

BOROUGH OF KETTERING

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Report Originator	Carol Robinson/Dean Baker, Senior Development Officer	<i>Fwd Plan Ref No:</i> ENFO/2010/00257	
Wards Affected	Slade	27 th March 2012	
Title	Authorisation for Planning Enforcement Action at 23 Loddington Road, Cransley		

1. **PURPOSE OF REPORT**

To seek authorisation to issue an Enforcement Notice in respect of unauthorised development of a concrete pad / hard standing at land to the rear of 23 Loddington Road, Cransley, shown in bold outline for identification purposes on the site plan attached to this report.

2. **BREACH OF PLANNING CONTROL**

Without planning permission, operational development consisting of the installation of a concrete pad / hard standing has taken place.

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 step(s) to be taken within the specified time period(s); and for the reason(s) which are set out below:

3.1 **Steps to be taken**

1. Take up and permanently remove from the land all hardcore, concrete surface material and other such materials deposited in and on the land and forming the hard surface
Time for compliance: 3 months
2. Remove from the land all building materials and rubble arising from compliance with requirement (1) above, and restore the land to its condition before the breach took place by levelling the ground and re-seeding it with grass
Time for compliance: 4 months

3.2 **Reasons for issuing the Notice**

The development in question was substantially completed less than four years ago. The encroachment into the open countryside of a development with no

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agricultural or other justification is unacceptable and as such the unauthorised development conflicts with the aims and objectives of the following planning policies:

- (i) National Policies contained within PPS1 and PPS7
- (ii) Saved Policy 7: Protection of the Open Countryside of the Local Plan for Kettering Borough.
- (iii) Policy 13(o) of the North Northamptonshire Core Spatial Strategy

National planning policy seeks to promote the sustainable use of land and buildings, emphasising a presumption against new development in the open countryside, except in exceptional circumstances (PPS7 Objective 2 and paragraph 10).

This presumption is reflected and reinforced in the development plan, specifically Saved Policy 7 of the Local Plan which states that “*planning permission for development within the open countryside will not be granted except where otherwise provided for in this plan*”.

CSS Policy 13 generally requires that development should meet the needs of residents and businesses without compromising the ability of future generations to enjoy the same quality of life that the present generation aspires to; and specifically at 13(o) aims to conserve and enhance the intrinsic quality of the open countryside.

The development that has taken place on this site does not fall within the exceptions to these national and local policies and, as such, it conflicts with their aims and objectives.

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

4. **INFORMATION**

4.1 Site Description

The land to the rear of the property is agricultural and is used for the grazing of animals. Whilst it is directly abutting the rear boundary of 23 Loddington Road, Cransley it is not within its residential curtilage although planning permission was granted in 1986 for the erection of stable within the curtilage of the dwelling, which was built and then enlarged beyond the curtilage, some time after this but not within the last 4 years.

The concrete pad abuts the stable and is clearly in use to facilitate the feeding and welfare of the horses.

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4.2 Planning/Enforcement History

The Council was in receipt of a complaint in September 2010 that a concrete base was being installed at the above site.

Officers visited the site and spoke with the owner who asserts that the keeping of horses has taken place on the land since 1989. However, he declined to apply for a Certificate of lawful use in respect of this or to apply for planning permission for the concrete pad.

A Planning Contravention Notice was issued in April 2011 and duly returned confirming that the concrete pad was installed in September 2010 but making no offer to apply for planning permission or giving any plausible reason why permission would not be required.

5. **PLANNING POLICY**

5.1 National Policies

PPS1 : Delivering Sustainable Development
PPS7: Sustainable Development in Rural Areas
PPG18: Enforcing Planning Control
Circular 10/97: Enforcing Planning Control - Legislative provisions and procedural requirements

5.2 Development Plan

Local Plan for Kettering Borough (LPKB)

Saved Policy 7: Protection of the Open Countryside

5.3 North Northamptonshire core Spatial Strategy (CSS)

Policy 13(o): General Sustainable Development Principles

5.4 Supplementary Planning Documents

None

6. **APPRAISAL**

6.1 The development of the concrete pad is considered to be an unacceptable intrusion into the open countryside without justification. It appears as an extension to the existing (enlarged) stable thereby giving the appearance of an extension to the residential curtilage.

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- 6.2 The approximate size of the unauthorised development is 7 metres long and 5 metres wide at the widest point and 3 metres wide at the narrowest point giving an approximate overall area of some 25 square metres.
- 6.3 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”*.
- 6.4 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 is authorised.

7. HUMAN RIGHTS IMPLICATIONS

Service of an enforcement notice in this instance is not a breach of the property owner’s human rights. Whilst it does affect their property rights they will have an opportunity to challenge the decision by way of an appeal against the enforcement notice and that provides adequate safeguards in accordance with the Human Rights Act 1998 incorporating the European Human Rights Convention.

Background Papers:

Title of Document:
Date:
Contact Officer:

Previous Reports/Minutes:

Ref:
Date: