

Southern Area Committee
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REPORT

Author: Stephen Hawkins
Principal Planning Officer (Enforcement)
01722 434691
developmentcontrol@salisbury.gov.uk

LAND AT THE PLOT, OLD BLANDFORD ROAD, SALISBURY

Report Summary:

To consider the expediency of enforcement proceedings in relation to the siting of a portacabin used as an office.

(There is a separate report attached, concerning the material change of use of land from a dwellinghouse and residential curtilage to a mixed use for the purposes of dwelling house, residential curtilage and use for the keeping of dogs not incidental to the enjoyment of the dwelling together with the construction of buildings and structures used for the keeping of dogs as an integral part of the material change of use alleged above).

Introduction:

In November 2003, the Enforcement Team received representations concerning, amongst other things, a portacabin stationed at the above site without the benefit of planning permission.

At a subsequent site visit it was established that portacabin was sited on the property. The owner of the property was asked in writing to contact the office in order to discuss the question of the dog breeding (see separate report) but no response was received to that letter.

A PCN was subsequently served on the owner of the land. In responding to the PCN the owner provided the following information:

- The portacabin was brought onto the site 2 years ago.
- The portacabin is used as a home office.
- It has a volume of 46.2 cubic metres.

The owner was advised of the need to obtain planning permission for various structures including the portacabin and the use of the property for the present level of dog keeping, and of her right to submit a retrospective planning application with a view to regularising matters. However, to date such application has been submitted. The owner recently claimed that this letter was never received.

Site and surroundings:

The site is a residential property located between Old Shaftesbury Drove and Old Blandford Road on the extreme-south western edge of Salisbury and indeed is the last property within the built up area at this point. To the east of the site are residential properties and to the west open agricultural land, although there is an overhead electricity line and pylon within this land close to the western boundary of the property. This agricultural land is in the countryside and forms part of the Landscape Setting of Salisbury.

There are accesses to the site from both Old Shaftesbury Drove and Old Blandford Road. There is established hedging to the side and southern boundaries of the property and panel fencing to the northern boundary.

Planning history:

Nil

Planning policies:

In the Replacement Salisbury District Local Plan the site lies within a Housing Restraint Area, where policy H19 (housing restraint areas) applies.

Policy D3 (Design-extensions) is also relevant.

Policy G2 (general development criteria) is also considered relevant.

Policy C7 –Landscape Setting of Salisbury and Wilton.

Considerations:Whether a breach of planning control has occurred

The stationing of the portacabin is considered to constitute operational development. In addition to the considerable volume of the structure and its relative permanence (on site at least two years) it has a significant degree of connection to the land by virtue of the services provided (electricity, television, telephone) and has required construction of timber steps to provide access to it.

It is questionable whether 'permitted development' rights under the GPDO apply in relation to this site, as it is in a mixed use.

The portacabin is in any case sited or partially sited between Old Shaftesbury Drove and the foremost part of the dwellinghouse that faces that highway. For this reason the structure would not in any event been permitted under the GPDO and planning permission should therefore have been obtained for stationing it in its current position.

Effect on surroundings

The portacabin has a box-like profile and angular lines and, being a standard prefabricated unit, has utilitarian appearance paying no regard for the design and materials of local residential buildings or its setting adjacent to open countryside and the Landscape Setting of Salisbury.

Consequently it is considered that the portacabin appears as an unduly alien and incongruous feature, out of keeping with the character of the existing and neighbouring properties in conflict with policies H19, D3 and G2 (iv).

Human Rights

Enforcement action will interfere with the owner's property rights under Article 1 of the 1st protocol of the Human Rights Act as well as the occupier's right to a home under Article 8.

Enforcement action would be considered lawful if the public interest outweighed that of the individual concerned and would be justified only if any interference in the Human Rights of the individual was considered proportionate to the breach. In this case, based on the information available it is considered that there will be interference in the owner's Article 1 rights, as enforcement action will affect her right to enjoyment of her property. Additionally, her right to a home will be affected as it would affect her enjoyment of her home. However, such interference is considered justified and proportionate, having regard to the harm to the environment identified above which would occur if the development were allowed to continue, and the public expectation that Development Plan policies seeking to protect the environment in such sensitive areas are upheld.

Furthermore it is considered that the steps required to remedy the breaches are proportionate to their seriousness; under –enforcement is recommended where the effect of enforcing cessation of all dog keeping would otherwise be disproportionate; lesser steps than those recommended would not remedy the harm caused by the breaches.

The compliance period specified is also considered proportionate to the breach in Human Rights terms in that it allows sufficient time to remedy the breach that has occurred. A longer compliance period would simply lengthen the period that the use continues without any justification.

PPG 18

PPG 18 favours informal discussions to resolve matters without recourse to formal enforcement action. However, the failure of negotiations to resolve matters should not hamper or delay formal enforcement action in cases where unacceptable harm to local amenity is being caused.

It should be noted that since November 2003 informal negotiations have taken place with the owner in an attempt to regularise matters at this site without the necessity for formal enforcement action. However, this and other breaches of planning control still continue at the site causing the harm identified above and it is considered, having full regard to the above guidance, that formal enforcement action to remedy the harm to amenity caused should therefore not be further delayed.

Conclusions

The development described above has caused significant harm to the character of the locality. The owner's Human Rights have been considered, however on the balance of considerations it is considered expedient that enforcement action should be taken to secure removal of the unauthorised development in question.

Recommendation: That no further action be taken in respect of the shed at the property, but that the Head of Legal & Property Services be authorised to issue an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 (as amended) and serve it on the appropriate person. (NB - The plan attached to the Enforcement Notice to identify specifically the kennels, framework and portacabin).

Alleging the following breaches of planning control: -

Without planning permission: -

- 1. Operational development consisting of the stationing of a portacabin on the land.**

Requiring the following steps to be taken: -

- 1. The permanent removal of the portacabin from the land.**

Reasons for serving the Notice: -

- 1. It appears to the Council that the operational development consisting of the stationing of the portacabin on the land in breach of planning control has occurred within the last four years; and**
- 2. The land lies within a Housing Restraint Area adjacent to open countryside and the Landscape Setting of Salisbury. The portacabin by reason of its utilitarian design and angular profile has no regard for the design and materials of local residential buildings and therefore appears as an unduly alien and incongruous feature, out of keeping with the character of neighbouring properties. To permit the continued stationing of the portacabin on the land would be contrary to policies H19 and policies D3 and G2 (iv) of the adopted Replacement Salisbury District Local Plan.**

Time For Compliance: -

I. One month.

Implications:

- **Financial: None at this time.**
- **Legal: Detailed in the report.**
- **Human Rights: Detailed in the report.**
- **Environmental implications: Detailed in the report.**
- **Council's Core Values: Protecting the environment; fairness and quality.**
- **Wards Affected: Ebbble.**