



SHEFFIELD CITY COUNCIL Planning & Highways Committee

Report of: Director of Regeneration and Development Services

Date: 16 June 2015

Subject: New Age Travellers site, Wallace Road

Author of Report: John Williamson

Summary:

Land at Wallace Road has been occupied by New Age Travellers since 2005 and has gradually extended in area. Soon it may be possible to claim a residential use for part of the site as occupation has taken place on part of the land for almost 10 years. Town Planning powers could be used to regain possession of the land but, as the Council is the landowner, the success of any action could ultimately revert to it to use whatever means it has to comply with any notice served. As the Council has the means to take back the site without resorting to Planning Enforcement, it would not be appropriate to use these powers

Recommendations:

As the Council has the power to gain possession of the land without resort to Planning powers, it is recommended that Members confirm that Planning Enforcement Action not be taken at this time.

Background Papers: None

Category of Report: OPEN

NEW AGE TRAVELLERS ENCAMPMENT
WALLACE ROAD, SHEFFIELD

1.0 PURPOSE OF REPORT

- 1.1 The purpose of this report is to inform the Committee of a breach of planning control and to set out the options available to remedy the breach

2.0 BACKGROUND

- 2.1 The land the subject of this report is an area along Wallace Road and partly along Pickering Street within the Parkwood Springs area. The land was cleared of housing in the mid 1970's and is in the ownership of the City Council
- 2.2 The area takes its sole access through a narrow railway arch at the end of Bardwell Street in Neepsend. The disused Sheffield Ski Village was also accessed through this and is located just north east of the land in question.
- 2.3 The land was cleared of unauthorised occupation in 2005 but since then, occupation by New Age Travellers (NATS) has incrementally increased over time
- 2.4 As the NATS have been on site since 2005, there is a concern that there is the potential for residential use to become authorised under Town Planning legislation and potentially adversely affect the Parkwood Springs Regeneration Masterplan that is being prepared for the future use of the Parkwood Springs area.
- 2.5 The purpose of this report is to advise Members of the potential impact of a residential use becoming immune from Enforcement Action and the appropriateness of using Planning Enforcement powers to clear the land of occupation in light of any other powers open to the Council and to make a recommendation as to whether or not such enforcement powers should be used in this instance.

3.0 THE BREACH OF PLANNING CONTROL

- 3.1 The land has been vacant since clearance works were carried out in the mid 1970's. The unauthorised use of the land by a travelling family was ended by eviction in 2005 and the land was cleared. Since then, the use of the site by NATS has begun and has grown incrementally until there is now a population of approximately 47 households. The exact number of people residing here is

not known as the residents are transient and will leave to search for work in other areas of the country.

3.2 There have been no planning permissions granted solely for this specific area of land although it was included within the overall site of an application for the large scale expansion of facilities of the disused Ski Village. As Members are aware, this never materialised

3.3 The use of the land as a site for NATS is therefore unauthorised

4.0 IMPLICATIONS OF THE CONTINUING USE OF THE LAND FOR NATS

4.1 There has been a concern expressed that the site will become lawful under Planning law, if it can be shown that the site has been occupied for 10 years continuously, without break. (the 10 year rule)

4.2 This is not considered to be an impediment to the regeneration of the site. The 10 year rule will only apply to the area of land that has been continuously occupied for the 10 year period. As the site has grown over time, it is highly unlikely that any significant part of the site has been occupied for that length of time. In addition, it is for the person(s) who apply for a Certificate of Lawful Use to provide the information that will prove, on the balance of probabilities, that such occupation has taken place and for that period of time, it is not for the Local Planning Authority to disprove.

4.3 The site is also close to industrial uses and in particular, close to a gasholder. As a result, the Health and Safety Executive have set out an area of concern where residential uses would not be acceptable due to the proximity of this. There is a possibility that this could be removed in the future, but at present it remains in situ and the land in question lies within this area..

4.4 The Council is currently working on the Parkwood Springs Regeneration Masterplan which is seeking to create an attractive “Country Park in the City” and elevate Parkwood Springs as a recreational hub for the City’s outdoor Economic Strategy and attract leisure and recreational attractions on a part of the area. The continued use of the land at Wallace Road would greatly restrict opportunities in this part of the site

4.5 In Planning Policy terms the site running from Vale Road to the east, over Pickering Road and to Wallace road in the west is identified as a Business Area in the Unitary Development Plan surrounded on three sides by the Open Space Area and to the south east by a Fringe Industry and Business area. So the use would be contrary to policy.

