



SHEFFIELD CITY COUNCIL Planning & Highways Committee Report

Report of: Director of Regeneration & Development
Services

Date: 1 April 2014

Subject: Unauthorised siting of 2 caravans and 4 Metal Containers on land at Oak Lodge Farm Livery Yard, Thompson Hill, High Green Sheffield S35 4JT

Author of Report: Brendan Gillespie

Summary:

The purpose of this report is to inform Members of a breach of a planning control and to make recommendations on any further action required.

Recommendations:

That authority be given to the Director of Regeneration & Development Services or the Head of Planning to take all necessary steps, including enforcement action and the institution of legal proceedings, if necessary, to secure the removal of the unauthorised caravans and containers within the land site of the property.

The Head of Planning is delegated to vary the action authorised in order to achieve the objectives hereby confirmed, including taking action to resolve any associated breaches of planning control

Background Papers:

Category of Report: OPEN

ENFORCEMENT REPORT

UNAUTHORISED SITING OF 2 CARAVANS AND 4 METAL CONTAINERS ON LAND, OAK LODGE FARM LIVERY YARD. THOMPSON HILL, HIGH GREEN

1. PURPOSE OF THE REPORT

The purpose of this report is to inform Board Members of a breach of planning control and to make recommendations on any further action required.

2. BACKGROUND

- 2.1 Oak Lodge Farm lies within the Green Belt between the busy A61 Westwood New Road and housing at Oak Lodge Road, which is at the western edge of High Green. Houses at Oak Lodge Road and Thompson Hill overlook the site.
- 2.2 The Council received a complaint in June 2012 that 2 residential caravans had been put on the land where a recent application for a telecommunications mast had been submitted. It was alleged that the new occupier of the farm had been living in one of the caravans with his family. The complainant also mentioned that a container/cabin had been placed on the land containing a toilet and was concerned over the health and hygiene aspects of this development.
- 2.3 A further complaint was received in October 2012 regarding the piling of a large amount of tyres and their use as a manure store on the land. As well as being unsightly from the busy adjacent highway, it was considered by the complainant to be an unacceptable use of the land within a Green Belt area.
- 2.4 Following advice from officers from the Environment Agency and the Council's Planning Service, the occupant firstly moved the tyre stack away from a stream running through the land, to the western part of the site, however after further complaints were received, alleging the tyres could still be seen from the road, the occupant agreed in a meeting on 11th April 2013 to plant a screening hedge and also gradually remove the tyres altogether from the site within the next 2 years.
- 2.5 During this time a number of meetings were arranged with the occupant to try and establish the current use of the land and the

situation regarding the siting of the caravans, the containers and the reasoning behind the tyres being stored on the land. Officers were finding it increasingly difficult to gain sufficient information during these discussions to form a clear judgment on the use of the land and how long the caravans and containers had been sited within it.

- 2.6 On 27th March 2013 a Planning Contravention Notice (PCN) was sent to both the owner, as identified from Land Registry Records and the current occupier of the land, to ascertain further relevant information.
- 2.7 On 11th April a meeting was arranged to discuss the Planning Contravention Notice with the owner, the land occupier, and their solicitor. Unfortunately, the current land occupier refused to answer any of the questions within the PCN at this time because the address on it was incorrectly named, even though Officers offered to correct the incorrect page and reissue it accordingly. Further discussions about the disposal of the tyres from the land then ensued and the meeting ended with the occupant and the owner of the land, agreeing to take a further PCN away with them and returning it within the stipulated 21 days, with a further meeting arranged for the 24th April, if they required it.
- 2.8 On the 24th April the occupant and the owner who was also living on the site, returned to the town hall for their PCN meeting as arranged. Officers went through each question of the PCN with the owner and occupant, and the reason for asking it and duly read back to the parties each answer they had given.
- 2.9 At this point, the merits of the possibility of a certificate of lawful use application for the use of the land and the siting of the green container unit stationed on it were discussed. Following which an application pack was taken away along with the 2 PCNs which the parties again, did not want to submit at this time.
- 2.10 On the 1st May the land occupier brought in his, and his partner's copies of the PCNs, together with a package of documents, that were photocopied and signed for, in his presence, by the receiving officer.
- 2.11 Assessment of the information received established that it contained mostly evidence and information the Council already held regarding the planning history of the land and the information that the Council had sent to the Occupier in response to a recent Subject Access Request.
- 2.12 Officers were able to establish from the information gathered and knowledge of the site that the continued use of the land as a Livery Yard and Stables, although much more intensified in its operation from the original planning permission granted on appeal in 1988, was acceptable. However, Officers were still unable to establish fully how long the first caravan had been used on the land, what other buildings and container units were situated within the land and their respective uses within it.

- 2.13 In June 2013 a further complaint was received regarding a further large container trailer unit situated on the land, which was being used as a workshop and the resulting noise suffered by the neighbours because of it. It was alleged that barns were being converted and a poly tunnel had recently been erected without planning permission.
- 2.14 The occupier of the land then contacted the Planning Department requesting planning advice on proposals he has for building new stables on the land. A meeting was arranged to meet him on site with a Principal Planning Officer but it was pointed out that the outstanding unauthorised containers and caravans still on site, would also have to be addressed.
- 2.15 On the 8th October 2013 Officers were escorted around the site by the owner and the land occupier. Discussions centred around the continued use of the land as a Livery Yard and their desire to build further barns/stables that would enable all the unauthorised containers to either be removed or, if needed, moved within the barns. The unauthorised containers and caravans were listed and pointed out to the occupier and the owner, and it was agreed that following their return from holiday, their appointed Planning Consultant would contact the Council, to formulate their proposals. They also agreed to provide written evidence on their return, aiding the investigation, and proving how long both the caravans have been in place and used on the land.
- 2.16 Despite numerous emails, letters and requests since this meeting, no further information has been received from the owner, occupier or their representatives, and to all intents and purposes the unauthorised use of the caravans and containers on the land for residential purposes and storage is continuing unabated.

3. ASSESSMENT OF THE BREACHES OF CONTROL

- 3.1 Oak Lodge Farm lies within the Green Belt between the busy A61 Westwood New Road and housing at Oak Lodge Road, which is at the western edge of High Green. Houses at Oak Lodge Road and Thompson Hill overlook the site.
- 3.2 The Council's policies for development in the Green Belt are contained in the Sheffield Unitary Development Plan (UDP). Policies GE1, GE2, and GE4 of the UDP are relevant. Policy GE1 states that development will not be permitted where it would lead to unrestricted growth of the built up area, contribute towards merging of existing settlements, lead to encroachment of urban development in the countryside or compromise urban regeneration. Policy GE2 seeks the protection and improvement of the Green Belt landscape. Policy GE4 requires the scale and character of any development to be in keeping with the area and, wherever possible conserve and enhance the landscape and natural environment. The Government planning policy guidance is contained within National Planning Policy Framework (NPPF).

- 3.3 From the information available it is not clear how long the first caravan has been sited within the land. It has been established that the second caravan was brought onto the land by the current occupiers in 2012 and has been used by staff working on the site for providing tea making facilities and temporary shelter. Investigations have failed to ascertain how long the first caravan currently being occupied by the owner's family has been in position and used for residential purposes there.
- 3.4 The NPPF (paragraph 87) states that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. The creation of a dwelling with a residential curtilage is inappropriate development in the Green Belt.
- 3.5 The appearance, design and siting of the metal containers at this location is not in keeping with the character and appearance of this part of the Green Belt and their retention would be contrary to policy GE2 and GE4 of the Sheffield Unitary Development Plan.
- 3.6 The siting of the metal containers in close proximity to the rear garden boundary of adjacent residential properties is considered to cause unacceptable harm to the visual amenities of the locality and the living conditions of nearby residents

4. REPRESENTATIONS

- 4.1 A total of 4 named local residents have submitted complaints to the enforcement team regarding the caravans and the unauthorised containers in use on the land.

