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Planning Enforcement Sub-Committee (5th July 2012)

Heston West

Land at 601 Bath Road (Southern boundary of Rectory Farm) (565806)

Report by: Development Control Support Manager

Summary

This report seeks Members' authority to issue an enforcement notice in respect of the unauthorised change of use of the land at 601 Bath Road.

1.0 RECOMMENDATION

1.1 That the Committee considers it expedient, having regard to the provisions of the Unitary Development Plan, and all material considerations, to grant authority for:

1.2 All necessary steps to be taken for the preparation, issue and service of an enforcement notice(s) in relation to 601 Bath Road, requiring within three calendar months:

- Cease the use of the land for:
 - i) car washing;
 - ii) the storage of tyres;
 - iii) the sale of tyres;
 - iv) shredding/processing of tyres;
 - v) the processing/transferring of waste oil

- Remove from the land:
 - i) all materials associated with the car washing;
 - ii) all materials associated with the transfer of waste oil;
 - iii) all material associated with the processing/shredding and sale of tyres;
 - iv) all tyres;
 - v) all hard standing from the open land;
 - vi) all materials associated with the transfer of waste oil;
 - vii) All vehicle associated with the unauthorised uses

- cease the use of the ground floor of 601 Bath road as a commercial office and reception area;

- Remove all resultant debris;

and for

The institution of any necessary legal proceedings in the event of non-compliance with the above enforcement notice(s), pursuant to Section 179 of the Town and Country Planning Act 1990; and

The carrying out of works in default under Section 178 of the Town and Country Planning Act 1990 in the event of non-compliance with the enforcement notice, including the recovery of the Council's costs in carrying out such work; and

So as to ensure that the allegations and requirements in the enforcement notice(s) or replacement enforcement notice(s) accurately reflect (and / or take account of any material changes in) the use or development of the land occurring before service of the said notice(s), authority to amend, supplement and / or delete the allegations and the requirements set out in the Recommendations herein. [A replacement enforcement notice is an enforcement notice issued following action taken pursuant to s.173A of the Town and Country Planning Act 1990, namely the withdrawal of the enforcement notice or the waiving or relaxation of any of its requirements.]

2.0 SITE DESCRIPTION

- 2.1 The site of which enforcement action is recommended is part of a wider area known historically as Rectory Farm which is approximately 42 hectares in size. It is contained to the north by Cranford Lane, to the west by the A312 dual carriage way (the Parkway) and to the south by the A4 dual carriage way (Bath Road) which provides direct vehicular access to the site. To west of the site is the busy Waggoner's roundabout and to the east is the equally busy Henley's roundabout. Opposite the site on the other side of Bath Road are a number of semidetached residential properties.
- 2.2 The authorised use of Rectory Farm is a farm building with agricultural land. The area that is the subject of the non-conforming uses is on the southern boundary of the field, accessed directly from A4 Bath Road.
- 2.3 The Council's Unitary Development Plan designates the site as Metropolitan Green Belt. It is also grade II agricultural land.
- 2.4 The site is within Heathrow's Public Safety Zone which has been designated to protect against noise and to maintain safety under flight paths.
- 2.5 There are a number of advertisements displayed at and around the site. Separate legislation is in place to address these issues and the enforcement team are tackling this separately.
- 2.6 The site itself consists of an old farmhouse (ground floor now used to provide a reception and office), open land (some hard surfaced) and a number of pre existing storage buildings

3.0 PLANNING HISTORY AND OTHER RECORDS

- 3.1 **Planning Records - None**
- 3.2 **Building Control Records – None**
- 3.3 **Related Planning enforcement case – There is an ongoing enforcement case regarding the unauthorised use of a site at the North East of rectory Farm. The site is used by a number of proprietors conducting a variety of open air operations including car washing, vehicle repair and building material/aggregate distribution. Waste material has also been placed upon the land creating a number of land bungs. Enforcement notices have been served requiring the**

cessation of the unauthorised uses and legal proceedings are being instigated by the council as a number of the enforcement notices are yet to be complied with.

