

BOROUGH OF KETTERING

Committee	Planning Committee	Item 6.1	Page 1 of 12
Report Originator	Dean Baker	ENFO/2001/00318	
Wards Affected	WELLAND	Date: 8 November 2011	
Title	Potential Planning Enforcement Action at Greenfields, Braybrooke Road, Braybrooke		

1. PURPOSE OF REPORT

To inform members of the Council's powers, duties and responsibilities in respect of taking enforcement action in respect of breaches of planning control. It is specifically produced to assist members to determine the appropriateness of actions in respect of breaches of planning control in relation to "Greenfields" (the land north of Braybrooke Road), Braybrooke, where a mixture of developments has taken place.

2. RECOMMENDATION

That the Committee notes this report and refers to its contents when considering item nos. 6.2-6.11 on this agenda in relation proposed enforcement action on individual plots within the site.

3. DEVELOPMENT AND BREACHES OF PLANNING CONTROL

Development may be summarised as the carrying out of building, engineering, mining or other operations in, on, over or under land (Operational Development), or the making of any material change in the use of any buildings or other land (Change of Use) (Town and Country Planning Act 1990 (TCPA) s.55). Planning permission is required for the carrying out of any development (TCPA s.57). Where development is carried out without planning permission, or without compliance with any of the conditions attached to a planning permission, it is a breach of planning control (TCPA s.171A) and, subject to time limits, is liable to be the subject of enforcement action.

4. ENFORCEMENT ACTION AND TIME LIMITS

Enforcement action is defined as the issue of an enforcement notice or the issue of a breach of condition notice. The time limits allowed for the taking of enforcement action are set out in TCPA s.171B. Development generally becomes immune from enforcement action where, it relates to operational development which was substantially completed more than 4 years ago; where use of a building as a single dwellinghouse began more than 4 years ago; where, in relation to any other breach (i.e. a change of use, non compliance with conditions, or any other breach) the breach began more than 10 years ago.

There are some exceptions to the time limits, such that further enforcement action may be taken against a breach where enforcement action has been taken or purported to

have been taken within the last 4 years or within 4 years of withdrawal of an effective enforcement notice, irrespective of the age of the breach. Case law indicates that operations may be required to be removed as part of a 10 year change of use notice, where those operations facilitate the change of use, irrespective of whether or not they amount to development in their own right or were completed within the last four years.

5. USES OF LAND INVOLVING CARAVANS

Caravans and mobile homes are not regarded as buildings or structures and do not themselves constitute 'operational' development. Thus, residential occupation of caravans is a land use and is subject to the 10 years rule; such a use not constituting use of a building.

The siting of a caravan on land does not instantly amount to a material change of use of the land, it is dependant upon the use to which it and the land in the planning unit is put. Part 5 of Schedule 2 of the GPDO grants planning permission for "use as a caravan site of agricultural land for the accommodation during a particular season of a person or persons engaged in farming (or forestry) operations of the same land," thus a residential use by seasonal agricultural workers on the land would be development but would not constitute a breach of planning control.

The residential occupation of a caravan, other than in the circumstances set out above, would be likely to amount to a material change of use of the land.

The use of agricultural land for caravan storage would constitute a material change of use of the land, although the siting of a caravan for use as a day shelter, feed store, animal shed or similar other use, *incidental or ancillary to the use of the land for agricultural purposes*, would not constitute a material change of use.

6. ACTIONS AVAILABLE TO THE LOCAL PLANNING AUTHORITY

Temporary Stop Notices (TSN)

These may be issued where it is believed that a breach has occurred. Their purpose is to prevent further specified activities for a temporary period. They cannot be used to undo that which has been done. They cannot require the cessation of use of a building as a dwellinghouse nor prevent the continued stationing of a caravan which is occupied by a person as his main residence (other than in very exceptional circumstances). Their effect is to seek to prevent further operational development or the stationing of further caravans not on site at the time of service. They are of limited effect (up to 28 days) and only one notice may be issued in respect of any breach (they cannot be "renewed"). Contravention of a TSN is an offence.

