

Runnymede Borough Council

PLANNING COMMITTEE

Wednesday 3 August 2005 at 7.30 p.m.

in the Council Chamber

at the Civic Offices, Addlestone



Members of the Committee

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

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).**
- 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.
- iv) **Public speaking on planning applications only is allowed at the Planning Committee. For details please contact Mrs T. Eeles, the Administrative Section of the Technical Services Department. (Tel Direct Line: 01932 425174)**
- 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)

GLOSSARY OF TERMS AND ABBREVIATIONS

TERM	EXPLANATION
BCN	Breach of Condition Notice. Formal enforcement action to secure compliance with a valid condition
Brownfield land	'Previously Developed Land'. Land which is or was occupied by a permanent (non-agricultural) structure, including the curtilage of the development (therefore includes gardens)
BVPI's	Best Value Performance Indicators. Specified by central government to measure performance on a wide range of Council services
CHA	County Highways Authority. Responsible for offering advice on highways issues relating to planning applications as well as highways maintenance and improvement
CIR	Government Circular – document setting out policy which has legal connotations
CLEUD	Certificate of Lawful Existing Use or Development. Formal procedure to ascertain whether a development which does not have planning permission is immune from enforcement action.
CLOPUD	Certificate of Lawful Proposed Use or Development. Formal procedure to ascertain whether a development requires planning permission.
Conservation Area	An area of special architectural or historic interest designated due to factors such as the layout of buildings, boundaries, characteristic materials, vistas and open spaces.
CPA	Comprehensive Performance Assessment. An external process to assess the quality of individual Council's Performance (set out in the Local Government White Paper 2001). It brings together evidence from a range of internal and external sources, in addition to an on site inspection, in order to arrive at an overall category
DC	Development Control – the area of planning service that processes planning applications, planning appeals and enforcement work
Design Statement	A design statement is submitted with a planning application and sets out the design principles that the applicant has adopted to make the proposal fit into its wider context.
Development Plan	The combined policy documents of the Structure Plan, Local Plan, Minerals and Waste Plans. Will shortly be replaced by the South East Plan, the Local Development Framework and the Minerals and Waste Frameworks
DTS	Director of Technical Services
EA	Environment Agency. Lead government agency advising on flooding and pollution control
EIA	Environmental Impact Assessment – formal environmental assessment of specific categories of development proposals
ES	Environmental Assessment under the Environmental Impact Assessment Regulations
FRA	Flood Risk Assessment
GPDO	General Permitted Development Order. Document which sets out categories of permitted development (see 'PD')
GOSE	The Government Office for the South East. This is the local office of the Deputy Prime Minister for the South East region of England
HGV	Heavy Goods Vehicle
LBC	Listed Building Consent
LDD	Local Development Documents – component parts of the LDF
LDF	Local Development Framework. The policy document that will guide development in the Borough up to 2026
LDS	Local Development Scheme - sets out the programme and timetable for preparing LDDs.

TERM	EXPLANATION
Listed building	An individual building or group of buildings which require a level of protection due to its architectural interest, historical interest, historical associations or group value.
LNR	Local Nature Reserve
Local Plan	The current planning policy document that will be replaced by the LDF
LPA	Local Planning Authority
LSP	Local Strategic Partnership – Leads on the Community Strategy
Material Considerations	Matters which are relevant in determining planning applications
Net Density	As defined in PPG3: Housing. The density of a housing development excluding major distributor roads, primary schools, open spaces serving a wider area and significant landscape buffer strips
PCN	Planning Contravention Notice. Formal notice which requires information to be provided in connection with an enforcement investigation. It does not in itself constitute enforcement action
PD	Permitted development – works which can be undertaken without the need to submit a planning application
PDG	Planning Delivery Grant. An annual grant from central government which reflects the previous year's performance in delivering planning services
P & I	Policy and Implementation – the area of planning service that produces the Local Development Framework, monitors development and supports the Runnymede Business Partnership and Travel Initiative
PINS	Planning Inspectorate
POS	Public Open Space
PPG	Planning Policy Guidance. This is guidance issued by the Secretary of State detailing National Planning Policy within existing legislation
PPS	Planning Policy Statements. The replacement title for PPG
Ramsar Site	A wetland of international importance
RIPA	Regulation of Investigatory Powers Act. Provides limitation on covert surveillance relating to enforcement investigation
SAC	Special Area of Conservation – an SSSI additionally designated as a Special Area of Conservation under the European Community's Habitats Directive 1992 in order to maintain or restore priority natural habitats and wild species
SCI	Statement of Community Involvement. The document and policies that indicate how the community will be engaged in the preparation of the LDF
SEA/SA	Strategic Environmental Assessment/Sustainability Appraisal – formal appraisal of the Local development Framework
SEEDA	South East England Development Agency
SEERA	South East England Regional Assembly – based in Guildford. Responsible for producing South East Plan
Sec. 106	A legal agreement for the provision of facilities and/or infrastructure either directly by a developer or through a financial contribution, to meet the needs arising out of a development. Can also prevent certain matters
SNCI	Site of Nature Conservation Importance. A non-statutory designated area of county or regional wildlife value
South East Plan	Regional Planning Document produced in draft form by SEERA. Will provide regional planning guidance and housing targets for individual Councils for the period up to 2026
SPA	Special Protection Area. An SSSI additionally designated a Special Protection Area under the European Community's Directive on the Conservation of Wild Birds 1979
SPD	Supplementary Planning Document – provides additional advice on policies in Local Development Framework (replaces SPG)
SSSI	Site of Special Scientific Interest
Structure Plan	Strategic guidance for the whole county produced by Surrey County Council. Will eventually be replaced by the South East Plan