4.0 ENFORCEMENT HISTORY, INVESTIGATION AND EVIDENCE.

- 4.1 The Council received a complaint on the 27/10/11 alleging that a car wash was operating from the site.
- 4.2 The council received a further complaint on the 20/01/12 regarding the car wash use on the site.
- 4.3 Planning enforcement officer visited the site on the 28/02/12 and confirmed that the site was in commercial use providing a car wash service. It was also found that tyres were being stored and shredded on site. The owner of the business stated that his lawyer would have checked everything was in order when he leased the site and thought the commercial activity was allowed. The officer noted that hard standing had been laid around the site to provide a platform for the car washing activity. The owner was advised that the commercial activity was not authorised.
- 4.4 The council received a further complaint about the site on the 28/02/12 regarding tyre storage, chopping and disposal.
- 4.5 A desk based study into the historical use of the site revealed that additional hard standing appears to have been laid within the last two years. Vehicles also appear to have been stored on the site in 2006/07. No car storage appears on the 2010 aerials photos and the site didn't appear to be in use.
- 4.6 A letter was written to the owner of the business on the 5/4/12 confirming the breaches of planning control and providing two options to remedy the breaches, cease the activity and remove the hard standing or apply for planning permission to retain the uses and hard standing. It was explained that planning permission would be unlikely to be granted for the activities/hard standing as the site is in the designated metropolitan green belt.
- 4.7 As no response to the letter sent on the 5/4/12 was received, a second letter was sent on the 1/5/12 requesting the owner's intension regarding the breaches of planning control. The letter stated that if a response regarding his intensions was not received the case would be presented to the council planning enforcement sub committee.
- 4.8 A letter was received from the owner on the 8/5/12 in response to the letter sent by the council on the 5/4/12. The letter (dated 27/4/12) explained that the owner would be seeking professional advice and would be in contact in due course.
- 4.9 Further information about the site was received by the case officer on the 20/05/2012 as advertisements about tyre sales had recently been sighted.
- 4.10 Given that no further correspondence had been received from the owner and tyre sales from the site was alleged, a further site visit was made on the 13 June 2012. This site visit established that the car wash activity was still in operation. The existing structure next to the car wash operation had large adverts offering for sale new and used tyres. More tyres appeared to be stored on the site and evidence of the shredding/processing of tyres was still present. It was also found that waste oil was being transferred to and

from the site and one of the existing storage structures was being used for this purpose. The hard standing on site remained as well as what appeared to be a layer of shredded tyre that covered part of the site. The officer had a conversation on the phone with the owner of the site where it was explained that as the commercial activities had not ceased, the planning enforcement process would continue. The owner explained that a letter would be sent to the council in a few weeks and he asked for the process to be delayed. It was explained that the unauthorised activity had continued for some time and there was no reason to delay the process.

5.0 ANALYSIS

Expediency in general

- 5.1 Under Section 172 of the Town and Country Planning Act 1990 (as amended), the Council has the power to take enforcement action where it assesses that a breach of planning control has resulted in material harm in planning terms.
- 5.2 Guidance as to how to apply this power and when a Council should find enforcement action expedient is contained in Circular 10/97, entitled 'Enforcing Planning Control'. The government urges local planning authorities to use enforcement action as a last resort. Reports are not brought forward to committee unless it has been concluded that there is no other course of action available.
- 5.3 In addition to Government guidance the statutory Development Plan sets criteria against which to judge whether a breach of planning control is unacceptable.

5.4 POLICY

The Development Plan

The Development Plan for the Borough comprises the Council's Unitary Development Plan (UDP), Employment Development Plan Document, Brentford Area Action Plan and the London Plan.

The emerging Core Strategy

On 12 July 2011, the Council's Cabinet approved that the Core Strategy "Preferred Strategy" should go out to consultation. As emerging policy, the Local Planning Authority (LPA) considers that the emerging Core Strategy is capable of being a material consideration. Given that the emerging Core Strategy is still in the consultation stages, the LPA considers that in general limited weight can be given to it at this stage and that where a specific core strategy policy is engaged by an application greater weight may be attached.

The National Planning Policy Framework

The National Planning Policy Framework (NPPF) came into force on 27 March 2012 and has replaced national policies and guidance formerly contained in Planning Policy Statements and Planning Policy Guidance notes and some other documents. The Local Planning Authority (LPA) considers that, where pertinent, the NPPF is a material consideration and as such, it will be taken into account in decision-making as appropriate.

Relevant Planning Policy

- 5.5 The National Planning Policy Framework (NPPF) – green belts

5.6 The Development Plan policies relevant to this case are:

ENV-N.1.3	Green Belt Improvements
ENV-N.1.14	Protection of agricultural Land
ENV-B.3.2	Sites of Archaeological importance
ENV-N.1.1	Purposes of including land in and objectives for the use of land in the Green Belt
ENV-N.1.2	Acceptable Development in the Green Belt
ENV-B.1.1	New Development
ENV-B.1.4	Advertisements
ENV-P.1.3	Surface Water Run-off
ENV-P.1.5	Noise pollution
ENV-P.1.9	Redemption of contaminated and potentially unstable land
ENV-P.1.10	Hazardous substances
T.4.3	Traffic implications of new development
IMP.5.3	Comprehensive Project areas

5.7 The key planning issues that need to be considered in assessing the expediency of taking enforcement action are as follows:

- The acceptability of the uses and developments on the green belt and in principle
- The impact of the uses and developments on the land quality and living conditions of neighbouring residents
- Traffic and access resulting from the intensity in use

Assessment of Harm

5.8 **The acceptability of the uses and developments on the green belt and in principle**

The unauthorised uses and operational development are clearly unacceptable in principle. This is because they constitute inappropriate activity and development on land designated as Green Belt land in a manner at odds with local, regional and national policy.

The main aim of the Green belt in Hounslow is to prevent urban sprawl by keeping land permanently open. The Council will not permit, except in very special circumstances, any development which is not compatible with the principle purposes of the Green Belt.

The breach of Green Belt policy is harmful in this case because of the role played by this space in separating the urban environments of Heston and Cranford. The land known as Rectory Farm has and should continue to maintain an open buffer between the two settlements that restricts urban sprawl. The continuation of these unauthorised uses and the retention of this type of operational development on this site would undermine the function of the Green Belt and not be in accordance with the NPPF – green belts and UDP Policy ENV-N.1.1 and ENV-N.1.2.

5.9 The impact of the uses and developments on the land quality and living conditions of neighbouring residents

Policy N.1.14 of the UPD seeks to protect agricultural land. It specifically refers to Rectory Farm as one of the most significant farms in the Borough. It states that the Council will encourage the continuation of agricultural uses and will oppose, bar in exceptional circumstances, the permanent loss of high quality agricultural land by other development.

Relevant policies in the Employment Development Plan Document (EDPD) include EP5 Location of New Industrial Warehousing and related uses, which directs new development to Strategic Industrial Locations (SIL) and Locally Significant Industrial Sites (LSIS). The existing uses on this site would be better suited in a designated SIL or LSIS as the uses are not compatible with the surrounding site area. The site appears unattractive, cluttered and incongruous from a number of locations. Apart from undermining the openness of the green belt, this removes the agricultural use of the land and is damaging to living conditions at neighbouring properties where outlook has been harmed.

The types of unauthorised activity at the site risk contaminating the designated grade II agricultural land and the Council is not aware of how much of the waste created by the site is disposed of appropriately. This is unacceptable.

The Council has not been made aware of how surface water runs off at the site and this is particularly relevant to the unauthorised car washing activity operating on the site. There is an increase in hard surfacing on the site and the potential for a substantial increase in free running water (mixed with cleaning agents and other car products) associated with the operation of an open air car wash. Without suitable sustainable urban drainage there is likely to be an increase in surface water run off which is likely to have an adverse impact on the local habitat and the quality of the land. This is contrary to policy ENV-P.1.3 of the UDP.

