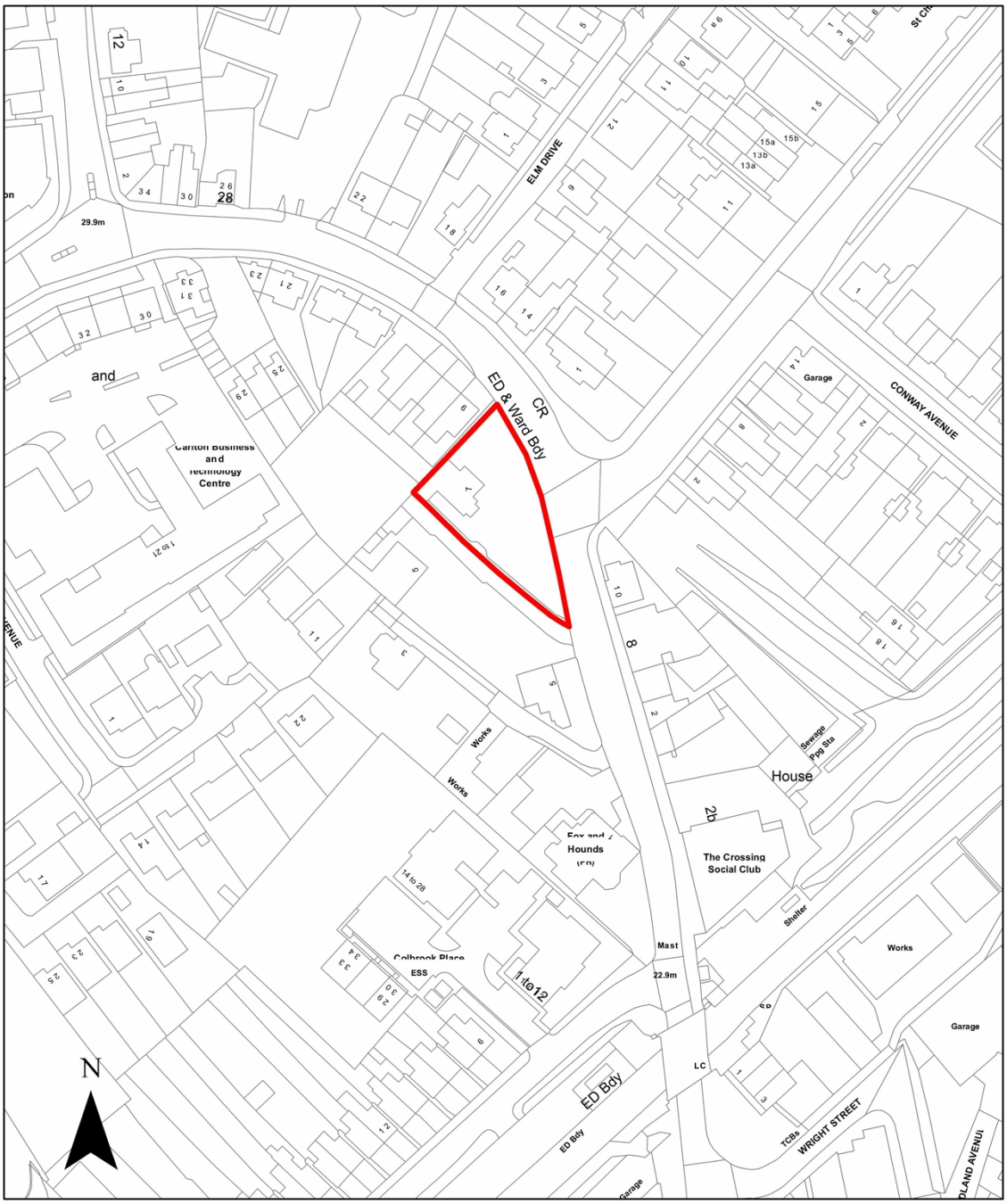
Planning Enforcement Report for 0209/2018

1:1,250

Enforcement Reference: 0209/2018
Location 7 Station Road
Carlton



NOTE This map is provided only for purposes of site location and should not be rea as an up to date representation of the area around the site.
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Serving People Improving Lives

Date: 06/06/2019

Report to Planning Committee

Reference Number:	**0209/2018**
Location:	**Land at 7 Station Road Carlton**
Breach of Planning Control:	**Change of Use of the land for the siting of a mobile home used for residential purposes.**

1 **Background**

1.1 In November 2018, it was brought to the Council's attention that a mobile home had been positioned on garden land to the south east of No. 7 Station Road, Carlton. The land had been separated from the rest of the garden belonging to the main dwelling thus forming a new and separate planning unit.

