

## BOROUGH OF KETTERING

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|--------------------------|---|-------------------------|----------------|
| <b>Committee</b>         | <b>Planning Committee</b>   | Item<br>6.3             | Page<br>1 of 3 |
| <b>Report Originator</b> | Dean Baker  | ENFO/2011/00232         |                |
| <b>Wards Affected</b>    | WELLAND   | Date 8 November<br>2011 |                |
| <b>Title</b>             | Authorisation for Planning Enforcement Action at Plot 6<br>Greenfields, Braybrooke Road, Braybrooke |                         |                |

### 1. **PURPOSE OF REPORT**

To seek authorisation to issue an Enforcement Notice in respect of unauthorised development at Plot 6, Greenfields, Braybrooke Road, Braybrooke, shown in bold outline for identification purposes on the site plan attached to this report.

### 2. **BREACH OF PLANNING CONTROL**

Without planning permission, the making of a material change of use from agricultural land to a mixed use for agriculture and for the storage of plant, equipment, tractors, pallets, reclaimed timber, metal fencing, gates, gas cylinders and miscellaneous items of agricultural equipment and scrap materials. Also, as part of the material change of use, the erection of fencing and gates, the deposition of hard core to form areas of hard standing and an access track, together with the creation of an enclosed compound measuring approximately 26 metres by 13.5 metres and 2.6 metres in height, constructed of lorry backs, portable buildings, industrial storage containers and solid metal fencing, all being physically joined together.

### 3. **RECOMMENDATION**

That in respect of the breach of planning control described above, the Head of Development Services be authorised to issue an Enforcement Notice pursuant to section 172 of the Town and Country Planning Act 1990 (as amended) requiring the steps to be taken within the specified time periods; and for the reasons which are set out below:

#### 3.1 **Steps to be Taken**

1. Cease the use of the land for the storage of salvaged building materials, plant, equipment, tractors, pallets, reclaimed timber, metal fencing, gates, gas cylinders and miscellaneous items of agricultural equipment and scrap materials and all other materials brought onto the land in connection with the unauthorised use and permanently remove all such materials from the land.  
Compliance period: 6 months from the date the notice takes effect
2. Permanently demolish the compound and remove from the land all lorry backs, portable buildings, industrial storage containers and solid metal fencing and vehicles brought onto the land in connection with the unauthorised use.  
Compliance period: 6 months from the date the notice takes effect

3. Take up and permanently remove from the land all hard core, road planings and other such materials deposited in and on the land and forming areas of access track and hard standing.  
Compliance period: 6 months from the date the notice takes effect
4. Remove from the land all materials and rubble arising from compliance with requirements (1) (2) and (3) above, and restore the land to its condition before the breach took place by levelling the ground and re-seeding it with grass seed, leaving it in a condition suitable for agricultural use.  
Compliance period: 8 months from the date the notice takes effect

### 3.1 Reasons For Issuing the Notice

The breach of planning control has occurred within the last ten years. The change of use has introduced a substantial amount of non-agricultural storage activity onto the land together with physical alterations to the land, and the creation of a large compound constructed from lorry backs and portable buildings, all of which result in an incongruous and intrusive feature adversely affecting the character and appearance of the agricultural field and the surrounding open countryside. The development, by virtue of its scale, design and location, results in an unjustified and incongruous land use within the landscape, thereby harming the character and appearance of the countryside in conflict with the aims and objectives of Policy 13(o) of the North Northamptonshire Core Spatial Strategy.

Saved Policy 7 (Environment: Protection of the Open Countryside) of the Local Plan for Kettering Borough states that planning permission for development in the open countryside will not be granted except where otherwise provided for in the plan.

The Council considers that planning permission should not be given, because planning conditions could not overcome these objections to the development.

## 4. INFORMATION

### **Site Description**

This report relates to a parcel of the land referred to in item 6.1 on this agenda, to which reference should be made. The site, which is identified by black outline on the plan attached at Appendix 1, extends to approximately 0.4ha (not including the shared access route). The site is bounded by post and wire fencing on all sides and, to all intents and purposes, is sited in the middle of an open field, in close proximity to the highway boundary and field access. Prior to the development the site was used for grazing.

The developer is a long standing resident in Braybrooke village.

### **Planning History**

The site was developed in the summer of 2006 and, following investigation of the matter, the Local Planning Authority responded by issuing an enforcement notice in April 2007. The notice has not been complied with and remains extant.

There is an extant enforcement notice (2001) in respect of the use of the land for the keeping of horses and the siting of caravans for residential occupation, although it is not directly relevant to this development.

## **5. APPRAISAL**

The extant notice is capable of being enforced although it was issued in a different policy environment. An appeal was lodged against the notice but was out of time and turned away by the Planning Inspectorate. The Council has considered a direct action on the land but the estimated cost was significantly more than the value of the land, such that it would have been unlikely to recover the costs. If the site were to be cleared contemporaneously with other unauthorised development, then there could be an economy of scale to be made.

Prosecution is an option, although it would not directly result in compliance with the notice. It is still open to the Council to prosecute for the s.179 offence of failure to comply although the court may seek to question why there has been a delay. In other cases the court has apparently seen delay as a criticism of the Council and sentencing has been reduced accordingly.

It is considered that while actions on other sites are being contemplated, consideration of new enforcement action on this site would provide the best opportunity to ensure that any action is based upon the present circumstances, relates to the current unauthorised development and is determined in the current policy framework. This should ensure that, if enforcement action is taken, it will be the most resistant to any subsequent appeals or other actions and would therefore stand the greatest prospect of success.

It is considered that the unauthorised development has an unacceptable adverse impact which conflicts with the Development Plan and therefore it is recommended that enforcement action be authorised.

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#### Background Papers:

Title of Document:

Date:

Contact Officer: Dean Baker

#### Previous Reports/Minutes:

Ref:

Date: