

Development Control
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Report

Report subject: Mobile Catering Units/Snack Vans

Report to: Northern Area Committee

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Report Summary:

To consider the Council's approach to the enforcement of Planning Controls in relation to:

Catering Units on Highway Land without Planning Permission.

Introduction:

Each year the Council receives a number of enquiries regarding the stationing of such units on the highway, usually in a lay-by. Over the past two years, Officers have been made aware of a proliferation of such units across the District, together with their signage and associated paraphernalia

Case Study

In December 2004, it was reported that a mobile catering unit had been stationed in the lay-by on the A338 at Charlton All Saints. In addition, a temporary toilet had been sited on the verge and several flags attached to the roof of the trailer itself – giving an altogether untidy appearance to the site.

It was initially attempted to negotiate removal of this snack van directly with the trader, but he opted to make an application to continue operating the snack van. This was refused partly on grounds of potential highway hazards as well as visual amenity, but despite this, Wiltshire County Council were not prepared to take action.

Enquiries made to Wiltshire County Council Highways department at this time identified that they were unwilling to take action against such a trader as he was not causing any actual obstruction nor danger to users of the highway.

Should the Council decide to take enforcement action, the action would be against the landowner. In most cases this is the County Council, who have signalled their intention to challenge any action brought against them in such cases. Securing compliance with such a notice could involve prosecution and/or injunction against the County Council.

Planning policies:

The following policies of the adopted Salisbury District Local Plan may be applicable to snack vans in rural areas where the majority of cases are reported:

C2 Development in the countryside
C4 & C5 Area of Outstanding Natural Beauty

Also important to consider are policies DP15 (Development in Open Countryside) and C8 Areas of Outstanding Natural Beauty) of the Wiltshire Structure Plan

Considerations:

Nature of the Breach

The authorized use of the land in most cases appears to be a lay-by forming part of the public highway. The use of the land for the sale of hot and cold food and drinks and the stationing of a mobile catering unit and assorted equipment incidental to such use is materially different to the authorised use and a material change of use will therefore have occurred.

Principle/Effect on Visual Amenities

In open countryside, development is normally limited and permitted only where there are benefits to the economy and where the environment is safeguarded. In such situations, mobile catering units would not normally be allowed on principle. Additionally, such units and the clutter and activity associated with them generally would detract from the appearance of the surrounding countryside.

Highway Safety

Whilst trading from these locations generate an increase in traffic into and out of the lay-by and notwithstanding the reason for refusal on the previous application, Wiltshire County Council has advised that the siting of one snack van would not be something they would normally be prepared to resist on highway safety grounds.

Expediency of Enforcement Action

The nature of an Enforcement Notice requires a specific area to be nominated. In cases such as these, the threat is that the trader would simply move to the next available location and resume trading from there, outwith the scope of the Notice. This process is very heavy in Officer time and section resources.

The District Council has regularly sought assistance from the County Council in resolving matters of snack vans on land adjacent to the highway as the County Council Highways Department has powers of removal under highways legislation. They are, however, not prepared to exercise these powers unless they consider there is an obstruction to the highway or a danger to other road users. (Indeed, Wiltshire County Council's informal approach to dealing with such matters gives an air of legitimacy to catering units operating on highway land and lack of action could be said to encourage further mobile vans onto other highway land.)

It is possible, however, to prosecute for unauthorised signage, a much more straightforward and less time-consuming process; the Council has prosecuted offenders in this regard in the recent past. This addresses part of the concern relating to such uses.

PPG 18

PPG 18 favours informal discussions to resolve matters without recourse to formal enforcement action. However, the failure of negotiations to resolve matters should not hamper or delay formal enforcement action in cases where unacceptable harm to local amenity is being caused.

PPG 18 further advocates permitting businesses the opportunity to relocate to an alternative location, where the activity may be satisfactorily carried out, but does qualify this by stating that any difficulty with relocation will not normally be a sufficient reason for delaying formal enforcement action to remedy unacceptable unauthorised development.

Whilst full consideration has been given to PPG18, it has proved difficult to enforce against snack vans stationed on the highway without the co-operation of the County Council Highways Department. Their assistance has been sought on several occasions, but unless an actual highway danger is in evidence they are unwilling to exercise their powers of removal.

Human Rights

There may be cases where there is an impact on adjoining residents and in these cases we would have to balance their rights against those of the trader.

Conclusions

The development and uses described above causes significant harm to the character of the locality. The Council will attempt to negotiate with the owner to remedy the situation but it is not considered expedient to take enforcement action to secure removal of the unauthorised mobile catering units in question as such action is time intensive and involves a commitment by Officers out of proportion with the harm. The landowner has powers to resolve the situation but has chosen not to use them.

Recommendation:

- 1) That any further formal enforcement action against such mobile catering units/snack vans is not expedient under planning legislation at this time and that should future problems occur, enquiries should be directed to the Wiltshire Highways Partnership for reasons of highway safety and Environmental Health for matters of noise or other pollution.
- 2) That a report be prepared for a future meeting of all Area Committees to examine the feasibility of introducing a Byelaw prohibiting trading from the highway.