1.2 A Council Officer visited the site and met with the owner who advised the mobile home was being occupied by his son but he wanted his son to move out temporarily and to allow some relatives who were visiting from abroad to stay in the mobile home for the duration of their visit.

1.3 An internal inspection of the mobile home showed the caravan had all the facilities for day to day living including a kitchen area with a fridge and microwave, a sitting room area with a TV and a bedroom and shower room.

1.4 The courts have made it clear that mobile homes and caravans can only be kept within the residential curtilage of a property providing it is 'incidental to the enjoyment of the dwelling' and they require planning permission if they are intended for separate residential accommodation.

1.5 A planning application was submitted to retain the mobile home as a residential unit but planning permission was refused on the 6th March 2019. The owner advised the Council's Enforcement Officer he had no intentions of removing the mobile home.

1.6 On Wednesday 21st May 2018 a further site inspection was carried out and it was seen the mobile home was still in position on the land.

2 Site Description

2.1 The mobile home is sited on a parcel of land to the south and within the garden area of 7 Station Road, which is a detached dwelling situated within the established residential area of Carlton.

2.2 The property is located to the west of Station Road, accessed with a shared driveway which serves no. 7 Station Road and a number of flats within no. 5 Station Road.

2.3 The mobile home has been separated from the garden area of the main dwelling by fencing and sits within its own curtilage. The land levels across the site rises steeply to the north which results in the site being set approx. 2 – 3 metres above the adjacent highway. There is an area of hardstanding within the application site which provides off street parking for a minimum of two vehicles. The boundaries of the site are delineated by timber panel and concrete post fences which measure approx. 1.8 metres in height.

3 Planning History

3.1 As per paragraph 1.5

4 Assessment

4.1 The residential unit comprises of a static caravan which measures approx. 10 metres in length, 3 metres in width and approx. 3.1 metres high when measured from its highest point above the existing ground level. The unit has been finished in Horiz Timber cladding.

4.6 The main considerations when deciding whether to take enforcement action in this case are;
i) whether the structures are detrimental to the character of the area or to the amenities of the occupiers of nearby properties and whether there are any highway safety issues arising.
ii) whether the Local Planning Authority is within the four year statutory time limit for taking action for a material change of use of the land.

<u>Planning policy considerations</u>

4.5 One of the core planning principles of the NPPF is to encourage the effective use of land that has been previously developed (brownfield land). The NPPF's definition of brown field land is 'previously developed land that is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface or surface infrastructure.' This excludes 'land in built-up areas such as private residential gardens.'

4.6 This advice is reflected in the ACS Policy 10 – 10.4 which goes on to state; 'Although now considered to be greenfield sites, gardens can provide sustainable locations for new homes, and reduce the need to develop land

within Green Belt and or the country side. However, it can also change the characteristics of areas, and may damage biodiversity. In accordance with this policy and the NPPF, subsequent Local Development Documents may seek to restrict development to avoid areas of special character and to protect the amenity value of private gardens.'

4.7 The changes in guidance means that garden land is no longer considered to be previously developed land. Whilst I note the change in definition, I do not consider that paragraph 3.10.4 of the ACS precludes development on such sites. The key aspects that need to be considered are whether the proposed development would be in a sustainable location, would adversely affect the characteristics of the area or damage biodiversity.

4.8 Policy LPD34 requires that development involving the loss of residential gardens will not be permitted unless the proposal would represent a more efficient use of land or would significantly improve the urban design of an area.

4.9 In my opinion the design of the development significantly harms the appearance of the locality. I am also mindful that the structure is a static caravan and is not something that would usually be considered of sufficiently high quality for a new residential dwelling and therefore does constitute an acceptable form of residential development.

Visual Impact

4.10 Whilst I note that the development is somewhat screened from the adjacent highway by the existing boundary treatments of the site, I still consider that the retention of this residential unit as a permanent fixture would result in an adverse effect on the appearance and character of the surrounding area.

