



Enforcement Closure Report

Case No. 14/00114/ENFOC2

Date: 12/05/17

Case Officer: Morag
Jardine

Report: Breach: Installation of fridge units
Address: 92 - 94 West Princes Street Helensburgh

Under the Town and Country Planning (Scotland) Act planning enforcement is a discretionary power of a local authority that should only be used to put right any harm caused by a failure to comply with planning control. When there is no harm, or it is insignificant, enforcement action is generally not justified. A harm requiring enforcement action would normally occur when the breach in question results in an unacceptable departure from relevant planning policies that would have justified refusing planning permission if it had been the subject of a planning application.

This is supplemented by Section 17b of the National Planning Practice Guidance, "Ensuring effective enforcement" (March 2014) ("the NPPG"). In paragraph 011, under the heading "When might formal enforcement action not be appropriate?", which states:

"Nothing in this guidance should be taken as condoning a wilful breach of planning law. Enforcement action should, however, be proportionate to the breach of planning control to which it relates and taken when it is expedient to do so. Where the balance of public interest lies will vary from case to case.

In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where:

- there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;
- development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;
- in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed."

It is noteworthy that, under this guidance, a planning authority should usually not take enforcement action when, in its assessment, an application for retrospective permission provides a better process for dealing with the relevant planning issues.

In this case there is no significant harm to the immediate or surrounding area and the fridge AC units, had permission been applied for would have complied with Argyll and Bute Local Development Plan policies:

Policy LDP 3 – Supporting the Protection, Conservation and
Enhancement of our Environment

Policy LDP 9 – Development Setting, Layout and Design

Supplementary Guidance

SG Sustainable Siting and Design Principles

Action taken: No further action, case closed.

Case Officer



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