

Runnymede Borough Council

PLANNING COMMITTEE

Wednesday 4 August 2004 at 7.30 pm

in the Council Chamber

at the Civic Offices, Addlestone



Members of the Committee

Councillors G.B. Woodger (Chairman), Mrs. F.M. Angell (Vice-Chairman), J.R. Ashmore, Mrs. F.J. Barden, J. Broadhead, J.B. Dean, J.R. Furey, H.W.V. Meares, Mrs. J. Norman, D.W. Parr, R. Pate, B.J. Relph, N. Thewlis, A.P. Tollett, and J.R. Whiteley

## A G E N D A

Notes:

- i) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- ii) The relevant 'background papers' are listed after each report in Part 1. Enquiries about any of the Agenda reports and background papers should be directed in the first instance to **Mr. B.A. Fleckney, Administration and Leisure Department, Committee Section, Civic Offices, Station Road, Addlestone (Tel. Direct Line: 01932 425620). (Email: [bernard.fleckney@runnymede.gov.uk](mailto:bernard.fleckney@runnymede.gov.uk)).**
- iii) Agendas and Minutes are available on a subscription basis. For details, please ring Mr. B.A. Fleckney on 01932 425620. Agendas and Minutes for all the Council's Committees may also be viewed on [www.runnymede.gov.uk](http://www.runnymede.gov.uk).
- iv) Public speaking on planning applications only is allowed at the Planning Committee. For details please contact the Administrative Section of the Technical Services Department. (Tel Direct Line: 01932 425131)
- v) In the unlikely event of an alarm sounding, members of the public should leave the building immediately, either using the staircase leading from the public gallery or following other instructions as appropriate.

## **LIST OF MATTERS FOR CONSIDERATION**

### **PART I**

#### **Matters in respect of which reports have been made available for public inspection**

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### **PART II**

#### **Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection**

- a) Exempt Information  
(No reports to be considered under this heading)
  
- b) Confidential Information  
(No reports to be considered under this heading)

1. NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP

2. MINUTES

To confirm and sign the Minutes of the meeting of the Committee held on 28 June 2004 (Appendix 'A') as a correct record.

3. APOLOGIES FOR ABSENCE

4. DECLARATIONS OF INTEREST

If Members have an interest in an item please record the interest on the form circulated with this Agenda and hand it to the Legal Representative or Committee Administrator at the start of the meeting. A supply of the form will also be available from the Committee Administrator at meetings.

Members who have previously declared interests which are recorded in the Minutes to be considered at this meeting need not repeat the declaration when attending the meeting. Members need take no further action unless the item in which they have an interest becomes the subject of debate, in which event the Member must leave the room if the interest is personal and prejudicial.

5. PLANNING APPLICATIONS (DTS)

A list of planning applications to be determined by the Committee is attached.

If Members have particular queries or interests in certain applications, the application files will be available for inspection and Officers present from 7.00 pm prior to the meeting in the ante room of the Council Chamber. This will be an informal opportunity for Members to see further details of applications and representations and to discuss and clarify issues. Copies of all letters of representation will also be placed on the table in the Chamber prior to the meeting and will be available for inspection by Members.

**OFFICERS' RECOMMENDATION that -**

**the said applications be determined as indicated and any permission granted be subject to the conditions authorised.**

**(TO RESOLVE)**

Background Papers

A list of background papers is available at the Technical Services Reception

6. LONE PINE AND AMBERWOOD, CHRISTCHURCH ROAD, VIRGINIA WATER - ENFORCEMENT (DTS)

1. Purpose of Report

1.1 **To seek the authority of the Committee to take enforcement action in respect of the unauthorised erection of boundary fencing over 2 metres in height around the curtilage of these properties.**

2. Background Information

2.1 In May 2002 a complaint was received that the owner of Lone Pine, a detached two-storey residential dwelling located to the north of the cul-de-sac part of Christchurch Road to the west of the church, was erecting a boundary fence around his property that was in excess of two metres in height.

