

Runnymede Borough CouncilPLANNING COMMITTEE24 August 2011 at 7.30pm

Members of the Committee present      Councillors G B Woodger (Chairman), J M Edwards and Mrs G M Kingerley (Vice-Chairmen); Mrs F J Barden, J Broadhead, D A Cotty, R J Edis, Mrs E Gill, Mrs L M Gillham, C Knight, Mrs Y P Lay, H W V Meares, P Taylor, and Mrs G Warner.

Members of the Committee absent:      Councillor M T Kusneraitis

207. FIRE PRECAUTIONS

The Chairman read out the Fire Precautions.

208. NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP

The Groups mentioned below had notified the Chief Executive of their wish that the changes listed below be made to the Membership of the Committee. The changes were for a fixed period ending on the day after the meeting and thereafter the Councillors removed would be reappointed.

<u>Group</u>	<u>Remove from Membership</u>	<u>Appoint Instead</u>
Conservative	Councillor J R Furey	Councillor Mrs G Warner
Conservative	Councillor Mrs M Roberts	Councillor P Taylor
Conservative	Councillor J J Wilson	Councillor R J Edis
Runnymede Independents	Councillor J R Ashmore	Councillor Mrs L M Gillham

The Chief Executive had given effect to these wishes in accordance with Section 16(2) of the Local Government and Housing Act 1989.

209. MINUTES

The Minutes of the meeting of the Committee held on 3 August 2011 were approved and signed as a correct record.

210. ENFORCEMENT ISSUES AT LAND TO WEST OF WALNUT TREE FARM, ALMNERS ROAD, LYNE

Officers advised that, with regard to the description of the site, it had been agreed, following consultation with the Head of Corporate Governance and Assets, and the Head of Planning, to amend all references to "Walnut Tree Farm" so as to read "*land to the west of Walnut Tree Farm*". Accordingly, an amended report in its entirety, together with an amended plan (Amended Appendix B), was tabled as an Addendum. This Addendum, together with the amended plan had also been e-mailed to Members of the Planning Committee earlier in the day.

The report sought authorisation for the service of an Enforcement Notice and Stop Notice following the service of a Temporary Stop Notice for the cessation of the use of the land to the west of Walnut Tree Farm for the unauthorised siting and occupation of caravans / mobiles homes and tents and ancillary shower / toilet facilities. This was shown cross-hatched in the Amended Appendix to the report.

Officers verbally reported the disputative response received from the Agent of the owners of the land in reply to action(s) being proposed.

The land to the west of Walnut Tree Farm ("the site") was situated on the north-western side of Almnors Road, approximately 100m south west of its junction with Hardwick Lane. Access to the site was along a single width driveway, approximately 160m in length, which passed between Almnors Priory and Almnors Farm House and across Walnut Tree Farm. This driveway also provided access to the Little Almnors Caravan Park, an authorised gypsy and traveller site. The site also could also be accessed via Lyne Crossing Road via Lowfields, which, however, was not an authorised access to this site.

The site lay within the Green Belt and the Landscape Problem Area. It also lay within 5KM of Chobham Common and the Thames Basin Heaths Special Protection Area (SPA).

The extensive planning and enforcement history including a summary of the most recent and relevant issues was noted by the Committee.

During the summer of 2011, the unauthorised siting and occupation of caravans/mobile homes and tents had spread westwards into a field adjacent to Walnut Tree Farm and outside the boundaries of an Enforcement Notice, which had been upheld and varied on appeal in 2011. Accordingly, on 3 August 2011, a Temporary Stop Notice had been issued which required the immediate cessation of the use of the adjoining field (shown cross hatched on the Plan (Amended Appendix) for the siting and occupations of tents, caravans and mobile homes and toilet/shower facilities. This Notice was due to expire on 31 August 2011. A recent site visit confirmed that the Temporary Stop Notice had been complied with. Officers now accordingly sought the authority of the Committee to take further enforcement action and to require the cessation of the unauthorised siting and occupation of tents, caravans and mobile homes and ancillary toilet/shower facilities should the unauthorized use recommence on the land.

