

<b>BLAENAU GWENT COUNTY BOROUGH COUNCIL</b>	
<b>Report to</b>	<b>Chair &amp; Members of Planning Committee</b>
<b>Report Subject</b>	<b>Court Prosecution: 44 Bryn Coch, Ebbw Vale</b>
<b>Report Author</b>	<b>Enforcement Officer – Paul Samuel</b>
<b>Date of Meeting</b>	<b>7<sup>th</sup> March 2024</b>
<b>Directorate</b>	<b>Regeneration and Community Services</b>

### **1. Purpose of the report**

To advise Members of a successful prosecution for non-compliance with an Enforcement Notice.

### **2. Scope and Background**

1. For information purposes below is a brief chronology of the case:

- A complaint was received that a timber lean-to structure had been erected in the rear garden of 44 Bryn Coch, Ebbw Vale. A site visit revealed that the structure had been affixed to an existing boundary and over an existing garage in the rear garden of the property. By virtue of the fact it measured over 2.5m in height (approximately 3.2m) within 2m of the boundary its retention required planning permission.



- By virtue of the design and materials, the structure gives rise to an unacceptable visual impact upon the amenity of neighbouring properties and the street scene of Bryn Coch and is considered unacceptable.
- A letter was sent to the owner, Mr Pitman, advising him of the breach of planning control and outlining his options to regularise the matter.

- No response was received to the letter, so a Planning Contravention Notice was served on Mr Pitman.
- Mr Pitman responded to the PCN by arguing the case and claiming the structure does not require planning permission. It was explained to Mr Pitman why the structure requires planning permission and it was requested that the structure is removed due to its unacceptable visual appearance. Mr Pitman was advised that should he not remove the structure, it was the intention of the Local Planning Authority (LPA) to serve an enforcement notice to seek its removal.
- Mr Pitman ignored the requests of the LPA and the structure remained in place. Consequently, an Enforcement Notice (EN) was served on 12<sup>th</sup> April 2022 requiring the structure to be removed in its entirety within 4 weeks of the date the notice took effect.
- No appeal was submitted against the EN and the structure remained in place beyond the compliance date. As a result, the EN was not complied with.
- Mr Pitman ignored numerous requests to comply with the EN.
- Therefore, legal proceedings were instigated, witness statements prepared and the information laid before the Magistrates Court to seek a prosecution for non-compliance with the EN.
- Mr Pitman pleaded not guilty at the plea hearing, contesting the merits of the case, arguing that the structure does not require planning permission, claiming he had a legitimate case to argue and a number of professional experts and witnesses to support his case.
- As a result, the Magistrate listed the matter for a full day's trial to be held at Newport Magistrates Court on 13<sup>th</sup> December 2023 before a District Judge whereby witnesses would be called upon to give evidence on oath.
- Prior to the trial, a case management hearing was listed for 15<sup>th</sup> September 2023 whereby further evidence was provided by the LPA and prosecution. Mr Pitman failed to attend the hearing claiming to be of ill health and unable to attend. The District Judge issued instructions that should Mr Pitman be declared unfit to attend the trial, then a full medical report is required to give an explanation as to why his symptoms prevent him from proceeding in the trial.
- Further witness statements and evidence were prepared as requested by the court by the Enforcement Officer and prosecution to support the LPA's case in preparation for the trial.
- The Enforcement Officer, Planning Control Manager and Solicitor attended the trial date on the morning of 13<sup>th</sup> December 2023. Mr Pitman failed to attend the trial and moments prior to the trial commencing, Mr Pitman's son submitted an email to the Solicitor on his

father's behalf claiming Mr Pitman was too unwell to attend Court but failed to provide a full medical report.

- As a result, the trial was adjourned, and a further hearing listed for 18<sup>th</sup> January 2024 whereby the matter would be dealt with based on the information before the Court should Mr Pitman fail to attend again.
- Mr Pitman failed to attend the hearing on 18<sup>th</sup> January 2024. However, the matter proceeded in his absence and the District Judge found that Mr Pitman failed to comply with the EN and therefore sentenced to the following:
  - Fine - £1000
  - Victim Surcharge - £100
  - Costs - £1304.62
  - Total - £2404.62 to be paid within 28 days.
- To date, the structure remains in place and the EN still not complied with. Therefore, the LPA will be awaiting instruction from the Court regarding the outstanding fee to be paid and considering its next steps in due course.

### **3. Conclusion**

That Members note the decision of the Magistrates Court. Members will be updated with further progress of the case in due course.