Enforcement Notices (EN)

Enforcement action is a discretionary power available for use "where it appears to the Local Planning Authority that there has been a breach of planning control and it is expedient to issue the notice, having regard to the provisions of the development plan and to all other material considerations".

The Authority is not obliged to take action to remedy a breach of planning control. National guidance in PPG18 is clear that any action must be expedient and proportionate, i.e. if the development is acceptable then no action should be taken. It should be borne in mind that the development could become lawful through the passage of time, that there is no mechanism to control it by planning condition or other

means, and that, over time, the development might intensify, thereby exacerbating any harm which it might cause.

An ill-founded decision to take no action could result in an adverse report and sanctions through review by the Local Government Ombudsman if it could be shown that the nature of the breach was such as to make enforcement action plainly necessary. Any decision, either to take action or to take no action, could be subject to Judicial Review in the High Court.

Issue of notices may result in planning permissions being granted on appeal. Costs may be awarded against a party where that party has been found to have acted unreasonably in pursuing or defending the appeal.

Stop Notice (SN)

Stop Notices may be issued following (or contemporaneously with) the issue of an Enforcement Notice and have the effect of prohibiting specified activities as an interim measure until the expiration of the compliance period contained in the enforcement notice. The advice suggests they should not prohibit anything more than is essential to safeguard amenity or public safety or to prevent serious or irreversible harm to the environment. There is no planning appeal against such a notice, although the decision to issue a SN may be Judicially Reviewed. There can be a risk of compensation on certain limited grounds.

Prosecution for non-compliance

Where an enforcement notice takes effect and the requirements are not complied within the periods allowed, the owner of the land and any other person who contravenes the requirements of the notice shall be guilty of an offence, punishable by a fine of up to £20,000 on summary conviction (TCPA s.179).

Execution of Works (in default)

Where any required steps have not been taken within the compliance period, the Local Planning Authority may enter the land and undertake any or all such steps and may recover their costs from the then landowner. A charge may be placed on the land charges register, however, the prospect of recovery through this method is dependant on the sale of the land and on the price achieved for that sale. High cost works on low value land can result in the cost of the works never being recouped (TCPA s.178).

High Court Injunction

Irrespective of whether or not other action is contemplated or taken, a Local Planning Authority may apply to the court for any actual or apprehended breach to be restrained by injunction. This should generally be "with notice" of the land owners and occupiers, but can be granted on an emergency basis (without notice) provided that the Court is satisfied as to the urgency of the situation and a very real likelihood of the development can be evidenced. It may equally be issued against named persons and persons unknown.

The court will consider all relevant factors when deciding whether to exercise its discretion to grant an injunction. Factors that are likely to be relevant could include the hardship that would be caused to the persons occupying the land by requiring them to leave, the availability of alternative sites, the need to enforce planning control, the previous planning and enforcement history of the site, and any environmental damage being caused to the site. Both the council, in considering what, if any, enforcement

action to take and the court, in considering whether to grant an injunction, need to take into account article 8 of the European Convention of Human Rights (right to respect for private and family life).

An injunction is an order of the court, which can be enforced by imprisonment for contempt of court. The court would not grant an injunction unless it was prepared to commit anyone subject to it to prison in the event of it being breached. The court will therefore need to be satisfied before granting an injunction that the merits of the case warrant the grant of an injunction.

7. RELEVANT CONSIDERATIONS

Government guidance on enforcement

In making a decision on the exercise of enforcement powers, members need to have regard to relevant government guidance on the use of enforcement powers. A summary of the guidance is detailed below.

PPG 18 — “Guidance on Enforcing Planning Control”, reminds local authorities that the decisive issue is whether the breach of planning control would unacceptably affect public amenity or the existing use of land meriting protection in the public interest; that enforcement actions should always be commensurate with the breaches of planning controls to which they relate.

Circular 01/06 — “Planning for Gypsy and Traveller Caravan Sites” states that “the Government’s aim is to ensure that planning policies and controls are respected by all sections of the community and that where breaches occur, effective enforcement action is taken”. It reminds local authorities of their obligations under other legislation, and in particular to take into account the effects of any action on the education of children already enrolled in school, and any housing requirements.

The circular also contains the following guidance re. the European Convention on Human Rights which should be considered as an integral part of local authorities’ decision-making — including its approach to the question of what are material considerations in planning cases. LPA’s should consider the consequences of their decisions on the rights of the individuals concerned, both Gypsies and Travellers and local residents, and whether the action is necessary and proportionate in the circumstances. The obligation on public authorities to act compatibly with Convention rights does not give Gypsies and Travellers a right to establish sites in contravention of planning control.

Circular 18/94 is also relevant. Although primarily directed at the unlawful encampments and to the provisions of the Criminal Justice & Public Order Act 1994, local authorities are reminded not to use their power to evict gypsies needlessly and they should use their powers in a “humane and compassionate way, taking into account the rights and needs of the Gypsies concerned, the owners of the land in question, and the wider community whose lives may be affected by the situation”.

When deciding to evict, local authorities are reminded that they are expected to liaise with other local authorities who may have statutory responsibilities to discharge in respect of those being evicted. When deciding to proceed with an eviction, local authorities should liaise with the relevant statutory agencies, particularly where pregnant women or newly-born children are involved, to ensure that those agencies are not prevented from fulfilling their obligations towards those persons (paragraphs 12 and 13).

Further guidance on enforcement is given by the Department of Communities and Local Government publication “Guide to Effective Use of Enforcement Powers — Part 2: Unauthorised Development of Caravan Sites”:

“The planning authority’s decision on whether to take enforcement action must always be well founded. The relevant factors determining whether or not to enforce should be thoroughly assessed. The decisive issue for the planning authority to consider in each case ... when deciding whether or not to take planning enforcement action is whether the alleged breach of control would unacceptably affect public amenity, or the existing use of land or buildings, meriting protection in the public interest. Any action taken should also be proportionate to the seriousness of the breach” (Paragraphs 76 & 77). The guidance also notes that while “Human Rights considerations should not be seen as a bar to proper enforcement action” and “the Human Rights Act does not grant gypsies immunity from planning legislation”, “Local planning authorities ... when taking enforcement decisions ... must act compatibly with Convention rights”. The guidance continues:

“Taking enforcement action against a Gypsy caravan will interfere with the occupant’s Article 8 rights. The local planning authority must therefore consider human rights issues when deciding whether to take enforcement action”.

“Human Rights considerations are likely to be less of an issue where there is an alternative site for the caravan occupiers to move to.”

“One of the most important Gypsy and Traveller planning cases brought before the European Court of Human Rights, *Chapman v. UK* (2001), found that planning enforcement action potentially engages an applicant’s right to respect for their home, and also their right to family and private life. However the court also found that planning enforcement decisions generally have the legitimate aim of protecting the rights of others through the preservation of the environment, but this and other legitimate aims must be demonstrated by evidence. The court also found that whether the home was established lawfully [and] whether there is any alternative accommodation available were relevant human rights issues.”

More guidance is given in the joint ODPM and Home Office publication ‘Guidance on Managing Unauthorised Camping’. The following extract relates specifically to eviction decisions where Travellers have occupied land without the consent of the landowner. However, the same principles will apply to decisions which may or are intended to result in the removal of Traveller encampments which are established with the consent of the landowner, but in breach of planning control:

“authorities may have obligations towards unauthorised campers under other legislation (mainly regarding children, homelessness and education). Authorities should liaise with other local authorities; health and welfare services who might have responsibilities towards the families of unauthorised campers. Some form of effective welfare enquiry is necessary to identify whether needs exist which might trigger these duties or necessitate the involvement of other sectors, including the voluntary sector, to help resolve issues. The police and other public bodies who might be involved in dealing with unauthorised encampments do not have comparable duties but must still, as public servants, show common humanity to those they meet”.