The report discussed in depth : (i) the unauthorised development of the site; (ii) the planning considerations appertaining thereto; (iii) enforcement considerations and (iv) the legal implications including the Human Rights Act 1998 considerations.

With regard to the latter, in balancing the interference with the owner / occupier's rights against the public interest in pursuing the legitimate aims of Article 8, the Council, in this instance, was satisfied that any possible interference with a person's rights under Article 8 would be justified as the proposed service of the Enforcement and Stop Notices would be in accordance with the national planning regime, it would also be in pursuit of the legitimate aim of protecting the environment and would be a proportionate response given that the site was (a) in the Green Belt and (b) the activities in question appeared to be of a holiday / camping nature, rather than a person's permanent residence.

Furthermore, the proposed action could also amount to an interference with the right under Article 1 of the First Protocol being the Protection of Property which allowed for the peaceful enjoyment of one's possessions. However, such interference was permissible if it was in accordance with the law and public interest. Here again, Officers were of the view that any interference with this right would be in accordance with national planning law and, therefore, was deemed necessary to ensure the use of the site was in accordance with the general interest, specifically the protection of the Green Belt.

Noting that there was an authorised gypsy site operating elsewhere on the site, it appeared that the caravans / mobiles and tents in question did not appear to be being used to house gypsies. Officers were, therefore, of the view that there would be no interference with Article 14 of the Convention Rights, Prohibition against Discrimination, as a result of the proposed enforcement action or any contravention of any other anti-discrimination legislation, including the Race Relations Act 1976. Additionally, no Equalities issues had been identified.

As part of the comprehensive legal advice given, both in the Agenda report and during the meeting, Members of the Committee noted that if they decided to authorise an Enforcement Notice and the owner then decided to exercise his right to appeal, this case was likely to be determined by way of a Public Inquiry. Such an Inquiry would incur costs which might require a supplementary estimate if the budgetary provision for Public Inquiries was overspent. Furthermore, if the Committee decided to authorise the service of a Stop Notice it would be served alongside the Enforcement Notice. Whilst there was no right of appeal against a Stop Notice there was the possibility of a claim for compensation. Officers had considered this risk and it was judged to be minimal.

During their consideration Members noted that the owner/managers of the site had been requested, on several occasions, to stop using the land for occupation of caravans / mobile homes and tents. Accordingly, Officers had requested authority to take action if this use restarted and their recommendations to the Committee reflected this. It seemed likely that action would prove necessary since, despite the owner/managers replies that they were not going to take new bookings, the uses had clearly continued. Tents and mobiles / caravans had been observed by Officers on at least three occasions during the past 6 weeks, although at the time of the Committee meeting the use had ceased on this particular part of the site.

After discussion, in which a number of points of clarification were raised, and taking into account all the circumstances of the case, the Committee agreed that it was appropriate to serve an Enforcement Notice, as well as a Stop Notice, should the unauthorized use recommence on this land. This action was required in order to cease the unauthorised use.

It was then unanimously –

**RESOLVED that –**

**In respect of the Enforcement Notice:**

1. **The Corporate Head of Governance and Assets be authorised to issue an Enforcement Notice pursuant to Section 172 of the Town and Country Planning Act 1990 on the owners and relevant occupiers of land to the west of Walnut Tree Farm, requiring:**
  - i) **the cessation of the use of the site shown cross hatched for the siting and/or occupation of tents and caravans and mobile homes and toilet/shower block currently located in the area shown hatched in amended Appendix 'B' of the addendum;**
  - ii) **the removal of all tents, caravans and mobile homes currently sited in the part of the site shown cross hatched in amended Appendix 'B' of the addendum from the site;**
  - iii) **the removal of the toilet/shower block currently sited in the part of the site shown cross hatched in amended Appendix 'B' of the addendum from the site; and**
  - iv) **the removal of all items and material ancillary to the siting and/or occupation of tents and caravans and mobile homes and the toilet/shower block currently sited on the part of the site shown cross hatched in amended Appendix 'B' of the addendum including any junction boxes, electricity hook up cables and paraphernalia from the site.**

