
BREACH OF PLANNING CONTROL AT LIMEHOUSE, THE DRIVE, RAYLEIGH, ESSEX

1 SUMMARY

- 1.1 To consider the report of the Head of Planning Services regarding a breach of planning control, namely the use of the land for repair of vehicles and tyre fitting using a mobile tyre compressor at Limehouse, The Drive, Rayleigh, Essex.
- 1.2 Members will need to consider whether it is expedient to serve enforcement notices, etc, and this function is discretionary. However, the mechanisms of such actions are statutorily controlled.

2 INTRODUCTION

- 2.1 This breach is occurring within the Metropolitan Green Belt and involves the use of several units within the site for the repairing of vehicles and use of a mobile compressor for the fitting of tyres.

3 THE PLANNING HISTORY OF THE SITE

- 3.1 This matter was first brought to officers' attention in October 2002, and following visits, it was revealed that the site was being used for the above mentioned uses.
- 3.2 This site has a substantial history including previous enforcement cases and planning applications. An application for a Lawful Development Certificate (LDC) was submitted (02/879) in respect of B1 and B8 uses, including caravan storage. This was partially granted, excluding several areas of the site from this Certificate.
- 3.3 Committee authorisation was sought in June 2003 requesting that further enforcement action be taken with regard to the use of "Area Two" of the site for the storage of machinery and equipment and the laying of hardcore. There were two Enforcement Notices issued, one for the use and the other for the hardstanding created. The owner has since appealed the Notice regarding the hardstanding on the grounds that this has been in existence for more than 4 years and so exempt from enforcement action. This appeal will be heard at a Public Inquiry in October 2004.
- 3.4 The lawful uses approved by the Certificate did not include either the tyre fitting or the car repairs, which commonly fall under class B2. The claim by the appellants is that this use has occurred for in excess of ten years and is thus immune from enforcement action. However, reports from nearby residents, along with evidence from the appeal in June 2003 (against the refusal of the LDC, which Rochford District Council won), suggest that this is not the case. The evidence suggests that the car repairs and tyre fitting have

been introduced into the site as recently as 1999, and before this time the B2 use was sporadic and not continuous in any unit for more than 10 years. The owners have been invited to submit a Lawful Development Certificate for these uses. No application has, however, been received to date. The issue of an Enforcement Notice will, if approval is forthcoming and any Notice is then appealed against, hopefully run via the same public inquiry as the existing Enforcement appeal.

4 PLANNING AND HUMAN RIGHTS ISSUES

- 4.1 This site lies within the Metropolitan Green Belt, where there is a general presumption against development. The use of this land has historically been as part of the original nursery use although more recently the units have been rented, informally, to small businesses, not in conjunction with the nursery use.
- 4.2 The use of the land for car repairs and tyre fitting is an inappropriate use of the Metropolitan Green Belt. Such uses appear incongruous, and detract from the open views across the Green Belt. These uses are also both contrary to both Policy GB1 and GB4 of the Rochford District Local Plan. GB1 limits new uses within the Green Belt to those linked to agriculture, forestry or recreation, while GB4 states that open storage uses within the Green Belt will not normally be permitted and also states that these new uses shall not adversely affect the visual amenity of local residents. **The uses are not only visually intrusive but have a detrimental effect on the neighbouring residential properties by way of the resultant noise, dust, fumes and traffic generation, etc.**
- 4.3 Furthermore, this area of land occupies a strategic “wedge” of Green Belt between the built up areas of Rayleigh and Southend. To allow this use to continue would greatly disturb the rural feel of this area and would further lead to a coalescence of the previously distinct built up areas and have a detrimental effect on the residential amenity.
- 4.4 In view of the detrimental effect that the repairing of vehicles, etc, has on both the open nature of the site, and also on views in and out of it, this Enforcement action seeks to secure the cessation of this land for repairing motor vehicles and tyre fitting.
- 4.5 The Human Rights issues were considered but these did not appear to outweigh the serious environmental concerns.

5 RISK IMPLICATIONS

- 5.1 The Council is required to produce a Local Plan detailing the Authority's policies in the District and the Authority should demonstrate its commitment to delivering the aims and objectives in line with this document.

5.2 The Council may be liable for costs incurred during the defence of any appeal including the appellants' claims for costs if the Authority's action is judged to be unreasonable. Costs may also be claimed during legal action to obtain compliance with a notice.

5.3 If action is not taken in this case this Council will be seen to not implement its policy objectives to the full. A precedent may be also be set making it difficult for the Authority to resist similar unauthorised development. Consequently unless it is serious in its commitment to ensure development is in accord with Local Plan policies, these very policies will be undermined.

6 RECOMMENDATION

6.1 It is proposed that the Committee **RESOLVES**

That the Head of Planning Services be authorised to take all necessary action to secure the remedying of the breach now reported.

Shaun Scrutton

Head of Planning Services

Background Papers:

None

For further information please contact Catherine Blow on:-

Tel:- 01702 318097

E-Mail:- catherine.blow@rochford.gov.uk