

Runnymede Borough Council

PLANNING COMMITTEE

Wednesday 16 March 2005 at 7.30 p.m.

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).**
- 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

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1. NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP

2. MINUTES

To confirm and sign the Minutes of the meeting of the Committee held on 16 February 2005 as a correct record (Appendix 'A').

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 the 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 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. BOURNE VALLEY GARDEN CENTRE - WOODHAM PARK ROAD, WOODHAM - ENFORCEMENT (DTS)

1. Purpose of Report

1.1 **To seek Committee authority to serve enforcement notices in respect of an unauthorised storage use on land to the north of the Bourne Valley Garden Centre.**

2. Site

2.1 The site has an area of some 2.4 hectares (5.88 acres) and lies on the western side of Woodham Park Road from which it gains vehicular access. This site lies within the Green Belt and the flood plain of The Bourne. The northern boundary of the site is formed by The Bourne. (Site plan attached at Appendix 'B').

3. Site History

3.1 Permission was granted for additional retail buildings in 1994 and 1996 (RU.93/0728 and RU.96/0126). Prior to that there were various permissions for a variety of buildings and extensions.

- 3.2 The most notable permission pertaining to the site was granted in March 1998 (RU.97/1100). This application provided for a comprehensive scheme to tidy the site, improve its appearance, and rationalise its operation. The main sales area was removed and replaced with a new structure. The existing had an area of 1132 sq m and the new 1431 sq m, representing an increase of 299 sq m.
- 3.3 The existing open plant sales area was enclosed by an open-sided hoop structure covering 785 sq m. An existing shop became a storage area, and a barn used for storage is now used as a coffee shop.
- 3.4 Eight buildings around the site were demolished and these total 281 sq m in area. The parking area was laid out at the front of the site and to the side, with one access being closed and the other improved. Sales for sheds and fencing are in an area to the side, and the ornaments and statue sales (formerly at the front of the site) are now at the rear. A new, open plant sales area to the rear of the buildings was approved.
- 3.5 The land subject of this report was shown on the plans included within RU.97/1100 as being within the applicant's ownership but was clearly excluded from the application. In light of the above, it is evident that the land subject of this report has no lawful use for storage. In more recent times a number of small schemes have been approved, none of which are of relevance to this report.

4. Enforcement

- 4.1 During the course of investigating nearby sites, the Council became aware that land that was previously open fields had been partly hard-surfaced and was being used for storage purposes. This includes several freight containers, open storage of pallets of compost, shingle, garden pots and various other garden centre products.
- 4.2 Research has shown that the owner cannot claim the use is established.

5. Policy and Legal Context

- 5.1 The site is situated in the Green Belt and the flood plain. The relevant Green Belt policies are Policy LO4 of the Surrey Structure Plan 2004 and Policy GB1 of the Local Plan. These policies state that within the Metropolitan Green Belt there will be a presumption against inappropriate development that would conflict with the purposes of the Green Belt or adversely affect its open character. The purposes of the Green Belt, and the aims of Green Belt policies are not met by the current unauthorised development at the site.
- 5.2 The Green Belt policies in the Development Plan are in accordance with the advice given in PPG 2 that there is a presumption against inappropriate development. PPG2 makes clear that planning permission should not be granted for inappropriate development, which by definition is harmful to the Green Belt, except in very special circumstances. Paragraph 3.12 of PPG2 states that the making of material changes in the use of the land are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt.
- 5.3 The site also lies within the high risk zone of the Bourne flood plain. Policies SE3 of the Surrey Structure Plan 2004 and SV2 of the Runnymede Borough Local Plan Second Alteration April 2001 are relevant in this regard. PPG25 : 'Development and Flood Risk' adopts a precautionary principle and sequential approach to dealing with the hazard of flooding. An undeveloped or sparsely developed area (such as this site) would be regarded in PPG25 terms as 'generally not suitable for residential, commercial and industrial development unless a particular location is essential, eg for navigation and water-based recreational uses, agricultural and essential transport and utilities infrastructure and an alternative lower risk location is not available'. These exemptions do not apply in this case. In addition, the land to the south of this site lies outside the high risk flood zone.
- 5.4 The formal comments of the Environment Agency are awaited.

6. Planning Considerations

- 6.1 The adjoining land to the south has a lawful use as a garden centre and as with many such establishments it has clearly evolved and grown over a number of years. There is however reason to enforce against the storage use to the north of the site, even though significant planning permissions have been granted on the adjoining land in the recent past. The 1998 planning permission (ref para 3.2 above) for what was effectively a comprehensive scheme for the redevelopment and reconfiguration of the site specifically excluded this land.
- 6.2 On the adjoining site there has been a substantial redevelopment of the main sales area. This involves an increase of 299 sq m which was offset by demolition of some 281 sq m of outbuildings. The concentration of the new floor area in a central location was considered beneficial in Green Belt terms.
- 6.3 The hoop structure over the external plant display area was effectively a new building of some 785 sq m which is a substantial area. However, as this was already used for plant display and sales it was not an increase in the retail sales area. It also sits between existing buildings on three sides so was not considered to be an extension of the footprint of the main use and was therefore not considered to conflict with the purposes of the Green Belt.
- 6.4 The layout of the car park area to the front and the relocation of sales of ornaments to the side and rear together with new landscaping was permitted and enhanced the appearance of the site from the main road. Whilst the open display at the rear increased the usage of the site and enabled public access to this area, it remained an open use.
- 6.5 The applicant submitted details of the main retail area indicating which areas (and what percentage) were to be used for plants, gifts, hardware and seasonal goods, and a condition was imposed to maintain this balance.
- 6.6 Overall the scheme granted previously was considered to provide a positive enhancement to the site and the increases in buildings, floor area and sales areas were acceptable and did not conflict with the fundamental aims of the Green Belt.
- 6.7 The storage use is considered to be an inappropriate development in the Green Belt which is detrimental to the openness and visual amenities of the Green Belt.
- 6.8 The unauthorised use is also likely to be unacceptable in flooding terms for the reasons explained in paragraph 5.3 above. However, the formal comments of the Environment Agency are awaited on this matter. The Planning Committee will be notified of any comments from the Environment Agency.
- 6.9 The Council is not aware of any very special circumstances to warrant overriding the material harm caused to the openness of the Green Belt. The unauthorised use is therefore considered to be contrary to the relevant planning policies of the Development Plan and Government guidance.

7. Legal Context and Human Rights Considerations

- 7.1 PPG18 underlines the necessity for the Local Planning Authority to consider carefully whether or not it is necessary to deal with the breach of planning control by means of enforcement action, and to explore whether or not it is possible to permit the activity or development to continue; reminds Local Planning Authorities of their power to withdraw an Enforcement Notice or waive or relax its requirements; and makes clear that there is ample scope for the consideration of personal circumstances.
- 7.2 Clearly before authorising enforcement action Members must also fully and fairly balance the considerations referred to in this report and will need to take into account the requirements of the relevant Human Rights legislation. The Human Rights Act 1998 makes it unlawful for a Local Authority to act in a way which is incompatible with a convention right.
- 7.3 The taking of enforcement action could amount to an interference with a person's right to respect for private and family life (Article 8) and to the right to enjoyment of property (Article 1 of the First Protocol). However, in this case it is considered that such action is

proportionate given the breach of planning control that has occurred, is in accordance with the law, pursues a legitimate aim of protecting the rights of others through preservation of the environment and is necessary in a democratic society where the interference answers a pressing social need and is proportionate to the legitimate aim being pursued.

- 7.4 In the circumstances therefore it is considered that enforcement action is necessary in this case to bring about the cessation of the continuing breaches of planning control which are causing demonstrable harm to the Green Belt and the general amenities of the area.

OFFICERS' RECOMMENDATION that -

- i) **the Director of Administration and Leisure be authorised to issue and serve an Enforcement Notice pursuant to Section 172 of the Town and Country Planning Act 1990 requiring:**
- a) **the removal of all the unauthorised freight containers, open storage of goods, equipment, machinery, plant on the land; and**
 - b) **the removal of the hardstanding and any resulting rubble and debris and restoring the land to its original condition**
- ii) **the Director of Administration and Leisure be authorised to take appropriate action, namely prosecution under Section 187A(9) of the Town and Country Planning Act 1990 in the event that the notice is not complied with.**

Reasons for Issuing the Enforcement Notice

1. **The development represents an inappropriate development within the Metropolitan Green Belt which causes harm by definition and actual harm by virtue of the undesirable intrusion of development which is detrimental to the openness and visual amenities of the Green Belt and undermining the purposes of including land within the Green Belt contrary to Policy LO4 of the Surrey Structure Plan 2004 and Policy GB1 of the adopted Runnymede Borough Local Plan Second Alteration April 2001 and Planning Policy Guidance Note 2 : 'Green Belts'.**
2. **The Planning Authority do not consider that there are very special circumstances to justify the granting of planning permission contrary to Policy LO4 of the Surrey Structure Plan 2004, Policy GB1 of the adopted Runnymede Borough Local Plan Second Alteration April 2001 and the advice contained within Planning Policy Guidance Note 2 : 'Green Belts'.**

(TO RESOLVE)

Background Papers

Exempt

7. 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

8. EXCLUSION OF PRESS AND PUBLIC

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 paragraph 13 of Part I of Schedule 12A of the Act.

PART II

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

a) Exempt Information

9. PROPOSED TPO IN BOROUGH

b) Confidential Information

(No reports to be considered under this heading)