TERM	EXPLANATION
SUDS	Sustainable Urban Drainage Systems. Providing urban drainage systems in a more environmentally sensitive way by systems designed to reduce the quantity of run-off, slow its velocity or provide for filtering, sedimentation and biological degradation of the water
Sustainable Development	Sustainable development is the core principle underpinning planning. It is defined as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs".
TA	Transport Assessment – assessment of the traffic and transportation implications of a development proposal
TPO	Tree Preservation Order – where a tree or trees are formally protected and prior consent is needed for pruning or felling
TRICS	Computerised database and trip rate analysis used to estimate traffic flows to and from a variety of land uses, to assess transportation implications of new development in southern England
Use Classes Order	Document which lists classes of use and permits certain changes between uses without the need for planning permission.

1. FIRE PRECAUTIONS

The Chairman will read the Fire Precautions which set out the procedures to be followed in the event of fire or other emergency.

2. NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP

3. MINUTES

To confirm and sign the Minutes of the meeting of the Committee held on 6 July 2005 as a correct record. (Appendix 'A'). The Appendices to these Minutes were circulated as part of the Supplementary Summons for the last Council Meeting and are not attached.

4. APOLOGIES FOR ABSENCE

5. 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.

6. 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 p.m. 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.

7. LAND AT TRYS HILL FARM, LYNE LANE, LYNE - REVOCATION OF CLEUD (DTS)

1. Purpose of Report

1.1 **To seek authority to revoke a Certificate of Lawfulness of Existing Use or Development (CLEUD) issued on 5 July 2004 and to re-issue a corrected CLEUD relating to land at Trys Hill Farm, Lyne Lane, Lyne.**

2. Background Information

2.1 In June 2004 a CLEUD application (RU.03/0736) was presented to the Planning Committee. The Committee issued a split decision on this CLEUD. A Certificate of Existing Lawfulness was granted for a wide range of uses and developments on this site including a commercial livery and riding school use. There was also insufficient evidence to warrant other uses and development being granted a Certificate of Existing Lawfulness. Enforcement action was

authorised against these unlawful uses and developments. This resulted in four Enforcement Notices being issued in September 2004.

2.2 Appeals against these Enforcement Notices were lodged but two appeals have been withdrawn and two remaining appeals in relation to a ménage and a mobile home are set to be considered at a Public Inquiry starting on 6 September 2005.

2.3 During research for the forthcoming Inquiry it has subsequently come to light that an Enforcement Notice was issued in 1978 covering a number of issues and including a requirement for the cessation of a riding school at this site. An appeal against this part of the 1978 Enforcement Notice was dismissed and upheld in July 1979.

3. Relevant Considerations

3.1 The main assessment with a Certificate of Existing Lawfulness is whether any operational developments have been in existence for at least four years or a material change of use for ten years (with the exception of change of use to a dwellinghouse). In this case, it was considered that the riding school had been operating for at least ten years and was therefore a lawful use, but lawfulness cannot be gained if it contravenes the requirement of an existing and effective Enforcement Notice.

3.2 The existence of the 1978 Enforcement Notice, which required the cessation of riding school at this site, makes the recent Certificate of Existing Lawfulness RU.03/0736 invalid. This Certificate of Existing Lawfulness therefore needs to be revoked and re-issued with the offending riding school use deleted from list of development contained in the Certificate.

4. Procedure for Revoking the Certificate of Existing Lawfulness

4.1 Sections 193(7) and (8) allow a Local Planning Authority to revoke a Certificate. However, prior to any revocation the landowner, occupiers and any other person with an interest in the revocation need to be notified and be given an opportunity to make representations. Subject to no substantive issues arising from this notification procedure it is intended to revoke the Certificate of Existing Lawfulness RU.03/0736.

5. The Way Forward

5.1 Subject to no substantive issues arising from the revocation notification procedure the intention is to re-issue the Certificate of Existing Lawfulness RU.03/0736 excepting the element relating to the riding school use. This element would have been refused a Certificate of Lawfulness given the requirements of the effective 1978 Enforcement Notice and given the situation explained in paragraphs 3.1 and 3.2 above.

5.2 In order to regularise the existing riding school use on this site the applicant will therefore need to submit a retrospective planning application and if this application is granted planning permission it would override the 1978 Enforcement Notice.

5.3 In order to assess the likelihood of granting planning permission it is necessary to consider why the Inspector dismissed the enforcement appeal in 1978 and upheld the Enforcement Notice requiring the riding school use to cease.

