

Report of:	Meeting	Date	Item no.
David Thow, Head of Planning Services	Planning Committee	6 September 2017	6

<b>Rear of Former Saracens Head Hotel, 200 Park Lane, Preesall</b>
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## 1. Purpose of report

- 1.1 This report is for information purposes only and seeks to outline the enforcement proceedings which have taken place since the Planning Committee on 5 July 2017 to date.

## 2. Background

- 2.1 Application reference 17/00069/FUL was determined at Planning Committee on 5 April 2017 and was refused for the following reason:

*The proposed development, by reason of its height, scale, mass and design would appear as an overbearing and overly intrusive form of development as seen from neighbouring properties, particularly nos. 1 and 2 Back Lane, resulting in an unacceptable adverse impact on residential amenity contrary to Policy SP14 of the adopted Wyre Borough Local Plan (1999) and Supplementary Planning Guidance 4: Spacing Guidelines for New Housing Layouts.*

- 2.2 This was a part retrospective application for the erection of a detached dwelling and was a resubmission of 16/00356/FUL which was for the erection of a detached dwelling which was approved on 15 July 2016 under delegated powers.
- 2.3 On 19 July 2017 the Planning Department was notified by the agent that an appeal has been lodged with the Planning Inspectorate against the refusal of 17/00069/FUL. On 9 August 2017 notification was received from the Planning Inspectorate that the appeal is valid.
- 2.4 Application reference 17/00472/FUL was determined at Planning Committee on 5 July 2017 and was approved. This was a part retrospective application for the erection of a detached dwelling.

- 2.5** As unauthorised work had taken place that related to application reference 17/00069/FUL and that application was refused, at the Planning Committee 5 July 2017, Garry Payne (Chief Executive of Wyre Council) stated that a planning enforcement officer would visit the site within two weeks of the date of that meeting to assess if any efforts had been made by the owner to regularise the unauthorised development.

### **3. Relevant Legislation/guidance**

- 3.1** Planning law gives Councils powers of enforcement. It does not place a duty on Local Planning Authorities to enforce planning controls. Rather, any decision to take (or not) enforcement action will be at the council's discretion, based on the particular circumstances of each case and the degree of harm caused. The council, in deciding whether or not to take action, must consider if it is 'expedient' to do so. It must consider whether the breach of planning control unacceptably affects public amenity or safety or the existing use of land or buildings meriting protection in the public interest. This means that a judgement has to be made in each case as to the seriousness of the breach and the level of any harm that it causes. Sections 171 to 196 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991, provide the legal basis for planning enforcement, including powers to serve various notices. There is also guidance contained within the National Planning Policy Framework (NPPF); the National Planning Practice Guidance (NPPG): Ensuring Effective Enforcement; and Enforcing Planning Control: Good Practice Guidance for Local Planning Authorities (1997).
- 3.2** Whilst the case officer advised the owner to stop works after notifying the breach, having regard to the relevant guidance it was not considered expedient to take formal enforcement action immediately upon being notified of the breach of planning control, because the development was subject to a planning application. Likewise, it was not expedient to take enforcement action until the further, most recent application (17/00069/FUL) had been determined.

### **4. Enforcement Proceedings**

- 4.1** On 18 July 2017 the Council's Legal Services were sent a request to carry out a land registry search and to issue a request for information as to interests in the land (under section 330 of the Town and Country Planning Act 1990). This was carried out and on 2 August 2017 the completed section 330 from the property owner was received.
- 4.2** On 19 July 2017 a planning enforcement officer visited the site. She also visited England's Cottage and spoke with the owner. Photographs of the development, including the elevation facing England's Cottage were taken and it was established that no work to remove the unauthorised parts of the development or to implement permission reference 17/00472/FUL had commenced.

**4.3** Instructions were sent to the Council's Legal Services with regard to the issue of an enforcement notice. The enforcement notice was served on 24 August 2017.

The notice requires the following:

1. Alter the detached dwelling on the Land so that it complies with Plan A and Plan B including (for the avoidance of doubt) demolishing/removing in its entirety from the said detached dwelling all construction at first floor level highlighted pink on Plan C (aforementioned **Gym** and **Cinema Room**); and
2. Remove the three first floor windows in the north and south elevations marked with a blue cross on Plan B and install three non-opening obscure glazed units equivalent to Grade 5 level (most obscure) in the said locations shown marked with a blue cross on Plan B.

**4.4** The time period for compliance with the notice is 3 months.

The notice becomes effective on 2 October 2017. There is a right of appeal which must be exercised before it takes effect. If an appeal is made, the 'clock stops' and enforcement action is held in abeyance pending the outcome of the appeal.

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<b>List of background papers:</b>		
name of document	date	where available for inspection
none		

**List of appendices**

None.

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