5. ASSESSMENT OF ENFORCEMENT OPTIONS

- 5.1 Section 171C of the Town & Country Planning Act 1990, ('the Act') provides for the service of a Planning Contravention Notice, (PCN). It requires information about the breach of control and property ownership. It also gives an opportunity to meet with officers to make representations. In this case a notice was served on the landowners to establish the exact use of the land, and to ascertain how long the caravans and containers had been in place, and what they were needed for. The Notice was returned together with partial information regarding the recent history of the land. Remedies have been discussed but negotiations have not resolved the harm.
- 5.2 The questions in the PCN relating to the length of time the first caravan had been on the site were not adequately answered. The occupiers have had their attention drawn to the possibility of submitting a Certificate of Lawful Use or Development application (CLUD) but have not submitted one. As apparently used as a dwelling, the use of the first caravan would be lawful after 4 years continuous use. Because of not answering all the questions in the PCN it would be possible to prosecute for non-compliance with the PCN. However, given the harm and the 4 year time limit, it is recommended that an Enforcement

Notice be served. This doesn't prevent the occupier submitting a CLUD if they feel it is appropriate.

- 5.3 Section 172 of the Act provides for the service of an enforcement notice, (EN). In this case such a notice would require the removal of the caravans, and the metal containers from the land.
- 5.4 Section 183 of the Act provides for the service of a Stop Notice. In this case such a notice could be used to stop the use of the caravans and containers almost immediately. It is not considered to be appropriate in this case as a reasonable amount of time should be given for the occupiers of the caravan to organise alternative accommodation or to be towed to an alternative authorised caravan pitch, and taking into account the level of harm and business needs. The compliance period in an enforcement notice would take this into account.

6. EQUAL OPPORTUNITIES

- 6.1 There are no equal opportunity implications arising from the recommendations in this report.

7. FINANCIAL IMPLICATIONS

- 7.1 There are no additional financial implications expected as a result of this report. If an appeal is made against the enforcement notice, costs can be made against the Council if it is shown that they have behaved "unreasonably" in the appeal process, it is unlikely that this will happen in this case. However, in the unlikely event compensation is paid, it would be met from the planning revenue budget.

8 HUMAN RIGHTS ACT 1998

- 8.1 The proposed enforcement action will mean the removal of somebody's living accommodation. Members will need to consider the following:

- 8.2 Article 8 of the Act refers to the Right to respect for private and family life. Everyone has the right to respect for his private and family life, his home and his correspondence.

- 1 There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 1 (First Protocol)

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law.