5.4 The background to the case was that the original agricultural holding extended to almost 9 hectares along Lyne Lane with one farmhouse (now known as Fair Winds). In the late 1950's and during the 1960's the original holding had become sub-divided and sold into a number of separate private ownerships. The dwelling on Trys Hill Farm was permitted in 1963 and its holding covered approximately 3.5 hectares in 1978.

5.5 This site was located in an area subject to Green Belt Policy in 1978 and remains subject to Green Belt Policy. The most relevant planning policy at this time was the Green Belt policy in the 1971 Development Plan. The relevant part of this policy stated:

"...outside the confines of existing settlements development other than that falling within the following categories will not normally be permitted :-

- (i) development required in connection with agriculture where a genuine need is proved to the satisfaction of the Local Planning Authority;

- (ii) certain types of 'open' development such as hospitals, schools (but normally not primary schools) other educational and recreational facilities, crematoria or other institutions where the grounds are large in relation to the area of the buildings."
- 5.6 The Inspector accepted that a riding school was an appropriate use in the Green Belt and noted that it covered some 1.2 hectares. This meant that the whole holding was lost to agriculture. He concluded that "despite the recreational benefit which can be derived I consider that the proposed non-agricultural use in an area of already much fragmented farmland would conflict with the policies established and being established in the district...". He concluded that there were insufficient reasons for setting aside the policies (which sought to protect the agricultural use of the land) in favour of the riding school and deemed that planning permission was not justified.
- 5.7 The up-to-date planning guidance and Development Plan policies on the Green Belt have altered dramatically from the policies relied on in 1978. The predominance of the need for a genuine agricultural use in the Green Belt has been diminished. Re-use of existing buildings and diversification of low key appropriate uses are now encouraged in the Green Belt. Consequently, there have been material changes to the relevant planning policies since the Inspector's decision in 1978.
- 5.8 Against this background and having considered the relevant Government Guidance contained within Planning Policy Guidance 2 'Green Belts' (PPG2), Planning Policy Statement 7 'Sustainable Development in Rural Areas' (PPG7) and Planning Policy Guidance 17 'Planning for Open Spaces, Sport and Recreation' (PPG17) and the relevant planning policies of the up-to-date Development Plan it is likely that the existing riding school would be an acceptable development and re-use of the existing buildings in this Green Belt location. It is therefore likely that planning permission would be granted subject to relevant conditions.
- 5.9 This procedure will involve the submission of a retrospective planning application which will hopefully resolve the outstanding issues.
- 5.10 This would also mean that the current planning application RU.05/0589 for a second ménage on this site could also be considered at the same time as this proposed retrospective application, if submitted, this application having been deferred from consideration at the Planning Committee meeting of 20 July 2005 in the light of the revocation of this CLEUD.

6. Financial Considerations

- 6.1 No compensation is payable in the event of a revocation. Although there is a right of appeal to the Secretary of State against the decision to revoke the CLEUD. The validity of any decision taken by the Secretary of State may be challenged by judicial review in the High Court.

7. Conclusion

- 7.1 The existence of an effective Enforcement Notice requiring the cessation of a riding school requires the revocation of the Certificate of Existing Lawfulness RU.03/0736 which includes the existing riding school as one of the lawful uses on the site.
- 7.2 It is therefore recommended that the relevant interested parties are notified of this intention to revoke the Certificate of Existing Lawfulness RU.03/0736 and representations sought. The intention would then be to re-issue the Certificate of Existing Lawfulness without reference to the riding school.

OFFICERS' RECOMMENDATION that -

- i) the landowner, occupiers and any other persons be notified and representations sought on the possible revocation of the Certificate of Existing Lawful Use and Development RU.03/0736 issued on 5 July 2004 under Article 24(12), (13) and (14) of the Town and Country Planning (General Development Procedure) Order 1995;**

- ii) **subject to no substantive comments being received from the landowner, occupiers or other interested parties to revoke the Certificate of Existing Lawful Use and Development RU.03/0736 issued on 5 July 2004 under Section 193(7) and (8) of the Town and Country Planning Act 1990; and**
- iii) **to re-issue the Certificate of Existing Lawful Use and Development RU.03/0736 in its entirety except for the reference to 'a riding school use including associated hay stores, tackrooms and ménage as annotated for areas 9.0 and 9.8, buildings 9.4, 9.6, 9.7, 9.10 and the western part of building 9.9'.**

(TO RESOLVE)

Background Papers

Certificate of Existing Lawfulness RU.03/0736

Enforcement Notice (Appeal Reference APP/5389/C/78/1776, 2459)

Planning Application RU.05/0589

8. PLANNING APPLICATIONS DETERMINED BY DIRECTOR OF TECHNICAL SERVICES (DTS)

A list of planning applications recently determined by the Director of Technical Services under his delegated powers is attached at Appendix 'B'. 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 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

a) Exempt Information

(No reports to be considered under this heading).

b) Confidential Information

(No reports to be considered under this heading).