5.10 Traffic and Access

The Site is accessed directly from the M4 trunk road. This is a major access route with high levels of traffic. The unauthorised uses of the site include a car wash which could potentially attract a high level of vehicular visitors. The other uses on site also require vehicular movement (deliveries, transfer of waste etc). The use of the site has also intensified since the first site visit where only the car wash and minimal tyre storage was in operation. The use of the site as a whole may pose a risk to traffic and

pedestrian safety as well as have a negative impact of the free flow of traffic along the M4. This is contrary to policy T.4.3 of the UDP.

Overall it is considered that enforcement action is the only effective method available in the Council's attempts to remedy the significant harm currently being caused.

5.11 **Proposed action**

- Cease the use of the land for:
 - i) car washing;
 - ii) the storage of tyres;
 - iii) the sale of tyres;
 - iv) shredding/processing of tyres;
 - v) the processing/transferring of waste oil

- Remove from the land:
 - i) all materials associated with the car washing;
 - ii) all materials associated with the transfer of waste oil;
 - iii) all material associated with the processing/shredding and sale of tyres;
 - iv) all tyres;
 - v) all hard standing from the open land;
 - vi) all materials associated with the transfer of waste oil;
 - vii) all vehicle associated with the unauthorised uses

- cease the use of the ground floor of 601 Bath road as a commercial office and reception area;

- Remove all resultant debris;

Officers would also request that delegated powers are granted for making amendments to the allegations and the requirements as shown above, for adding additional requirements and for requirements to be deleted where necessary. Officers are about to service further Planning Contravention Notices to confirm the current activities on the site as well as ownership/culpability, which may justify refinements to the drafting of any enforcement notice(s). Officers also request this authority due to the potential for changes in breaches of planning control between the site visit on 13 June 2012 and when the enforcement notices are served.

6.0 **EQUALITIES DUTIES IMPLICATION**

The Council has had due regard to its Equalities Duties and in particular with respect to its duties arising pursuant to the Equality Act 2010, section 149. Following a relevance test, which is available at:

http://www.hounslow.gov.uk/index/council_and_democracy/equality/eias/environment_eias.htm it is considered that there will be no specific implications with regard to the Council's duty in respect of its equalities duties and that if approving or refusing this proposal the Council will be acting in compliance with its duties.

7.0 COMMUNITY INFRASTRUCTURE LEVY

- 7.1 Some new developments granted planning permission on or after 1st April 2012 will be liable to pay Community Infrastructure Levy (CIL) to the Mayor of London with respect to the funding of Crossrail. This is at the rate of £35 per m² of new floor space.
- 7.2 This development is not liable to pay Community Infrastructure Levy.

8.0 SUMMARY AND CONCLUSION

- 8.1 It is considered that the unauthorised uses and operational development at the site are inappropriate and are in breach of policies set out in the adopted Unitary Development Plan. ENV-B.1.1 (New Development), ENV-B.1.4 (Advertisements), ENV-B.3.2 (Sites of archaeological importance), ENV-N.1.1 (Purposes of including land in and objectives for the use of land in the Green Belt), ENV-N.1.2 (Acceptable development in the Green Belt), ENV-N.1.3 (Green Belt improvements), ENV-N.1.14 (Protection of Agricultural Land), ENV-P.1.3 (Surface water run-off), ENV-P.1.5 (Noise pollution), ENV-P.1.9 (Redemption of contaminated and potentially unstable land), ENV-P.1.10 (Hazardous substances), T.4.3 (Traffic implications of new development), T.4.4 (Road Safety) and IMP.5.3 (Comprehensive Project Areas), EDPD Policy EP5 (Location of New Industrial/Warehousing & Related Uses) and the governments National Planning Policy Framework guidance for Green Belts.
- 8.2 Based on the information in this report it has been concluded that no action short of the proposed enforcement action described in this report can remove the harm caused by these breaches of planning control. In these circumstances, it is considered expedient to take enforcement action as recommended at the start of this report.

Background Papers:

The contents of planning file referenced on the front page of this report, save for exempt or confidential information as defined in the Local Government Act 1972, Sch. 12A Parts 1 and 2