2.2 The site was visited in June 2002 when the fencing was noted to have been erected along the majority of the boundary between Lone Pine and Cantavieja Cottage, across the rear boundary of Lone Pine and Amberwood and down the side boundary between Amberwood and Heather Cottage. The fencing also cut across the garden of Amberwood and continued along the mutual boundary between Amberwood and Lone Pine. A gate had been provided

to access the bottom part of Amberwood's garden from the rear garden of Lone Pine. The owner/occupier of Lone Pine also owns Amberwood, though this house is rented out.

- 2.3 During this visit the occupier of Lone Pine was spoken to and he confirmed that he had received some application forms but that he did not intend to apply for permission until he had ascertained whether the fencing as erected would have the desired effect in terms of noise attenuation. He stated that he required the fencing due to the noise from children using the open air swimming pool at Cantavieja Cottage and the noise from the dog barking at Heather Cottage. It was again confirmed that permission was required for the fencing and unless it was reduced in height then enforcement action could be taken.
- 2.4 In January 2003 the Planning Committee resolved to authorise enforcement action in respect of the fencing. A notice was served, but upon appeal the Inspector quashed the notice on the grounds that the notice and the plan attached lacked sufficient clarity. Following delays in relation to obtaining access, the site has been re-inspected to secure full details of the fencing in order that a further Notice can be served.

### 3. Report

- 3.1 The inspection confirmed that the fence has been constructed of two layers of close-boarded panels which sandwich a layer of polystyrene. The height of the fence varies from a maximum of 3.8 metres to 2.2 metres behind the building line, whilst fencing forward of the building line ranges in height from 1.8 to 2.1 metres.
- 3.2 The erection of boundary fences can normally be undertaken as 'permitted development' under the terms of Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 1995. This allows for the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure. However such development is not permitted if the height of the fence constructed adjacent to a highway used by vehicular traffic would exceed one metre above ground level or if the height of any other fence would exceed two metres above ground level.
- 3.3 The fencing that has been erected clearly exceeds the height that would constitute 'permitted development' and planning permission is therefore required.
- 3.4 Previously, in August 1999, the owner of Lone Pine had applied for planning permission, for the erection of a noise barrier along the eastern boundary of his property to a maximum height of 9 metres (ref. no. RU.99/0983). This application was considered by the Planning and Development Sub Committee at their meeting held on 21 February 2000 when it was resolved to refuse permission for the following reason:
- "The proposed barrier would be visible from the road and surrounding dwellings. It is considered that it would be detrimental to the outlook from the adjacent dwelling, the visual and residential amenities of the area and to the openness and character of this part of the Green Belt, contrary to policies in the Runnymede Borough Local Plan First Alteration Adopted 1993 and Policies GB1 and BE2 of the Runnymede Borough Local Plan (Second Alteration) Further Proposed Modifications, December 1999."
- 3.5 Whilst the fence that has been erected is less than half the height of the proposal that was refused, the same concerns apply. In addition the fencing has now been provided to all the boundaries rather than just along the eastern boundary as previously proposed and is therefore much more extensive and as a result has a greater impact over a wider area.
- 3.6 Whilst the owner of Lone Pine, who also owns Amberwood, has stated that he is unhappy about what he considers to be noise disturbance, it is not considered that this personal circumstance is of such weight as to justify the inappropriate development that has been carried out and the harm that it is causing to the residential amenities of other occupiers in the vicinity or to the openness of the Green Belt.
- 3.7 No specific details are available regarding ambient noise levels in this area, but from the various site visits which have been made it would not appear that the site suffers particularly from any unusual residential noise nuisance. The two adjacent properties are in residential use and noise complaints have been received in the past although no actionable noise nuisance was found.

