

## Report to Planning Committee

**Enforcement Number: 0090/2018 – Appeal Ref: APP/N3020/C/18/3211290**

**Location: 47A Riverside Stoke Lane Stoke Bardolph**

Breach: Construction of an unauthorised dwelling and works to increase land levels.

Case Officer: Christine James.

### 1 Appeal Decision

1.1A Planning Enforcement Notice was issued on the 15<sup>th</sup> August 2018 alleging that an unauthorised building had been erected and works or operations had been undertaken to raise land levels.

1.2 The requirements of the notice are;

- i) Demolish the building, including the removal of the foundations
- ii) Remove the deposits made on the land to raise the land levels and restore the garden to its natural land level and previous condition before the works or operations to increase the land levels took place
- iii) Remove all resulting rubble and waste materials to a point of lawful disposal
- iv) Remove the diving fence along the boundary between the existing dwelling house and the land enclosing the unauthorised building

1.3 The period for compliance with the requirements is 6 months

1.4 An appeal against the notice was lodged with the Planning Inspectorate. The grounds of appeal were;

- a) That planning permission should be granted for what was alleged in the enforcement notice
- b) That the alleged breach has not occurred
- f) The steps required as cited in the enforcement notice are excessive and lesser steps would overcome the objections.

1.5 The appeal has been dismissed.

- 1.6 The Inspector concluded there were four main issues including causing him to dismiss the ground a) appeal including the proposal is inappropriate development in the Green Belt; there are no very special circumstances which would outweigh the general presumption against inappropriate development in the Green Belt, the implications for flood risk have not been addressed and the living conditions of the neighbours would be adversely affected.
- 1.7 Under ground b) that the matters alleged in the notice have not occurred as a matter of fact, the Inspector concluded that “The appellant’s submissions lend scant support to this proposition. Indeed, the candid acceptance that the land has been raised leads me to the almost inescapable conclusion that the matters alleged have occurred as a matter of fact. There is nothing before me that indicates otherwise.”
- 1.8 The appeal on ground f) was directed at requirements i), ii) and iv) of the notice. There was no issue from the appellant with requirement iii).
- 1.9 The Inspector concluded, “...its purpose [of the notice] appears to be to remedy the breach...In light of this I do not find requirement i) [requiring the demolition of the building and the removal of the foundations] excessive; as I see it, it represents a reasonable response to the alleged breach of planning control in this instance. The same view applies to requirement ii)...I see nothing untoward in requiring the removal of the deposited material. Requiring the restoration of the land to its previous condition is both intelligible and reasonable”.
- 1.10 However, on the matter of requirement iv) the removal of the fence, the Inspector stated that he was not satisfied the fence could be considered to be part and parcel of the development to which the notice was directed and he therefore deleted requirement iv)
- 1.11 Requirements i), ii) and iii) must be complied with by the 9<sup>th</sup> October 2019.

**Recommendation;** to note the information.