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Report

Report subject: Mobile home stationed on land at the Long House, Teffont.

Report to: Western Area Committee

Date: 8th December 2005

Author: Stephen Hawkins, Principal Planning Officer (Enforcement)

Report Summary:

To consider the expediency of enforcement action concerning the siting of a residential mobile home on land to the rear of the Long House, Teffont.

Introduction:

Members will recall that the consideration of enforcement action in relation to the above matter was deferred at the Western Area Committee on 15th September 2005, pending the outcome of an application for a Certificate of Lawful Development (CLD) in respect of the mobile home, submitted on behalf of the owner, Mr. Hayward.

CLD application S/05/1926 was received on 19th September 2005. However, on 11th November 2005, the Council refused to certify that the use of the site for the stationing of a mobile home used as separate unit of accommodation was lawful for the following reasons:

1. "Insufficient clear and precise evidence has been submitted with the application to demonstrate that, on the balance of probabilities, the change of use of land consisting of the use of the land for the stationing of a mobile home used as a separate unit of accommodation described in the application and shown on the accompanying plan dated 13th June 2005 submitted to the Council on 19th September 2005 in breach of planning control, had been in continuous use as a separate unit of accommodation for more than ten years before the date of the application (19th September 2005). Consequently, the Council is not satisfied that the change of use is immune from planning enforcement action by virtue of Section 171B(3) of the Town and Country Planning Act 1990(Time Limits). "
2. "The Council is not satisfied that the use applied for was in existence at the date of the application (19th September 2005) and, by virtue of Section 191(1)(a) of the Town and Country Planning Act 1990 a certificate cannot therefore be issued. "



Awarded in:
Housing Services
Waste and Recycling Services



In the light of the above decision, Members will now wish to give further consideration the expediency of taking enforcement action.

Planning History:

One previous application directly concerns the mobile home in addition to that already referred to above. This is a previous CLD application reference S/05/0650 which also sought certification of the lawfulness of the use of the mobile home as a separate dwelling. That application was refused on 25th May 2005.

Evidence from the applicant used to support the above applications indicates that a mobile home was placed on land to the rear of The Long House around September 1994 and it was occupied by an employee. This person occupied the mobile home for approximately the first 12 months.

It appears that this person left the mobile home and a new resident took up occupation of the mobile home and was apparently in residence from 1996 until 1999. The new resident was also employed by the owner apparently carrying out odd jobs around the estate in exchange for living rent free in the mobile home.

Following their departure from the mobile home, it appears that the original mobile home was removed from the land and a replacement mobile home put on the land at a later, unspecified date in 1999/2000.

In his previous and recently refused CLD applications, the applicant did not provide clear evidence of any form of occupation of the 'new' mobile home from its arrival up to the present date.

At a site visit on the 21st January 2003 and it was noted that the mobile home was still on the land, but was not being lived in.

On 29th July 2003 it was confirmed that the mobile home was still on the land and was still not being used for residential accommodation, but was being used to house equipment and food for the nearby fishing lakes.

In October 2003, the owner of The Long House confirmed that property was not being lived in.

On 17th December 2003 the site was again visited, the mobile home was still on the land, but no furniture seen in the building apart from a fixed bench seat. The owner again confirmed the mobile home was being used to store equipment for the nearby fishing lakes.

At a visit in April 2005 above the mobile home appeared to be unoccupied. However in July 2005 in responding a Planning Contravention Notice (PCN) the owner stated that the mobile home was occupied as staff accommodation. However he did not disclose details of any occupiers.

At the most recent visit on 23rd November 2005, the mobile home again appeared to be unoccupied although it did appear capable of habitation.

Planning Policies:

The following policies of the adopted June 2003 replacement Salisbury District Local Plan are relevant:

C1 The District Council will endeavour to protect, restore and improve the natural beauty and amenity of the District.

C2 Development in the countryside will be strictly limited and will not be permitted unless it would benefit the local economy and maintain or enhance the environment.

C4 Within the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty development will not be permitted if it would harm the natural beauty of the landscape. Major industrial or commercial development proposals will not be permitted unless there is a proven national need and no suitable site is available outside the AONB.

C5 With the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty small scale development proposals will only be permitted where they are in accordance with the policies of the Local Plan and provided that: (1) the siting and scale of the development are sympathetic with the landscape of the AONB in general and of the particular locality; and (2) standards of landscaping and design are high, using materials which are appropriate to the locality and reflects the character of the area. Regard should also be had to the social and economic well being of the area.

H23 Undeveloped land outside a Housing Policy Boundary, Housing Restraint Area, Special Restraint Area or New Forest Housing Policy Area and not identified for development in this local plan will be considered to be countryside where the erection of new dwellings will be permitted only where provided for by Policies H26 or H27 of this local plan

H32 Proposals for the siting of mobile homes, including residential caravans, will be subject to the same policies and criteria as for permanent housing, although for environmental reasons they may not be acceptable on all sites where permanent housing would be acceptable. Temporary permission will be considered favourably in order to provide accommodation for a dependant person or whilst an existing dwelling is being restored.

The following policies of the adopted Wiltshire Structure Plan 2011 are also relevant: -

DP15 Development in the open countryside should be strictly controlled. Isolated new houses should require special justification. Provision should be made for the change of use or conversion of suitable existing buildings, with particular emphasis on accommodating new uses, which diversify the local economy and provide jobs.

C8 In areas of outstanding natural beauty, proposals for development should be considered having particular regard to the national designation of their landscape quality, and the need to protect, conserve and where possible enhance by positive measures, the natural beauty of the landscape. In considering proposals, regard should also be given to the social and economic well being of the area. Provision for major industrial or commercial development should not be made unless proved to be in the national interest and incapable of being accommodated outside these areas.

Considerations

The nature of the breach

The mobile home is sited adjacent to a track way in an area of land well beyond what could reasonably be regarded as the residential curtilage of the main dwelling house. It appears to have an area around it with a domestic shed, timber fencing and other paraphernalia, which has the appearance of a rudimentary residential curtilage.

The siting of this residential mobile home on land together with its apparently intermittent occupation for service accommodation and separate residential accommodation as well as other uses unrelated to agriculture has involved material changes in the use of the land which would have required planning permission.

It is considered that neither the residential or other uses have subsisted for sufficient period of time to gain immunity from enforcement.

Principle of development

The site lies in open countryside where generally development is strictly limited and not permitted unless it would benefit the local economy and maintain or enhance the environment and new residential accommodation (Including mobile homes) is not permitted unless an essential need for agricultural or forestry has been demonstrated.

To permit the use of this mobile home for residential or other uses unrelated to agriculture to continue would be contrary to the Replacement Salisbury District Local Plan, policies H23 & C2 above as well as policy DP15 of the Structure Plan.

Effect on AONB

Whilst admittedly open to limited public views in the wider landscape, the mobile home and other items/shed, gas bottles, domestic paraphernalia/associated with the use appear as a stark alien and incongruous feature in the natural landscape of the AONB detracting from the scenic quality of the AONB scene in conflict with policies C5 & C8 above.

Human Rights Act

Enforcement action will cause interference the owner/occupiers Human Rights. Such interference is only lawful if a legitimate public interest is being pursued. Moreover, in order to be justified, enforcement action has to be proportionate to the seriousness of the breach in question.

Enforcement action will cause interference with the owner's property rights (Article 1, Protocol 1) and will interfere with any occupiers' rights to respect for their home (Article 8).

In relation to the latter, the PCN served on the site did not establish any salient facts to any occupier's circumstances. However having regard to the harm to the appearance of the countryside within the Cranborne Chase and West Wiltshire Downs of outstanding Natural Beauty identified above however it is considered that enforcement action and the steps required to achieve compliance are both minimal and proportionate, having regard to the public interest of protecting the environment in line with Development Plan policies. Under – enforcement would not remedy the breach or the harm to amenity caused.

CONCLUSION

Previous negotiations with the owner of the property have failed to remedy the breach of planning control identified by securing any cessation of the residential use of the land in question. Indeed the owner has sought to use previous informal negotiations and the previous lack of formal action to secure removal of the mobile home to his advantage.

PPG 18 indicates that formal enforcement action should not be unduly delayed where there is continuing harm to amenity.

Formal enforcement action to require the above-unauthorized residential use of land to cease is considered expedient, having regard to the strict limits on development in the countryside and the harm to the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty identified above.

Whilst the owner/any occupier's Human Rights have been taken into account, the recommended action is considered a justified and proportionate response to the breaches of planning control in HRA terms.

RECOMMENDATION: That the Head of Legal and Property Services be authorised to issue an Enforcement Notice under the Town and Country Planning Act 1990 (as amended) and serve it on the appropriate person(s)

Alleging the following breach of planning control:

Without planning permission:

The material change of use of the Land to a site for the stationing of a residential mobile home unrelated to agricultural use.

Requiring the following steps to be taken:

1. Cease the use of the land as site for the stationing of a residential mobile home or any other caravan, vehicle or trailer used for purposes unrelated to agriculture.
2. Permanently remove the residential mobile home, sheds and domestic paraphernalia associated with the above use from the Land;

Reasons for serving the Notice:

The Land lies in open countryside where development is strictly limited and not permitted unless it would benefit the local economy and maintain or enhance the environment and new residential accommodation (including mobile homes) is not permitted unless an essential need for agriculture or forestry or affordable housing has been proven. Moreover, the site lies within the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty where the scenic qualities of the landscape are protected from development which, as in this case detracts from the landscape of the AONB in general and of the particular locality. Use of the Land as a site for the stationing of a residential mobile home used for purposes unrelated to agriculture is therefore contrary to policies DP15 & C8 of the Wiltshire Structure Plan 2011 and policies H23, C2 and C5 of the adopted Salisbury District Local Plan.

Time Period For Compliance:

1. 1 month.
2. 1 month.

Implications:

Financial: None at this time. There may be costs implications if the issue of an Enforcement Notice was held to be unreasonable by an Inspector determining an appeal.

Legal: Detailed in the report.

Human Rights: Detailed in the report.

Environmental: Detailed in the report.

Council's Core Values: Protecting the environment.

Wards Affected: Teffont