“The Human Rights Act applies to all public authorities including local authorities (including town and parish councils), police, public bodies and the courts. With regard to eviction, the issue that must be determined is whether the interference with Gypsy/Traveller family life and home is justified and proportionate. Any particular welfare needs experienced by unauthorised campers are material in reaching a balanced and proportionate decision. The human rights of members of the settled

community are also material if an authority fails to act to curb nuisance from an encampment.”

The Development Plan

Policies of the development plan

East Midlands Regional Plan

P2. Promoting Better Design

P3. Distribution of New Development

P11. Development in the Southern Sub Area

P16. Regional Priorities for Provision for Gypsies, Travellers and Travelling Showpeople

P26. Protecting and Enhancing the Region’s National and Cultural Heritage

P35. A regional Approach to Managing Flood Risk

P48. Regional Car Parking Standards

North Northamptonshire Core Spatial Strategy

P1. Strengthening the Network of Settlements

P9. Distribution and Location of Development

P13. General Sustainable Development Principles

P14. Energy Efficiency and Sustainable Construction

P17. Gypsies and Travellers

Local Plan

P7. Protection of the Open Countryside

SPGs

Sustainable Design SPD

Availability of Other Traveller Sites

Section 225 of the Housing Act 2004, in conjunction with ODPM Circular 01/2006, created a statutory duty for local authorities to assess the demand for Gypsy Traveller accommodation in their area and to make provision to meet that demand through the planning process.

In Northamptonshire, the Countywide Traveller Unit coordinated a Gypsy and Traveller Accommodation Assessment (GTAA) the results of which were published in March 2008. The Final Report of the update of this assessment, covering the period of 2012-2022, has just been published (October 2011). For Kettering Borough the GTAA Update takes into account current permissions and the unauthorised developments at Greenfields and shows a need for a further 3 residential pitches to be provided by 2017, with a further 10 pitches from 2017-2022. Since March 2008 no permanent sites have been set up within the Borough.

GTAA findings across the region have been collated for the East Midlands Regional Plan adopted in March 2009. At Appendix 2 the Regional Plan identified a need for a further 2 pitches in the borough up to 2012. This figure took into account planning permissions granted since the publication of the GTAA which included 7 pitches at The Pastures (KET/2008/0397, which has lapsed and been replaced by KET/2011/0371, granted 13 October 2011), 1 pitch at Stoke Albany Road (KET/2008/0423) and 1 pitch granted at Braybrooke (Springfield’s ref KET/2007/0478).

The Government has announced its intention to withdraw Circular 1/2006. In April 2011 the Government published the 'Planning for Travellers Sites Consultation', the consultation period for which expired on 4th August 2011. The changes within this consultation document are designed to give Local Planning Authorities powers to meet site provision in the area, in consultation with the local community, to ensure greater fairness in the planning system and align policy more closely to other housing policy and be more streamlined and effective. Whilst this consultation document and Government intentions are a material consideration, Circular 01/2006 does still remain national policy and as such a greater weight should be given to this in the consideration of this report.

Since the publication of the East Midlands Regional Plan, one permanent pitch has been provided, and one further pitch has commenced but is far from completed. The remainder have not been delivered. A fresh permission for 7 pitches at The Pastures was granted by decision dated 13 October 2011. The Council is working with the land owner to achieve delivery of the site, but this is not yet certain. A further permission has been granted for a 10 pitch site near The Pastures; which permission has not been implemented and may not come forward as the owner has alternative ideas for the site. These pitches should only be counted towards meeting this outstanding need if there is a reasonable prospect that they will be delivered. Accordingly there is a need for delivery of the 7 currently permitted pitches plus 3 additional pitches, or 10 pitches in total by 2017.