- 3.8 From correspondence with the owner of Lone Pine it would appear that he considers the noise from people using the swimming pool at Cantavieja Cottage and a dog barking at Heather Cottage to be unacceptable and to warrant the erection of such fencing. However, it is considered that these activities are not abnormal in a residential setting and it is considered that there is no justification for the works undertaken in land use planning terms. At present Cantavieja Cottage is unoccupied.
- 3.9 Clearly Members must fully and fairly balance the considerations referred to in this report when deciding whether to authorise enforcement action or not. Members will also wish to have regard to human rights issues and will wish to consider whether the action they authorise is a proportionate remedy in all the circumstances of the case.
- 3.10 Members will have to take into account all the considerations relevant to this case. On the one hand there are the rights of the occupiers of Amberwood and Lone Pine to respect for their private and family life and the right to peaceful enjoyment of their property which could be affected by any enforcement action. On the other hand there is the significant harm to the residential character and appearance of the area, to the amenities that local residents might reasonably expect to enjoy in their properties and to the openness of the Green Belt caused by this unauthorised and inappropriate development.
- 3.11 In view of the clear harm caused to the environment and the openness of the Green Belt by the erection of the fencing, it remains the Officers' view that action is necessary to secure the removal of the current breach of planning control.
- 3.12 The Committee is therefore requested to consider all the facts and the issues in relation to this case and to determine whether legal action is reasonable, compatible with the Human Rights Act 1998, proportionate to the legitimate aim being pursued (ie protection of the environment in the public interest) and necessary to bring about a cessation of the breach of planning control.

**OFFICERS' RECOMMENDATION that -**

- i) the Director of Administration and Leisure be authorised to issue an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 requiring the removal of the unauthorised fencing over 2 metres high not fronting the highway, and over 1 metre high otherwise, erected around the residential curtilages of Amberwood and Lone Pine, Christchurch Road, Virginia Water.**

**Reason for Issue of Notice**

**The fencing, as erected, is considered to be detrimental to the visual and residential amenities of the area and to the openness and character of this part of the Green Belt contrary to Policies GB1 and BE2 of the Runnymede Borough Local Plan (Second Alteration) April 2001, Policy PE2 of the Surrey Structure Plan 1994 and Policy LO6 of the Surrey Structure Plan Deposit Draft January 2001 and the advice contained within Planning Policy Guidance Notes : 1 'General Policy and Principles' and 3 : 'Green Belts'; and**

- ii) the Director of Administration and Leisure be authorised to take appropriate action including the institution of proceedings pursuant to Section 179 of the Town and Country Planning Act 1990 in the event that the Enforcement Notice, once effective, is not complied with.**

**(TO RESOLVE)**

Background Papers

Planning Enforcement file (exempt)  
Planning file RU.99/0983  
Appeal decision

7. APPEAL DECISIONS

The Planning Inspectorate has recently determined the appeals mentioned below. Appeal decision (a) is attached at Appendix 'B'. Appeal decisions (b) and (c) are available for inspection in the Members' Room.

<u>Site Development</u>	<u>Decision</u>
a) Hope, Gaelic and Haven Cottages and Ypsilanti, High Street, Egham - demolition of all existing buildings and erection of 24 flats and houses (03/0600)	ALLOWED
b) Knowle Hill View, Trumps Green Road, Virginia Water - erection of 2 detached 5-bed dwellings with double integral garages and landscaping following demolition of existing vacant dwelling (03/1095)	DISMISSED
c) 1-3 Magna Road, Englefield Green - demolition of outbuildings and construction of 2 residential units with car parking (03/0793)	DISMISSED

**(FOR INFORMATION)**

Background Papers

Appeal decisions

8. 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 is attached at Appendix 'C'. If Members have any particular matters they wish to raise, prior notice to the Chairman would be of assistance.

**(FOR INFORMATION)**

Background Papers

None

9. EXCLUSION OF PRESS AND PUBLIC

If Members are minded to consider any of the foregoing reports in private, it is the

**OFFICERS' RECOMMENDATION that -**

**the press and public be excluded from the meeting during the discussion of the following reports under Section 100A(4) of the Local Government Act 1972 on the grounds that the reports in question would be likely to involve disclosure of exempt information of the description specified in appropriate paragraphs of Part I of Schedule 12A of the Act.**

**(TO RESOLVE)**

**PART II**

**Matters involving Exempt or Confidential information in respect of which reports have not been made available for public inspection**

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