

**officer to contact: Stephen Hawkins**  
**direct line:** 01722 434691  
**email:** @salisbury.gov.uk  
**web:** www.salisbury.gov.uk

# Report

**Report subject:** Westfield Park, Catherine Ford Road, Dinton

**Report to:** Western Area Committee

**Date:** 23<sup>rd</sup> November 2006

**Author:** Stephen Hawkins, Principal Planning Officer (Enforcement)

---

## Report Summary

For Members to consider the expediency of enforcement action in relation to the development carried out at the above site in breach of planning control.

### Introduction

Westfield Park is a large site extending to around 18 hectares used for business purposes, situated immediately to the south of Dinton. The site is occupied by 14 sand -coloured warehouse buildings. It is accessed from Catherine Ford Road with a secondary, emergency only access off Bratch Lane to the west. The whole site is within the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty.

The site was formerly RAF Baverstock prior to permission being granted in 1999 for use of the former military buildings for 'low -key' storage. The 1999 permission was subsequently amended in 2001 and 2002 to allow the use of two areas of hardstanding for the storage of vehicles and flowerpots, and to allow ancillary operations on the site of railway sidings towards the south east of the site.

In February this year, enquiries were received by the Enforcement Team relating to, amongst other things, the excessive stacking of containers their stationing outside of the permitted storage area, and; 'out of hours' use; all in breach of conditions. Further enquiries were also received regarding the stationing of 5 portacabins and storing of trailers in breach of conditions. Enquiries were also received in relation to failure of the landscaping scheme on the bund adjacent to the village hall.

A major issue raised in representations regarding the site related to excessive HGV and other commercial vehicle movements, which were attributed to an overall increase in activities at this site.

Officers negotiated with the owners in order to attempt to regularise the breaches. At a meeting in July 2006 they undertook to submit a series of retrospective planning applications, replant the bund adjacent to the

village hall during the next planting season and, in the meantime, to remedy the unauthorised development that had taken place as far as they could.

At a site visit in August 2006, stacking of containers up to 5 high and outside of the permitted areas was noted in addition to the unauthorised uses referred to above, as well as several items of railway stock.

More recent observations have noted that containers stationed aside the Bratch Lane emergency site access in breach of condition have been removed and a set of security gates fitted. Additionally the amount of containers stacked/ stored within the site has been substantially reduced to largely accord with permitted limits, although there are still some containers stacked three high adjacent to buildings. The railway stock appears to have been re-sited within the open vehicle storage area.

Separate reports in respect of planning applications S/06/1886 & S/06/2145, seeking retrospective permission to allow the storage of trailers and retention of the portacabins used as offices and WC respectively, are on the Plans List.

A planning application was also made seeking to vary the permitted height of container stacking at the site, however this application was subsequently returned as invalid and to date has not been resubmitted.

The agent for the site owner has recently made representations to the Council to the effect that, in addition to seeking to remedy the above breaches, they have recently ended a contract with Ford to store vehicles in the permitted open storage area at the north western end of the site and there was also a seasonal rise in traffic at the site which has now declined. The agent has suggested that part of the permitted storage area will no longer be used for open storage (however this area has permitted use, so there currently is no restraint on its future use).

During the course of investigations, it has also become apparent that the details of the users of some of the buildings required under condition 14 of S/99/1280 did not appear to have been submitted to and approved by the LPA. Information supplied at the time of the 1999 application indicates that several users including Royal Mail, industrial /agricultural machinery contractors, a large scale antique dealer and a business storing and distributing pine furniture goods, were all operating from the site.

Information suggests that additional businesses including domestic and commercial self storage, caravan, motor home and boat storage, car and commercial vehicles storage amongst others are now present for which approval has not been obtained. Further details have therefore been sought from the site owner in respect of all users of the site, which it is anticipated will be available in time for the meeting.

## **Planning History**

In addition to the most recent applications, the most relevant applications in this case

S/99/1280: Change of use of 14 buildings to class B8 (storage) and 1 building to class B1 (business). Approved 16<sup>th</sup> October 2000. Conditions were imposed, which, amongst others:

- Limited the use of 13 buildings to B8 storage and one building to B1 offices, to retain control over the use of the site (condition 2);
- Prohibited storage or industrial operations outside the buildings, in the interest of visual and neighbouring amenities (condition 4);
- Prevented deliveries being taken at or despatched from the site or loading/unloading of vehicles or traffic movements taking place outside the hours of 7.00am - 7.00pm Monday to Friday, 7.00am - 1.00pm Saturday nor at any times on Sundays, Bank or Public Holidays, in the interests; of neighbouring amenities (condition 7).

- Restricted use of the Bratch Lane access to emergency vehicles, in the interest of highway safety (condition 11);
- Required that prior to occupation of each unit (and each subsequent occupation) details of the business and the likely number and types of vehicles it will generate shall be submitted to and approved in writing in the interests of keeping the traffic movements from the site to a level compatible with the amenities of nearby dwellings and in the interests of minimising HGV traffic generation (condition 14).

S/01/1660: To vary condition 4 above to permit the use of two hard standing areas for outside storage of vehicles and flowerpots. Approved 11<sup>th</sup> October 2001. Conditions were imposed, which, amongst other things:

- Prevented storage or industrial operations outside the buildings other than the storage of flowerpots on the hardstanding marked as A on the approved plan and the storage of new vehicles on the hardstanding marked as B unless otherwise agreed in writing by the Local planning Authority, to retain control over the use of the premises in the interests of visual amenity (condition 1);
- Prevented storage of refrigerated vehicles, in the interest of neighbouring amenities (condition 2).

S/02/1169 To vary condition 1 to planning permission S/01/1660 to allow ancillary operations outside building on the area marked C (hatched blue) was approved on 24<sup>th</sup> September 2002. Conditions were imposed which amongst other things:

- Prevented storage or industrial operations outside the buildings other than the storage of flowerpots on the on areas A&B under S/01/1660 and the ancillary sorting/ storage of damaged containers within the hardstanding area marked as 'C' on the plans hereby approved unless otherwise agreed in writing by the Local Planning Authority. Within the area marked 'C' the loading/unloading of containers should only take place in front of (to south east of) buildings 387 & 386 and shall not extend beyond the north eastern corner of building 387, in order to control over the use in the interests of visual amenity (condition 1).
- Prohibited stacking of containers more than 2 high (one on top of another) in the interest of visual amenities. (condition 2).

S/05/0269 Retention of a landscape bund was approved on 6<sup>th</sup> April 2005, subject to conditions which amongst other things, required submission and implementation of a landscaping scheme.

### **Representations Received**

*Local residents:* 6 letters received in total from three local residents, enquiring about container storage outside permitted areas and in excess of permitted limits including containers stacked at Bratch Lane entrance; installing portacabins and parking trailers without permission; excessive; noise, out of hours working on weekends; excessive traffic movements, particularly HGVs including car transporters and curtain sided vehicles, through the village along the B3089 and along Catherine Ford Road visiting either this site, Dinton Business Park or the Millennium Fireworks site detracting from neighbours' living conditions, the character of the village, the AONB, highway safety conditions and damaging local roads

NB: Members should note that the two other sites referred to above fall outside the scope of this report. However, neither of the latter sites have had any restrictions regarding the number and type of vehicle movements through Dinton village placed on them through the planning process.

## Considerations

### The breaches of planning control

At the date of writing the report, the outstanding matters at this site appear to be as follows:

1. *Stacking/storing of containers in excess of two high.*
2. *Details of the use(rs) of all buildings not submitted to and approved.*
3. *Failure of the landscaping scheme on the bund adjacent to the village hall.*
4. *Working outside permitted hours.*
5. *Open storage of trailers.*
6. *External stationing of portacabins.*

### Planning policy context

Policies G2 (General Criteria for Development), E16 (Employment), C1 & C2 (The Rural Environment); C4 & C5 (Landscape Conservation-AONB) all appear relevant to this site.