The Council is currently working on identifying suitable sites for Gypsies/ Travellers based upon the local need through a Site Specific Development Plan Document.

It has been suggested that there is no need for extra pitches as there are a number of vacant pitches within authorised sites within the Borough, specifically sites at Braybrooke Crossroads and Broughton. In investigating the availability of sites, the Council has identified that for all authorised sites, with the exception of Broughton, there are no vacant pitches. At the Braybrooke crossroads some sites were unoccupied, however, this was because the occupiers were away travelling, but would be returning to the site. With respect to Broughton, of the 11 pitches, 4 are currently clearly vacant (the GTAA Update noted and took account of 5 vacant pitches). To better inform members of the extent of vacant sites, letters have been sent to the owners of all possible vacant plots in Broughton asking them to confirm if the site is vacant and if so, whether it is available for other Gypsies to occupy. No responses have been received.

Whilst it is evident from the GTAA that there is a need for additional pitches for Gypsies and Travellers in order to meet current and future need, this identified need must be balanced with other material considerations, including advice in Circular 01/2006 and policies in the North Northamptonshire Core Spatial Strategy.

Sustainability of the site

Policy 17 of the North Northamptonshire Core Spatial Strategy sets out the criteria that need to be met where a need is identified for additional accommodation for Gypsies. These criteria are set out below along with a consideration as to whether they can be met.

(a) be in accordance with the locational requirements set out in Policy 9 of the Core Spatial Strategy and should also meet the criteria set out in policy 13 of the Strategy;

Policy 9 of the Core Spatial Strategy requires that development be distributed to strengthen the network of settlements, being principally directed to the urban core, and new building development in the open countryside shall be strictly controlled. In addition policy 9 identifies that priority will be given to the reuse of suitable previously developed land and buildings within the urban area, followed by other available land in urban areas.

Policy 13 (c and k) of the North Northamptonshire Core Spatial Strategy require that developments maintain and improve the provision of accessible local services and community services and allow for travel to home, shops, work and school on foot and by cycle and public transport. Policy 13 (e) of the Core Spatial Strategy requires that developments incorporate measures to contribute to a target of 5% modal shift in developments over the plan period.

Circular 01/2006 adopts a more flexible approach to the location of Gypsy sites than policies set out in the Core Spatial Strategy. Circular 01/2006 states '*Rural settings, where not subject to specific planning constraints are acceptable in principle. In assessing the suitability of such sites, Local Planning Authorities should be realistic about the availability, or likely availability of alternatives to the car in assessing local services*'. However, the Circular does clearly state that in deciding where to provide for Gypsy and Traveller sites, Local Planning Authorities should first consider locations in or near to existing settlements with access to local services including shops, doctors and schools.

The Greenfields site is located within the open countryside. However an important consideration is how the site performs in terms of sustainability and this is explored below.

(b) not be within an area designated as environmentally sensitive

The site is not located in an area designated as environmentally sensitive. The impact of the development on the landscape is considered under 'Landscape Implications'.

(c) should be closely linked to an existing settlement with an adequate range of services and facilities in order to maximise the possibilities for social inclusion.

The closest settlement to the site is Braybrooke village, which is approximately 1.5 miles from the site and provides very limited local services in the form of a primary school, a public house and a church. Braybrooke is accessed from the application site via Braybrooke Road and Griffin Road, both of which are single track roads, with no pavements. Whilst this distance is walkable, given the nature of the road, it is considered unlikely that it would be an attractive option for occupants of the site to walk or cycle into Braybrooke on a regular basis. Desborough is the closest town to the application site which provides for a better range of facilities, including shops, doctors, community facilities and leisure centre. The application site is located approximately 2.3 miles from the centre of Desborough and roads are also narrow and fast moving with no pavements. Given the distances involved and the nature of the roads, many

being single track, walking or cycling is unlikely to be an option. There is no public transport service available near the site, further increasing the reliance of occupants of the site on the private car.