- 8.3 The proceeding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

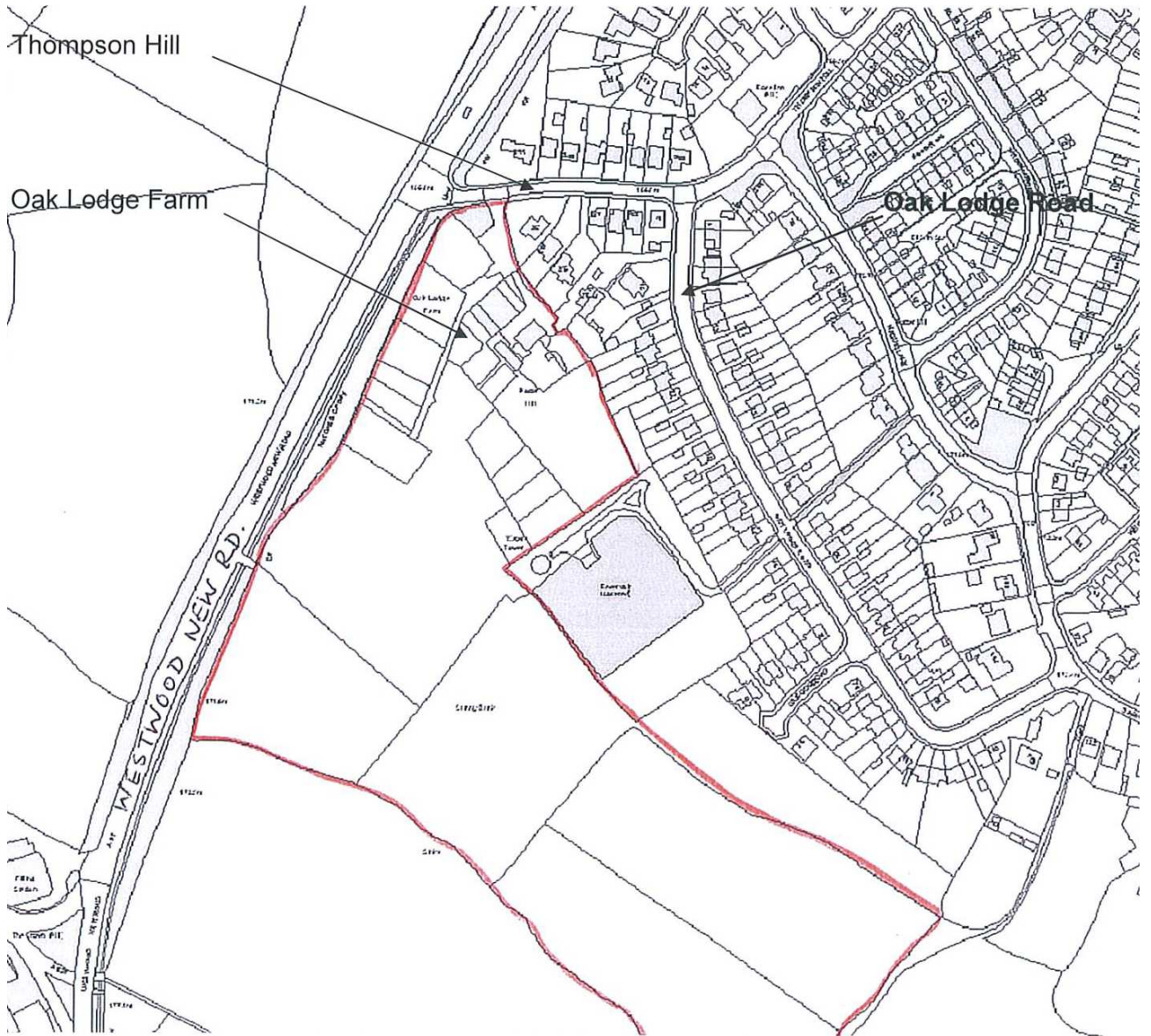
The rights protected by Articles 8 and 1 (First Protocol) in the 1998 Act are qualified in terms of restrictions imposed in the public interest. In this case the interference with the rights of any occupiers of the building is in accordance with planning law and is legitimate and proportionate to the breach of planning control. The use for siting a caravan as a dwelling is only possible due to unauthorised development contrary to planning policies set out in this report.

- 8.4 As previously stated, the use of the land for the siting of caravans is unacceptable development in this Green Belt area. It is therefore in the wider public interest to ensure that the unauthorised development is removed; interference with the occupiers Human Rights is necessary and justified because the surrounding environment is not acceptable for residential use.

9 RECOMMENDATION

- 9.1 That the Director of Development Services or Head of Planning be authorised to take any appropriate action including, if necessary enforcement action and the institution of legal proceedings to secure the cessation of the use of the land for stationing caravans for residential accommodation and provision of welfare facilities, their removal and for the removal of the unauthorised containers also sited within the land.
- 9.2 The Head of Planning be delegated to vary the action authorised in order to achieve the objectives hereby confirmed, including taking action to resolve any associated breaches of planning control.

Site Plan



Maria Duffy
Interim Head of Planning

20 March 2014