### Enforcement powers

Members will be aware that the enforcement of planning conditions can normally be effected by issuing a Breach of Condition Notice (BCN), where such a course of action is considered expedient, unless the condition is particularly complex. As there is no right of appeal, BCNs are usually viewed as a quicker and more effective in terms of remedying a breach, however the potential penalties for non-compliance are lower than those associated with Enforcement Notices etc.

Formal enforcement action in the context of this report should be taken as referring to issuing a BCN, as all the matters referred to relate to what are considered to be clear –cut breaches of conditions.

### Expediency of enforcement action

In considering the expediency of enforcement action, Members should have regard to the above Development Plan policies in considering whether there is any material harm to any planning interests. Regard should also be had to the reasons for imposing the specific conditions being breached.

In making any decision on the expediency of enforcement action, Members also need to be aware that central government guidance on enforcement in PPG 18 is clear that enforcement action should only be taken where there is identifiable harm to planning interests and such action should not be taken solely because of the absence of permission from the Council.

1. *Stacking/storing of containers in excess of two high, in breach of condition 2 on S/02/1169.* As noted above, at a recent site visit it was observed that the stacking/ storing of containers has been significantly reduced since the site was last inspected, to the effect that with limited exceptions adjacent to buildings the stacking of containers has been reduced to no more than 2 high, with all also containers now stored within the permitted storage areas.

There has therefore been a significant reduction in container storage at the site. Members will recall from the details of the above permissions that the reason for limiting container stacking and storage were based on visual concerns.

It is considered that having regard to the very limited visual impact on the surroundings caused by the remaining container storage over that permitted would not be expedient to commence formal enforcement proceedings at this stage.

The site should continue to be monitored however, and in the event of a material increase in containers being stored in excess of the permitted limits in terms of height or location, formal enforcement action could be taken by the Head of Development Services using his delegated powers.

2. *Details of the users of each building not all submitted to and approved by the LPA, in breach of condition 14 on S/99/1280.* It appears that this condition has not been complied with in respect of at least five of the buildings. The outstanding details have been requested from the owners, and it is anticipated will be available for the meeting.

From the information available to date, most of the uses of the remaining buildings appear to involve small vehicles as opposed to HGVs, the principal object of local concerns. However, in the event either that details are not forthcoming by that date or that it subsequently transpires that the submitted details were partly or wholly unacceptable (because, for example, the uses in question were not compatible with the interests of keeping the traffic movements from the site to a level compatible with the amenities of nearby dwellings and minimising HGV traffic generation) it is considered likely that enforcement action to require unsuitable uses to cease would expedient to secure compliance with the condition.

Members will be updated on this particular point at the meeting.

*Failure of the landscaping scheme on the bund adjacent to the village hall, in breach of condition 3 on S/05/0269.* The site owners have undertaken to re-seed the bund during the next planting season (i.e. by the end of March 2007). As this is precisely the outcome that formal action would achieve, it is considered that such action is not appropriate at this stage.

The site will continue to be monitored to ensure that the required works are carried out. The Head of Development Services could take formal enforcement action under delegated powers to ensure compliance with the condition if towards the end of the planting season it appears that the condition has still not been complied with.

3. *Working outside permitted hours in breach of condition 7 of S/99/1280.* The owners have expressly denied that deliveries, loading/unloading and traffic movements have taken place and have suggested that any presence on weekend is limited to security or tidying up.

There is some evidence that weekend working took place on occasions during the summer, however no recent representations have been received regarding this matter and at this time there is no evidence of a continuing breach causing harm to neighbouring amenities. Whilst it is therefore considered that enforcement action would not be expedient at this time, this investigation will be continued and it is recommended that if there is subsequent evidence of a material breach causing harm to neighbouring amenities, the Head of Development Services be authorised to take formal enforcement action under delegated powers.