In considering sustainability, Circular 01/2006 makes it clear that distance from services is not the only consideration. Consideration also need to be given to the promotion of peaceful and integrated existence between the site and the local community; the wider benefits of access to a GP and School, the benefits a settled base has in reducing the need for long distance travelling and not being located in an area at a high risk of flooding.

A number of concerns have been raised that there is an over concentration of sites in the north of the Borough and particularly in the Braybrooke area and that this is an issue in the community. In respect of health and education, the Supporting Statement submitted with one of the recent planning applications stated that the occupants of the site have previously used roadside sites but find this lifestyle increasingly difficult and impractical and now need a more settled base to which they can regularly return. The Statement emphasised the need to be near a doctor's surgery for which they are registered, as two members of the family are asthmatic, one lady was pregnant and the youngest child of another family needs to receive immunisations, particularly in respect of measles for which there was an outbreak in the Gypsy Traveller community in July 2010. The importance of having access to education is the second main justification put forward. An extract of a report published by the Government in 2003 was included within the statement which stated that Gypsy Traveller children are the most at risk in the education system. The health and education benefits of the development are relevant matters to be considered.

In conclusion the site is located in an unsustainable location within the open countryside and occupiers of the site will be reliant on the private car to access local services and facilities in Braybrooke and Desborough. Whilst Circular 01/2006 states that Local Planning Authorities should be realistic about the likely alternatives to the private car, this site provides no other options at all. The development is thereby contrary to the requirements of policy 13 c, e, k and policy 17 of the North Northamptonshire Core Spatial Strategy. Although more sustainable sites are not available to the Council at the present time, it is likely that other will come forward as part of the Site Specific Development Plan Document. Likewise, there has been no confirmation of unavailability of the unoccupied pitches at Broughton, and this could be an avenue available to the site occupants.

Landscape Implications

Policy 13 (o) of the North Northamptonshire Core Spatial Strategy requires that developments conserve and enhance the landscape character, historic landscape, designated built environment assets and their settings and biodiversity of the environment making reference to the Environment Character Assessment and Green Infrastructure Strategy. PPS1 and PPS7 state that planning authorities should continue to ensure that the quality and character of the wider countryside is protected and where possible enhanced. PPS1 also states that where design is inappropriate in its context, or fails to take the opportunities available for improving the character and quality of an area, it should not be accepted.

The site meets the requirement of policy 17 (b) of the Core Spatial Strategy as it is not located within an area designated as environmentally sensitive.

The wider landscape character of the area has been identified by the Northamptonshire Environmental Character Strategy as falling within the West Northamptonshire Uplands. This landscape has a gently hilly character with long local views that are criss-crossed by a regular pattern of hedgerows. The scarcity of settlements combined with the infrequency of isolated farms and cottages gives the landscape a remote and sometimes isolated character, with expansive views and a sense of openness prevailing on elevated land. Land cover is primarily improved agriculture, with arable and pastoral farming creating an attractive patchwork rural landscape. The key issues for this landscape are the conservation and enhancement of viewing opportunities across the landscape and the retention of the patchwork of arable and pastoral uses.

The site comprises a large number of plots, generally each of 0.2-0.4ha in area, and in separate ownerships. Many of the plots remain as unenclosed grassland, while others have been fenced, hardcore laid, timber buildings erected in a variety of sizes and styles, and caravans, ranging from small tourer vans to holiday type static caravans, have been stationed on the land. Where these are being used for residential purposes they include the range of domestic paraphernalia, washing lines, generators, portable toilets, play equipment, domestic planting, lighting, cars and vehicles, that are normally associated with residential use. These physical alterations and the resultant loss of pasture land do compromise the characteristics of the landscape as identified above. The site is within a prominent location within the landscape being on higher ground and has a zone of visual influence from the site boundary of up to 2.5km. The site is fully visible from the surrounding area and particularly from the footpath that runs to the north of the site and from Braybrooke Road to the south as well as from the A6; the views of which into the open countryside is an important part of the landscape character of the area. Little can be done in terms of landscaping mitigation measures as screen planting would not disguise this development without creating a landscape that was equally incongruous.