4.11 Policy 10 of the ACS states that all new development proposals should be designed to, inter alia, 'make a positive contribution to the public realm and sense of place'. It goes on to state that 'it is important that new housing development is of high quality, in order to enhance or create a distinctive sense of place, where people will be proud of their neighbourhood'. In my opinion the unit would not constitute good design and the form, scale and materials used would be incongruous within the street scene.

4.12 LPD 40 outlines that planning permission will be granted for residential development on unallocated sites that are not within the Green Belt provided that the proposal is of a high standard of design and does not adversely affect the area.

4.13 The proposal fails to meet with the objectives of these policies.

Impact on Residential Amenity

4.14 In my opinion the residential unit, given its orientation and relationship with neighbouring properties, together with its scale will result in no undue overlooking, overbearing or overshadowing impact.

Car parking and Highway Safety

4.15 The Highway Authority raised no objections to the proposal and I am therefore satisfied that there are no highway safety implications arising from the proposal. In addition there is adequate parking provided on site to serve the residential unit in the form of the hardstanding area.

Time Limits

4.15 The statutory time limit for taking action for a change of use of the land for siting a mobile home is ten years. In this case the evidence available to the Council strongly suggests the mobile home has been placed on the land in the last 12 months and the Council is within time to commence enforcement proceedings such as issuing an enforcement notice requiring the use to cease.

Human Rights

4.16 Under the Human Rights Act, it is necessary for the Authority to have regard to the rights of the owner and occupier of a site under Article 1 of the First Protocol to peaceful enjoyment of possessions and the protection of property and under Article 8 of the convention to respect for his private and family life, his home and his correspondence except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

4.17 In considering whether to take any enforcement action, the Council has to consider the proportionality of its actions. In other words whether the proposed action would be proportionate to the objective being pursued – here the enforcement of planning control in support of National and Local Planning Policies. It is recognised that issuing an enforcement notice, or pursuing formal proceedings in the Magistrates Court if the notice is not complied with, will result in interference with the recipients' rights. However, it is considered that issuing a notice in the first instance would be a proportionate response to rectifying the breach of planning control taking place and depending on compliance with the notice it might well be justified to take court action.

Equalities

4.18 The Council's Planning Enforcement team operates in accordance with the Council's Planning Enforcement Policy and is largely dictated by legislation which reduces the risk of discrimination in this service. The Council is accountable to the public, including its stakeholders, for its decisions both to take enforcement action and not to utilise its enforcement powers. There is a

legitimate expectation of the public and stakeholders that the Council will take action to address breaches of planning by such means as are appropriate in the individual circumstances and which are in accordance with the Council's policy and government legislation.

4.19 The Council strives for a consistent approach in targeting its enforcement action. This means that the Council will take a similar, but not the same, approach to compliance and enforcement decisions within and across sectors. It will strive to treat people in a consistent way where circumstances are similar. Each case however will be evaluated on the basis of its own facts and circumstances but will ensure that decisions or actions taken in any particular case are consistent with the law and with the Councils published policies. It should be noted that decisions on specific enforcement actions may rely on professional judgment. The Council will usually only take formal enforcement action where attempts to encourage compliance have failed as in this case.

Crime and disorder

4.20 The Crime and Disorder Act 1998 places a duty on the Local Planning Authority to do all that it reasonably can to prevent crime and disorder in its area. The potential impact on the integrity of the planning system and the setting of a precedent if action is not taken is therefore a material consideration in the authorisation of enforcement proceedings.

4.21 In light of all the facts it is now considered expedient to serve an enforcement notice to require the removal of both structures.

5 Conclusion

5.1 In conclusion therefore I consider that the development of the new residential unit on the site would not be of a satisfactory level of design and as such would result in a detrimental impact the appearance of the locality. As such I consider the development to be contrary to Part 2 and 12 of the National Planning Policy Framework, Policy 10 of the Aligned Core Strategy and Policies 34 and 40 of the Local Planning Document.

5.2 Accordingly, I recommend that formal action should now commence without delay by issuing a planning enforcement notice requiring the removal of the mobile home.

6 Recommendation

6.1 That the Service Manager, Development Services, be authorised to take all enforcement action including the service of any necessary enforcement notices and in conjunction with the Director of Organisational Development & Democratic Services, proceedings through the courts if required to ensure both structures are removed.