4. *Storage of trailers & stationing of portacabins.* These are the subject of retrospective applications S/06/1886 & S/06/2145 found elsewhere on the Agenda. Given that there are currently retrospective applications under consideration in respect of these matters, it is considered in these particular

circumstances that it would not be appropriate to consider the expediency of enforcement action at this time. In the event that Members decided not to grant planning permission for the developments in question, it would be necessary to bring a report to a future meeting of the Western Area Committee at which Members could deliberate on the expediency of enforcement action in respect of these matters.

### PPG 18

The above favours informal discussions to resolve matters without recourse to formal enforcement action, particularly where businesses providing employment are involved. The PPG also advises that full account should be taken of the consequences including financial, of taking enforcement action in such cases.

This approach is also reflected in the Council's general approach to enforcement, outlined in the first chapter of the Salisbury District Local Plan.

As noted above informal negotiations have taken place with the owner in an attempt to regularise matters at this site to avoid the necessity for formal enforcement action. The owner has generally responded to negotiations by undertaking remedial works and submitting retrospective applications. Whilst some breaches still continue at the site, it is therefore considered, having full regard to the above guidance that formal enforcement action to remedy any limited harm to planning interests caused at this time is not currently considered justified. However as noted above investigations are continuing and this conclusion will be reviewed.

### Human Rights

Any enforcement action will interfere with the owner's rights under Article 1 (1), of the European Convention on Human Rights.

However, in the event that the Head of Development Services subsequently decided that enforcement action was merited on grounds of the harm to neighbouring or visual amenities or highway safety conditions, such action could be regarded as in the public interest of preservation of those matters.

Such action would also be considered proportionate, as any interference would be minor and lesser steps than those identified below would not mitigate any harm identified as arising from the unauthorised uses in question.

### **Conclusion**

In respect of 2 above, Officers consider that enforcement action may be merited if the use of the buildings in question transpires to be inappropriate in the context of neighbouring amenities, for example if considerable numbers of HGV movements to and from the site are involved.

Officers however consider that, in respect of matters 1 and 3-5 above on the basis of the steps taken by the owners to address the breaches of planning control identified above to date, formal enforcement action would not be justified at this time. The site will continue to be monitored however and if necessary and expedient in the event of material breaches of the above conditions such action could be taken by the Head of Development Services using his delegated powers.

### **RECOMMENDATION:**

**A: IN RESPECT OF THE BREACH OF CONDITION IDENTIFIED AT 2 ABOVE, SUBJECT TO THE RECEIPT OF ADDITIONAL INFORMATION IN RESPECT OF THE USES OF THE BUILDINGS AT THE SITE, THE HEAD OF DEVELOPMENT SERVICES BE AUTHORISED TO ISSUE A BREACH OF**

**CONDITION NOTICE IN RESPECT OF ANY BREACH OF CONDITION 14 ATTACHED TO PLANNING PERMISSION S/99/1280 DATED 16<sup>TH</sup> OCTOBER 2000.**

**Requiring the following:**

- 1. To submit written details to the Council of all the businesses operating at the site in each building and the number and types of vehicles they generate.**
- 2. To cease the use of any of the buildings at the site which the Council has not approved under 1 above.**

**Within the following timescale:**

- 1. No more than 28 days from the date the Notice is issued.**
- 2. No more than 3 months from the date that the Notice is issued.**

**B: IN RESPECT OF THE BREACHES OF CONDITIONS IDENTIFIED AT 1 & 3-5 ABOVE, THAT IT IS NOT EXPEDIENT TO TAKE ENFORCEMENT ACTION AT THIS TIME.**

**B: THAT A FURTHER REPORT BE MADE TO A FUTURE WESTERN AREA COMMITTEE, TO UPDATE MEMBERS AS TO THE OUTCOME OF ANY ACTION AND/OR FURTHER INVESTIGATIONS UNDERTAKEN.**

**Implications:**

- Financial: None at this time.**
- Legal: Detailed in the report.**
- Environmental implications: Detailed in the report.**
- Council's Core Values: Efficient service**
- Wards Affected: Fontihill & Nadder.**
- Human Rights: Detailed in the report**