4.6 The site itself is isolated and not readily accessible to all traffic due to the access being via a low, narrow archway under the railway line. It is a substantial distance from any supporting facilities and so cannot be considered to be in a sustainable location for a residential use.

5.0 REPRESENTATIONS

- 5.1 Four letters have been received from the same person pointing out the use of the land by NATS and asking what action is to be taken

6.0 ASSESSMENT OF ENFORCEMENT OPTIONS

- 6.1 As the use of the land is a continuing use, the most appropriate powers that could be used are a Temporary Stop Notice and an Enforcement Notice coupled with a Stop Notice.
- 6.2 A Temporary Stop Notice (TSN) can now be used against caravans that are used as main residences and would apply for 28 days during which time an Enforcement Notice and Stop Notice should be served. A TSN would normally be used to stop quickly, new sites from developing or extending, In this case, the site has been in use for some time and only gradually expanding so a TSN followed by an Enforcement Notice, as explained below, is not considered appropriate.
- 6.3 An Enforcement Notice (EN) can be served and where the continuation of the use would create further harm, a Stop Notice (SN) can also be served. These would need to be served on individual Travellers and also on the landowner (the Council). This presupposes that it would be possible to obtain individual names and that individual Travellers would not leave and be replaced by other Travellers in the time before the EN and SN came into force. It is possible to serve a notice on "the occupiers" of land if individuals could not be identified. If the Travellers did not comply with the notices, the onus would fall back onto the landowner. In this case, this would be the Council.
- 6.4 It is also the case that an EN can be appealed before it comes into force and so, could take a significant amount of time to come into force, were the Inspector were to dismiss any appeal.
- 6.5 In any appeal, there is a defence for the landowner. This is to show that they have taken all reasonable steps to secure compliance with the EN. This would mean that the Council would have to take its own action to remove the NATS from the site to show this.
- 6.5 A SN can be served with an EN to ensure the cessation of a use causing serious harm. In this case, the continued use of the land is not, in itself causing immediate harm. The harm is to the future prospects for the land so a SN is not considered appropriate.
- 6.6 A Planning Injunction could be sought but this again would have to be taken out against "persons unknown". If using this course of action, the essential test for the Court to consider is whether there would be any other actions available, short of an injunction, which would be able to restrain the breach of the law. In this case, it would be difficult to pass this test as the Council has the option as landowner, to take possession proceedings.

7.0 OTHER OPTIONS

- 7.1 As mentioned in 6.6, a further option open to the Council is to use its powers as landowner to take possession. A precedent has already been set for this with the successful action being taken in 2005.
- 7.2 As actions under The Town and Country Planning Act will ultimately lead back to the landowner having to take action to remedy the breach should the NATS not comply with any actions and, as the Council as landowner having the ability to undertake possession proceedings, it would seem more appropriate for this course of action to be taken in the first instance rather than having to go through planning legislation first

8.0 Equality Implications

- 8.1 A decision to take action under Town Planning powers would mean that we would have to take account of the Human Rights Act and in particular, Article 8. This sets out the right, amongst others, for respect for the home, including a right not to have one's home life interfered with, including arbitrary evictions.
- 8.2 As a recommendation not to take Planning Enforcement action is being recommended, there will be no implications arising from this report

9.0 Financial Implications

- 9.1 As no Planning Enforcement action is being recommended, there are no financial implications arising as a result of this report.

10.0 Summary and Recommendation

- 10.1 The land at Wallace Road has been occupied by NATS since 2005 and has gradually extended in area. Soon there may be a claim of residential use for part of the site as occupation has taken place on that part for almost 10 years.
- 10.2 Town Planning powers could be used to regain possession of the land but, as the Council is the landowner, the success of any action could ultimately revert to it to use whatever means it has to comply with any notice served
- 10.3 Given that the Council has the power to gain possession of the land without resort to Planning powers, it is recommended that Members confirm that Planning Enforcement Action not be taken at this time.

Maria Duffy
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