**Reasons for issuing the Enforcement Notice:**

1. **It appears to the Council that the unauthorised use of the land for the siting and/or occupation of tents and caravans and mobile homes and toilet/shower block is a breach of planning control which has occurred within the last 10 years.**
2. **The use of the land for the siting and/or occupation of tents and caravans and mobile homes and toilet/shower block is inappropriate development in the Green Belt which is by definition harmful to the Green Belt and detrimental to the openness and visual amenities of the Green Belt. The Local Planning Authority is not aware of any very special circumstances which would justify the granting of planning permission and which would outweigh the harm caused to the Green Belt and the use is thereby contrary to:**
  - a) **Saved Policies GB1 of the Runnymede Borough Local Plan Second Alteration April 2001;**

- b) Policies SP5, LF1 and LF9 of the South East Plan 2009;
- c) The advice contained within Planning Policy Guidance 2: “Green Belts”; and
- d) Green Belt Policy as set out in the Draft National Planning Policy Framework (July 2011).

**In respect of the Stop Notice:**

2. The Corporate Head of Governance and Assets be authorised to issue a Stop Notice pursuant to Section 183 of the Town and Country Planning Act 1990 on the owners and relevant occupiers of land to the west of Walnut Tree Farm, requiring:

the cessation of the use of the site for the siting and/or occupation of tents and caravans and mobile homes and toilet/shower facilities located in the area hatched black in amended Appendix ‘B’ of the addendum.

**Reason for issuing the Stop Notice:**

1. The use of the land for the siting and/or occupation of tents and caravans and mobile homes and toilet/shower block is inappropriate development in the Green Belt which is by definition harmful to the Green Belt and detrimental to the openness and visual amenities of the Green Belt. The Local Planning Authority is not aware of any very special circumstances which would justify the granting of planning permission and which would outweigh the harm caused to the Green Belt and the use is thereby contrary to:
- a) Saved Policies GB1 of the Runnymede Borough Local Plan Second Alteration April 2001;
  - b) Policies SP5, LF1 and LF9 of the South East Plan 2009;
  - c) the advice contained within Planning Policy Guidance 2: “Green Belts”; and
  - d) Green Belt Policy as set out in the Draft National Planning Policy Framework (July 2011).

**In respect of future action if necessary:**

3. The Corporate Head of Governance and Assets be authorised to commence prosecution proceedings against the owners and occupiers of the land to the west of Walnut Tree Farm as appropriate, for any failures to comply with the requirements of the Enforcement Notice and/or Stop Notice served.

211. APPEAL DECISIONS

It was noted that the Planning Inspectorate had recently determined the appeals mentioned below.

<u>SITE / DEVELOPMENT</u>	<u>DECISION</u>
The Oaks, Lyne Lane, Lyne, Chertsey, KT16 0AL – refusal to grant outline planning permission for demolition of existing workshop building and erection of a detached dwelling house with conversion of existing store to garage, with ancillary accommodation (RU 10/0586)	DISMISSED

52 – 54 Hamm Moor Lane, Addlestone, KT15 2SF – appeal against Enforcement Notice re unauthorised material change of use of site from Use Class B1 (Business) to Use Class B5 (Storage and Distribution).	DISMISSED
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212. PLANNING APPLICATIONS DETERMINED BY DIRECTOR OF TECHNICAL SERVICES

A list of planning applications, recently determined by the Director of Technical Services under his delegated powers was noted.

Chairman

(The meeting ended at 7.58 pm)