Country Planning Act 1990 to obtain the removal of unauthorised conservatory with the time period within which such step is to be taken to be determined by officers</p> <p>An enforcement notice was issued, dated 21st August 2013 and took effect on 23rd September 2013. The notice required the removal of the unauthorised conservatory by 23rd December 2013 and whilst the conservatory was not completely removed by that date it would appear that it now has and as site visit is to be undertaken in the near future to confirm that.</p>	Following confirmation that the unauthorised conservatory has been removed the case will be closed.
09/00230/207 C3	Newcastle Auto Centre Albany Road Newcastle Under Lyme	10/12/2013	<p>Investigations have established that an unauthorised extension has taken place at the premises resulting in the loss of parking spaces which were required to be retained by condition of planning permission (06/00616/FUL). A retrospective application was invited on more than one occasion and whilst indications suggested that such an application would be submitted it was never received. Following consultation with the Highway Authority who raised highway safety concerns it was concluded that it was expedient to take enforcement action.</p> <p>An enforcement notice was issued, dated 11th December 2013 which takes effect on 17th January 2014. The notice requires the removal of part of the extension that is unauthorised and implement and develop in accordance with and pursuant to the conditions contained with planning permission 06/00616/FUL or the removal of the extension and reinstatement of the land to its previous condition by 17 July 2014.</p> <p>An appeal against the enforcement notice was lodged with the Planning Inspectorate on 09 January 2014. Confirmation has not been yet been received from the Planning Inspectorate confirming that the appeal is valid.</p>	<p>Comply with the appeal timetable if it is confirmed that it is valid.</p> <p>If a valid appeal is not lodged the notice will take effect but requires no action within the next quarter.</p>

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