

Meeting: Planning and Development
Committee

Agenda Item:

Date: Tuesday 3rd October 2023

INFORMATION REPORT - APPEALS / CALLED IN APPLICATIONS

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1. APPEALS RECEIVED

- 1.1 23/00323/FPH, 23 Park View. Appeal against the refusal of planning permission for a two storey side extension.

2. DECISIONS AWAITED

- 2.1 21/01152/ENF. 68 Basils Road. Appeal against the serving of an enforcement notice to remove the first floor of the two-storey rear extension which was refused under planning permission reference number 21/01256/FPH.
- 2.2 21/01256/FPH. 68 Basils Road. Appeal against the refusal of planning permission for the retention of a part two storey, part single storey rear extension.
- 2.3 21/00717/ENFAPL, 134 Marymead Drive. Appeal against the serving of an Enforcement Notice relating to the unauthorised erection of an outbuilding and front extension.
- 2.4 21/01025/ENFAPL, 7 Boxfield Green. Appeal against the serving of an Enforcement Notice relating to the development not in accordance with approved plans under planning permission reference number 17/00734/FPH.

3. DECISIONS RECEIVED

- 3.1 22/00307/ENFAPL, Car park to side of 8 Aintree Way. Appeal against the serving of an enforcement notice to remove the structure built around the car parking space and return the communal parking spaces to their original condition.

Decision

- 3.1.1 The enforcement notice is found to be a nullity (legally void) and no further action will be taken in connection to the appeal.

Reasons

- 3.1.2 Section 173 of the Town and Country Planning Act 1990 requires Council's to state the matters which are in breach of planning control in a manner that enables any person to whom it relates will know what those matters are. Further, Section 173 also requires clear steps that are required to be taken to resolve the breach in planning control.
- 3.1.3 The Inspector found that the enforcement notice served used terminology such as "approximate location as shown on the attached plan" and that the attached plan was not marked. However, owing to the location and size of the land in question, the Inspector was satisfied that the land was easily identifiable in this instance.

- 3.1.4 Section 5 (iii) of the enforcement notice related to “any other spaces of the communal car park... to be returned to their original condition”. The Inspector found this to be imprecise and ambiguous and he did not witness any definitive evidence of construction at the time of his visit. The enforcement notice relates to work that had already been completed and not future work. Consequently, the Inspector was not satisfied that the recipients of the notice would understand the nature and extent of this requirement with reasonable certainty.
- 3.1.5 Section 5 (iv) of the enforcement notice related to trees being replanted “in a location to be agreed by the LPA”. The Inspector stated that this element of the notice required the agreement of the Council which is not within the control of the recipients of the notice. The notice itself was unclear what the requirements of the Council would be in order to secure their agreement.
- 3.1.6 The Inspector concluded that there was significant uncertainty within the requirements of the enforcement notice and as such it is found to be a nullity as Section 173(3) of the Town and Country Planning Act 1990 has not been met.