Any residential occupation of the land inevitably results in lighting on the site which will be visible in the landscape after dark and this itself represents an alien feature within the landscape. In the absence of planning permission, it is not possible to control the extent of lighting or mitigate its effects. Likewise, the hard standings and fencing introduce urban features into a rural landscape, while the accumulation of signs, bins and post boxes to be found at the site entrance draw attention to the non agricultural use of the site.

In conclusion, the development has introduced alien features into a prominent landscape to the detriment of the character of the area which has an otherwise relatively consistent composition of fields dissected by watercourses, hedgerows and hedgerow trees. The development undermines the wider objectives set out in the Northamptonshire Environmental Character Strategy and is contrary to the requirements set out in policy 13(o) of the North Northamptonshire Core Spatial Strategy and advice contained in PPS1, PPS3 and PPS7.

Impact on Residential Amenity

Policy 13(l) of the North Northamptonshire Core Spatial Strategy requires that developments do not result in an unacceptable impact on the amenities of neighbouring properties or the wider area, by reason of noise, vibration, smell, light or other pollution, loss of light or overlooking.

The site is located in an isolated position and whilst the site can be seen from nearby dwellings, there is sufficient separation distance not to result in any adverse noise or disturbance, overshadowing or loss of privacy.

In conclusion, it is considered that the developments do not adversely impact on the residential amenity of occupants of nearby dwellings and as such the developments do not conflict with policy 13(l) of the North Northamptonshire Core Spatial Strategy.

Highway Safety Implications

Policy 13(d) of the North Northamptonshire Core Spatial Strategy requires that developments have a satisfactory means of access and provide for servicing and manoeuvring in accordance with adopted standards.

Vehicular access to the site from Braybrooke Road is gained via a field entrance to the south of the site. Enforcement action has been taken in respect of the making up of the track into the site and this is currently suspended pending the outcome of an appeal. The Highway Authority would require some form of widening of the access, both within the highway and within the boundary of the site; hard surfacing for part of the access, and provision of visibility splays. These works would further highlight the presence of the development within the landscape.

In the absence of these improvement works the development is contrary to the requirements of policy 13(d) of the North Northamptonshire Core Spatial Strategy.

8. Expediency of Action

PPG18 (supported by advice in Circular 10/97) advises how local planning authorities should determine whether or not it is expedient to take enforcement action in respect of a breach of planning control. In particular it advises “*..the decisive issue for the local planning authority should be whether the breach of control would unacceptably affect public amenity or the existing use of land or buildings meriting protection in the public interest*”.

It is considered that when taken either individually or cumulatively, the unauthorised developments on the site do have an unacceptable adverse impact which conflicts with the Development Plan but this will need to be balanced against all of the competing issues (as set out above) on a case by case basis before any enforcement action is authorised.

9. Financial Considerations

The costs of issuing enforcement notices and dealing with subsequent appeals etc. is part of the general costs of the provision of the Development Services function. The costs would rise significantly if there were a need to take further action such as seeking High Court injunctions or undertaking works in default. Although the Council is entitled

to recover costs from the land owners, or place a charge on the Land Charges register, it is likely that the cost of such works, which would require the services of a specialist contractor, experienced and equipped to deal with such matters, would exceed the value of the land. It is possible therefore that the cost of enforcing the notices may not be recovered. That cost would have to be found by the council.

Background Papers:

Title of Document:

Date:

Contact Officer: Dean Baker

Previous Reports/Minutes:

Ref:

Date: