

## Report to Planning Committee

**Enforcement Ref:** 0031/2021

**Appeal Ref:** APP/N3020/C/21/3279123

**Location:** Bracken House, Blidworth Waye, NG15 8GB

**Subject:** Erection of unauthorised building and associated hardstanding

A Planning Enforcement Notice was served on the owner of the site on 1<sup>st</sup> July 2021 requiring the removal of the unauthorised building and hardstanding. The reason given for issuing the notice was:

“The building is unauthorised because planning permission has not been granted for the building and it does not comply with Class E (Schedule 2, Part 1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (‘GPDO’) because it is not incidental to the enjoyment of the existing dwelling and therefore it does not benefit from permitted development rights.

This new unauthorised building does not fall within any of the exceptions given in paragraphs 145 or 146 of the National Planning Policy Framework (2019) (‘NPPF’) and must therefore be considered as inappropriate development and by definition, harmful to the Green Belt. In addition, the unauthorised building has a hard incongruous and enclosing impact and therefore represents encroachment into the Green Belt. This unacceptable encroachment is contrary to the five purposes that the Green Belt serves as set out in paragraph 134 of the NPPF and the Greater Nottingham Aligned Core Strategy (2014) Policy 3.

The Council does not consider that planning permission should be granted, because planning conditions could not overcome these objections.”

An appeal against the notice was subsequently lodged with the Planning Inspectorate.

This appeal has been allowed and the notice has been quashed.

The Planning Inspector considered the details of the case and concluded that:-

“Given what I observed on site and the submissions provided by the appellant, I am satisfied that, on the balance of probability and as a matter of fact and degree, the building remains part of the same planning unit and the purpose of the building is incidental to the main dwelling as such. As I have found the building to be development permitted by Article 3 and Schedule 2, Part 1, Class E to the GPDO, the development does not constitute a breach of planning control.”

An **application for costs** was made by the appellant against the Council on the grounds that the Council had acted ‘unreasonably’ in that it has produced no meaningful evidence to support its decision to issue the enforcement notice and has produced no analysis of the salient factual and legal issues in its Statement of Case. The Inspector dismissed the application for costs noting that the Council’s decision

and underpinning reasons were not without foundation as whether a building is required for an incidental purpose will depend on a fact and degree assessment and planning judgement of the individual case.

**Recommendation:** To note the information.